CHAPTER II

RISE OF BORSTALS: ABROAD

The Background:

The usefulness and success of the Elmira system in the USA had a great impact on the Western world. Obviously, the Fourth International Penitentiary Congress held in Paris in 1895 appreciated the success of Elmira reformatory. It was generally realised that reformatory methods were better alternatives to penal methods. In 1756 the Marine Society had established a school for waifs and strays and children of convicts to clothes and feed them and eventually send them to sea.  In 1788 the Philanthropic Society had established in London another school for children of convicts. Opinions were persistently voiced for changing the then existing penal methods, specially for the Juvenile offenders. The
efforts of various parliamentary committees gave way to
the enactment of reformatory schools' Act in 1854 which
empowered the courts to commit offenders under the age of
16 years to reformatory.

Sir Edmund du Cane, the first Chairman of the prison
commission observed in 1816 'when the population of London
was under a million and half, there were in London prisons
above 3,000 inmates under the 20 years of age — half of
these were under 17. Though there was a clamour to
introduce changes but there were too many agencies and
institutions. The real efforts being undertaken were under
the impulse of private benevolence. Germany and France were
also enthusiastically experimenting in the field of correction
of young offender; but the efforts were limited to the
correction of Juvenile under the age of 16 years. However,
there was sizeable population of young offenders between the
age of 16 and 21 years confined still in the prisons. Sir
Edmund Du Cane stated that on 31 March 1884 there were only
275 prisoners under 16 years of age, whereas 3,226
prisoners were between the age 16 and 21 years. Similar
observations were made by Gladstone Committee also. It
states that on 31 March 1894 there were 100 prisoners under
16 and 2,226 between the ages of 16 and 20.

It is evident that there were institutions established
by 1854 for the treatment of offenders upto the age 16 years.
This was done as the age of criminal responsibility was 8 years and age of criminal majority was 16 years. Here it is necessary to mention that the age of adolescent or the pre-adult age which is generally regarded between 16 to 21 years, which is very crucial. The age has its own problems. It is well known that Bio-psychologically a person between the age of 16 to 21 years encounters difficulties in adjustment. He lacks the maturity associated with adulthood. This age group has been regarded as critical, enigmatic and dangerous. Probably this was the main reason that led the criminologists, the penal reformers, the social workers, and of course, the prison administrators to search and select suitable alternative to deal with the young offenders.

The Gladstone Committee:

The Gladstone Committee of 1895 made a revolutionary break with the English penal traditions, and recommended that:

(a) The age of admission to reformatories should be raised from 16 to 18 years and of detention 21. . . . . . .

(b) We are of the opinion that the experiment of establishing a penal reformatory under Government management should be tried. It should be begun on a moderate scale, but on a design which would allow a large expansion if the results were proved to be satisfactory. The courts would have the power to commit to these establishments
offenders under the age of 23 for periods not less than one year and up to three years, with a system of licences graduated according to sentence, which should be freely exercised.

The Committee was seriously concerned with the treatment of the offenders between the age of 16 - 21 years. The Committee states it is certain that majority of lads turn habitual criminals between 16 and 21. Mr. Merrick Chaplin of Holloway and New gate prisons supplied evidence to the Committee. He had studied about 2,000 prisoners till 1893. His method of study was to observe the ages of offenders sent to prison for serious offences. In conclusion he stated that there were more burglars at the age of 18 than at any other age and the age of 13 was fatal for wrong doing. This was also the opinion of other prison administrators who gave evidence before the Gladstone Committee; specially of Rev. W. Douglas Morrison. It was also noted that after the age of 30 years 'a very distinct decrease in the number of prisoners proportionate to the population of the same age sets in'.

Thus while isolating the 'dangerous age' the Committee found out the reformatory methods for treatment of offenders between the ages of 16 - 21. Till then the age of criminal majority was 16 years. The committee was opposed to the idea of Reformatory for adults as it was thought that they
were fully responsible (being of mature age) and hence should receive punishment. This new age group of 16 – 21 was posing a dilemma, to overcome this a new term 'the Juvenile adult' was derived.

The intention of the Committee in using this term 'Juvenile Adult' was to describe that class of offenders which was too old for commitment to reformatory school, and too young to be classified with ordinary grown up criminals. In the USA the Annual Reports of Elmira System classified youths as all persons between the ages of 16 and 30.

Though the Gladstone Committee was thoroughly convinced that for an experiment could be undertaken in the field of correction for the youthful offenders, the Prison Commissioner and the public at large had still certain doubts and wanted to have some more time and some more convincing evidence before implementing such a system — 'Penal Reformatory'. There was a confusion by the term used by the Committee. The prison department in particular not quite sure, as to, what extent the penal reformatory was to be penal and at the same time, how it could be a reformatory. According to the Committee 'the penal reformatory should be a half way house between the prison and reformatory. It should be situated in the country with ample space for agriculture and level reclamation work. It would have penal and coercive sides which could be applied according to the merits of a particular case. But it should be amply provided
with a staff capable of giving sound education, training the
inmates in various kinds of industrial work, and qualified
generally to excercise the best and healthiest kind of moral
influence'.

The prison department had another doubt as to who
should be sent to these penal reformatories. The Prison
Commission while reviewing the report of Gladstone Committee
observed, "It does not appear from the report under
consideration whether it is intended that first offenders
only shall go to the penal reformatory, or whether it is
meant that all criminals under a certain age shall, in
virtue of the 'plasticity' of their nature, be made the
subject of the experiment. We infer that the latter is
meant as the possibility of closing one or two prisons as
is mentioned".

While making the above observations the committee had
been greatly impressed by the success of Elmira system of
New York, USA whose results were enthusiastically discussed
at the Fourth International Penitentiary Congress held in
Paris in 1895.

The Foundation :

Sir Evelyn Ruggles-Brise, the founder of the Borstal
system, was invited to visit the Elmira in 1895. Sir Evelyn
kept this invitation pending till 1897. He visited the
Elmira Reformatory in 1897. He was very much impressed by the principles on which the American System was based though not so much by the methods through which these were translated into action. Elmira had the following main principles:

1. The young offenders could be regarded as potentially good citizens.
2. Reformation would produce better results than imprisonment.
3. Special measures were needed for their (Young Offenders) training. (In special measures indeterminate system was included).

Sir Evelyn Ruggles-Brise wrote about his visit to Elmira as:

"The proposal to found a state Penal Reformatory, confirmed and emphasised the opinion that had been rapidly gaining ground, both in England and abroad, and especially in the United States, that up to a certain age, every criminal may be regarded as potentially a good citizen: that his relapse to crime may be due either to physical degeneracy, or to a bad social environment: that it is due on to the State at least to try and effect a cure, and not to class the offender off hand and without experiment with adult professional criminal. . . . . I obtained the authority of the Home Secretary, Sir M. Ridley, who was in warm sympathy with my views, to go to the United States in 1897 to study at Elmira the working of what is known as American 'State Reformatory System'. The annual reports of the authorities at Elmira had begun to attract considerable attention in
Europe. The American System classified as youths all persons between the ages of 16 to 30 while we classified our boys and adults. The Americans adopted the converse method as classified their adults as boys. I thought myself that the truth lay midway between these two systems, between the system that ends youth too early and which prolongs in too late, between voluntary system of England and the State Reformatory System of the United States. The point I was aiming at was to take the dangerous age - 16 to 21 - out of the prison system altogether, and to make it subject to special Institutional treatment on reformatory lines. I was impressed by all that I saw and learnt at the principal State Reformatories of America at that time chiefly in the States of New York and Massachusetts. The elaborate system of Moral, Physical, and Industrial training of these prisoners, the enthusiasm which dominated the work, the elaborate machinery for supervision of parole, all these things, if stripped of their extravagances, satisfied me that a real, human effort was being made in these states for the rehabilitation of the Youthful Criminal. It was on my return that with the authority of the Secretary of State, the first experiments were begun of the special treatment with a view to rehabilitation of the young prisoners 16 to 21 in London Prisons*.

The Beginning of Borstals:

Sir Evelyn Ruggles-Brise (the founder of Borstal System
and Commissioner of Prison) readily accepted the Gladstone Committee Report. Sir Evelyn describes the beginning of the Borstal as: "The next stage in this experiment was to give it a local habitation and a name. Near the village of Borstal in Kent on the hill above the Medway two miles from Rochester, stood one of the old public works convict prison . . . . the special location and treatment on reformatory lines of young offenders 16 to 21 selected from ordinary prisons, where the length of sentence afforded a reasonable time for application of the system. The term juvenile adult was invented to describe the class. . . . The specific proposal was to deal with the age 16 to 21, and it was decided, in order to emphasise this fact and make a clear distinction between this age and all other ages to make use of the word Borstal. That is the name of the village where the experiment was being carried out. In early 1900 the experiment began on a small scale. Only eight prisoners between the age of 16 to 21 were selected from London Prison and transferred to Bedford prison. The Governor of Bedford prison after three months of the opening reported: They have exceeded my most Sanguine expectations, with one exception. . . . The scheme is commendable one and worthy of any trouble and expense the State may incur. Thus a beginning was made and a 'Juvenile-Adult Class' was established.

The Commissioner were thoroughly convinced about the utility of the scheme and the convict prison at Borstal was
selected to begin the institution exclusive for the young offenders. The British Parliament had not recognised the system and it was to be worked within the limits which the existing penal law afforded. The system now commonly being known as Borstal system was extended to Dartmoor. An agency for supervision of the inmates released on license was created which was named as Borstal Association.

The 'Fundamental principles' of the new system of treatment were outlined as:

1) Strict classification  2) Firm and exact discipline  3) Hard work  4) Organised supervision on discharge.

But these objective had no formal legal sanctions and the Borstal experiment was being conducted within the then existing penal provisions. The formal shape and legal backing was granted to the system only after 1908.

The Legislation of 1908

The years 1907 and 1908 laid the foundation stones of the contemporary Penal and Correctional system of England. The Probation of Offenders Act, 1907, Children Act of 1908 and Prevention of Crime Act, 1908 were a body of forward looking legislation which brought enormous changes in Peno-Correctional practices. Prior to the passage of this Act in 1908, Sir, Evelyn Ruggles Brise submitted a report to the Home Secretary in 1906. For the treatment of the
Juvenile-Adults of 16 to 21, Part I of the Prevention of Crime Act 1908 made provisions. He expressed his satisfaction about the results of the Borstal Experiment and insisted for the necessity of a special legislation for the treatment of the offenders of 16 to 21. This was a suggestion to name these institutions as Juvenile-Adult reformatories but the government desired to name these institutions as Borstal Institutions.

The Prevention of Crime Act Part I, Section 1 (i) provided:

where a person is convicted on indictment of an offence for which he is liable to be sentenced to penal servitude or imprisonment, and it appears to the court:

(a) that the person is not less than sixteen or more than twenty one years of age; and (b) that by reason of his habits and tendencies, or associations with persons of bad character, it is expedient that he should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation and repression of crime. It shall be lawful for the court, in lieu of passing a sentence of penal servitude or imprisonment to pass a sentence of detention under penal discipline in a Borstal Institution for a term of not less than one year and not more than three years. Under the same section of the Act the courts were required to consider the report of the
Commissioners of the prison about the suitability of an offender for the award of such sentence. The Home Secretary was empowered to raise the upper limit of detention to 23 years. The act also provided for transfer of youths from Reformatories to Borstals. It also provided for the transfer of incorrigible inmates of Borstal to prisons.

On 1 August 1909, the Prevention of Crime Act came into force. A new system of dealing with young adults had been born. The Parliament had given a carte blanche to the Commissioners to expand it and encouragement to the courts to use it.

The Expansion 1908-1922:

After the Prevention of Crime Act the Borstal System developed steadily until the beginning of World War I. The system was appreciated by the Public greatly. The Times wrote about it on 7.6.1910 as 'the bright spot on the horizon of future prison administration.

In 1914 Mr. McKenna the Home Secretary introduced Criminal Justice Administration Bill. Highlighting the importance of the Borstal he said, 'It is not a prison'. It is or it should be for more like a school under severe discipline with strict industrial training'.

The Criminal Justice Administration Act extended the powers of the courts to sentence young offenders to Borstals.
The minimum length of sentence was increased from one year to two years. This was done so as it was felt that a long period of incarceration is necessary for requisite reformation. The maximum term remained at 3 years. This period was followed by a supervision period of one year. Within the maximum imposed by the court, the sentence was 'indeterminate' since Prison Commissioners had powers to release a boy on conditional license after 6 months and a girl after 3 months.

The expansion of the system had remained slow. The growth rate further slowed during the first world war period. The Feltham institution had to be closed due the financial stringency. Sir Evelyn retired in 1921. But the system had convinced everybody. The Times wrote "It had achieved a revolution in the prison system and in the attitude of the judiciary and public to the treatment of the young offenders."

**Borstal under Paterson - 1922-39**

After the retirement of Sir Evelyn in 1921, Sir Alexander Paterson took over as the new Commissioner of Prison-in-charge of Borstals. Sir Marmice Walter was the Chairman of the Prison Commission. The Commission abdoned the idea of the 'modified Borstal' which was based on the proposition that if a boy was convicted and if he was ineligible for Borstal he would be sentenced to the prison where he would be treated as a Juvenile Adult. This provision of modified Borstal in reality meant to avoid contamination of
young offenders with older criminals. The usage of the term in fact was causing confusion which lead the courts to believe that their (modified) regime was very much similar to that in a Borstal institution.

A new spirit was infused into the Borstal system through the enthusiasm and approach of Alexander Paterson. The first thing the Commission was to abandon the idea of modified Borstals. It replaced the modified Borstal by 'Young Prisoners Class'. In fact this was a mere change in nomenclature and the confusion, which was causing difficulties not only in sentencing practice but also in nature of treatment of young offenders continued to prevail. Paterson, who always pleaded for more discrimination and restraint in the use of the term Borstal, stressed that 'Borstal is not a boy's prison'. 'To collect all prisoners under twentyone and confine them in a corner of a large jail and call the result a Borstal Institution is a shame and a pretence, a piece of administrative complacency defrauding a credulous public'.

Paterson wanted to run the Borstal as a complete reformatory based on the public school system. He substituted self-discipline for Penal discipline. He introduced the House System with the result men from public schools and Universities came forward to give their services in changing lives of the boys. While envisaging such change Paterson observed:its men, not buildings, that will change the hearts
and ways of the misguided lads'. The Borstals continued to grow and Lodham institution was built while the inmates stayed in camps without walls, locks and bars. By the end of 1930 there were 2,100 boys in the male Borstals and a provision for a new institution were in preparation besides opening of a new institution at Aylesbury for girls. Idea for an open institution based on the idea of Paterson, who stated 'You can not train men for freedom in a condition of captivity'.

In 1927 'Report of Departmental Committee' on the treatment of young offenders was published, which suggested incorporation of the enlightened treatment methods. The children and young persons Act of 1933 revised the Judicial procedures. In 1932 the prison department published a book entitled 'The Principles of Borstal System by Alexander Paterson'.

Paterson observed as 'At the back and at the bottom of this Borstal system of training there lies a fundamental principle. There have always been bad lads and the supply will never cease entirely. Once upon a time the method employed to deal with them consisted simply in the use of force. The lad was regarded as a lump of hard material, yielding only to the hammer, and was, with every good intention, beaten to shape. Sometimes there were internal injuries, and the spirit of the lad grew into a wrong shape, sometimes the use of force produces reaction into a wrong shape, for sometimes the use of force produces a reaction more
antisocial than in original condition. There ensued a second method which has flourished for fifty years in many schools and places where boys are trained, and might be termed the method of pressure. The lad is treated as though he was a lump of putty, and an effort is made to reduce him to a certain uniform shape by the gentle and continuous pressure of authority from without. In course of time by perpetual repetition, he forms a habit of moving smartly keeping himself clean, obeying orders and behaving with all decorum in the presence of his betters. These are in themselves very useful qualities, and it is hoped by those who use this system that, after some years of constant admonition and daily habit, all lads will retain the same pleasing shape when no longer subject to the pressure of those in authority. But the springs of action lie deeper than the laws of habit or the voice of the mentor are likely to reach and character is determined ultimately not by the outside shape that has been fashioned, but by powers within that possibly have not been touched. It happens, therefore, sadly often that the lad who has been merely subjected to the pressure of authority from outside will, when exposed to the different influences of free life, assume quite another shape. In other words having been treated like a lump of putty, he will behave like a lump of putty and respond successively to the influences of each environment.

'The third and most difficult way of training a lad is to regard him as a living organism, having its secret of
life and motive of power within, adapting itself in external
countact to surroundings of the moment, but undergoing no
permanent organic change merely as a result of outside
pressure. So does Borstal look at him as a lad of many
mixtures with a life and character of his own. The task is
not to break or knead him into a shape, but to stimulate
some power within to regulate conduct aright, to insinuate
a preference for the good and the clean, to make him want to
use his life well; so that he himself and not the others will
save him from waste. It becomes necessary to study the
individual lad, to discover his trend and his possibility,
and to inculcate him with some idea of life which will
germinate and produce a character controlling desire, and
shaping conduct to some more glorious end than mere
satisfaction or acquisition.

'This is indeed more difficult way, for it passes from
external things that can be seen, which are dealt with so
much more easily to the inner things unseen. Further it
requires that each lad shall be dealt with as an individual
and shall not be regarded as being the same as any other lad,
requiring the same universal prescription'.

Some principles of the Borstal system as visualised
by Alexander Paterson can be summarised as:

(a) **Best suited staff**: The success of Borstal system
depends upon the dedicated staff members. 'It is the men not
buildings who will change the hearts and ways of the misguided lads'. Therefore the staff members are the real foundations of the Borstal system. The recruitment of right men, their proper training and the mutual cooperation will determine the success of the system.

(b) Classification : The system aims at individual training. In order to achieve this objective of individual training a thorough classification is necessary. Classification can be made through reception centres.

(c) Training : The training in a Borstal includes all such methods which are conducive for reformation. This includes education, vocational training, character building and recreation. The training must be based on progressive trust, demanding increasing personal decension, responsibility and self control. These are qualities which can be attained by practising them.

(d) Aftercare : After the discharge from Borstal system the lad must have aftercare agency, in order to supervise his rehabilitation. The creation of Borstal Association intends to supervise release either final or on license. Certain other recommendation of young offenders committee and about Borstals, and in 1938 Criminal Justice Bill was introduced in the parliament. Due to the outbreak of war in 1939 this bill could not be pursued further until 1948.

The Criminal Justice Act of 1948 : The Criminal Justice Act
of 1948 suggested some modifications in the existing systems of treatment of Juvenile and Young offenders. It had the following main features: (1) To make provision for places, other than prisons, to which courts may send, before conviction, persons of ages between 17 - 21 and offenders below 17 years who are unsuitable for detention in Romand Homes. (2) To prohibit imprisonment of persons below 15 years altogether, to limit imprisonment of persons below 17 only in serious cases; to restrict imprisonment of a person between the ages of 17 - 21. (3) To provide alternative methods of treating young offenders for less serious cases. (4) To remove in the qualifications for Borstal training, the limitation to criminal habits and associations. (5) Finally when alternative methods are found, extend them to offenders of 17 to 21, and complete prohibition of imprisonment of young offenders found guilty by courts of summary jurisdiction.

The Borstal System of England at a glance: So far an attempt has been made to describe the theory, principles and spirit behind the development of Borstal system. This system served as a model and was emulated by the countries which were then under the British domination. Naturally this model was imported to India as well. Before venturing to trace the development of the Indian System it is worthwhile to summarise here the salient feature of the Borstal system.

(1) The Law: The Borstals are established under the special legislation. The Parliament enacts these laws. This
is imperative that Borstals are run by the government under the prison department of the Home Office.

The law or the Act provides for all rules and regulations which are necessary at different stages of management.

(2) The Reception Centres and Classification: The reception centres are the integral part of the Borstal system. They have the following functions: (a) To decide after careful study of the inmate which will be the best suited Borstal to his character and requirement. (b) To understand the problem of the inmates. (c) To evaluate the mental and physical condition of inmate and to remove as far as possible any such condition which might handicap in his training. (d) To prepare the inmate for receiving training in a fit state of body and mind likely to receive and lastly. (f) To intimate the institution, where the inmate is being sent, about the findings and guidelines for treatment.

(3) The Principles: The ideas of Borstal training have already been discussed. The principles for the Borstal training which have been incorporated in the statutory rules governing the institutions are summarized below: Rule 4(1) states: the object of training shall be to bring to bear every influence which may establish in the inmates, the will to lead a good and useful life on release. (2) Methods of training may vary between one Borstal and another, according to the needs of different types of inmates allocated to them.
Rule 6 - In order to ensure so far as practicable the prevention of contamination and the best use of training facilities, each Borstal will receive inmate who have been selected as suitable for that Borstal in age, character and capacities.

Rule 7 - To enable the members of staff to exercise their personal influence on character and development of individual inmates, and to understand the needs of each for the purposes of training, inmates of Borstals may be grouped in houses.

Rule 8 (i) - To encourage the progressive development of responsibility and to assist in assessment of fitness for release, inmates may be placed in grades. (ii) - Promotion from grade to grade or reduction in grade (otherwise than as an award for an offence against discipline). (iii) Inmates who have been promoted to an appropriate grade may be given responsibility and leadership.

Rule 9 - To establish the system of privileges in the interest of good conduct and training.

(4) The Institutions: The earlier Borstals were for men convict persons, but they were reconstructed to serve the purpose holding them in self contained houses with separate dining and common rooms. Some institutions have cellular houses as in Portland and some had dormitories. The institutions have enough space for play-grounds, gardens and even swimming pools. They have farms and dairy outside their walls.
Sir Alexander Paterson visited the U.S.A. in 1931. There he was greatly impressed by the use of forestry camps for young prisoners. Upon his return to England, he was instrumental in the creation of four open Borstal institutions. Alexander Paterson called them 'Borstilium quartum'. Thus we have two main types of institutions closed and open both for males as well as for female inmates. The institutions have diversified purposes; and cater to the needs of individual inmate and aim towards their correction in order to make him fit person again.

(5) The Staff: The Borstals are run and managed by the prison commissioner. Therefore, the prison and Borstal services are two in one, indivisible and complementary. The grades for the Borstal service are the same as those of the prison service. The Borstal officers are however, plain clothed and they receive an allowance in lieu of uniform. They also get special allowance for their work in Borstal (which of course is not paid to the officers of the prisons). There is adequate sub-ordinate staff for cooking, hospital and work department of the institution. The duties of officers fall mainly in three groups: the house officers who are working the various houses of the institution. The House Masters who are incharge of the house get the help of the house officers. The Party Officers are supposed to be incharge of parties going out for work. There are the Instructors for vocational training and workshops. Normally these officers are in close touch with the inmates. They
gradually start knowing the inmates, study their individuality and encourage what is good and control what is bad.

The Governors are the over-all incharge of the institutions. The House Master (Assistant Governor) is a key man in the organization. He is incharge of the house which is a self sufficient unit. He is also incharge of the training of the inmates of his house whose member is normally 50 - 60. They are also incharge of the education.

In a female institution the structure of management is same except for the personnel who are all females. Besides these there are qualified farm manager and farm workers who impart training in the farm management to the inmates.

(6) **The Release**: In order to accomplish success in rehabilitation, the preparation for release is an integral part of the training programme. To promote prevention of crime and check recidivism the English Borstal system has a statutory release authority which is known as the 'Borstal Association'. The Borstal Association in a way represents one half of the Borstal system. The purpose of this association is to discover the lad and his future plan from the date of conviction, following him through the institution, finding him employment and guiding him some years after discharge.

The statutory Rule No. 64 (1) states: from the beginning of the training of every inmate consideration shall be given, in consultation with Central After Care Association,
to the future of the inmate and the assistance to be given to him on and after release, and for this purpose the Association or their representatives shall be given all necessary information and assistance. (2) Facilities shall be afforded to the representative of the Association to visit every inmate before release.

The forces leading to the philosophical conception of reformatories in the U.S.A. and that of Borstals in the U.K., apparently, are not accidental. Starting with what Quakers did in Pennsylvania may have upset the rulers in America for political and administrative reasons. But, the science of correction had a way of convincing the sceptics. This is reflected in the differential approach accorded to the adolescents in course of time. Then onwards, faced with the problem of crime and delinquency in the home itself, the Britishers had to view the problem from the angle of a 'fact'. Thus, in course of time the responsible authorities, despite the constraints of funds came to convince the elite of the importance of correction. Again, these changes did not come over night. Convinced as they were, the Britishers flowed more along with experiments and facts than with dogma. Thus providing the system of Borstals for the correction of the deviant adolescents.