

CHAPTER 23

Habitual Offenders

PART A.-PREVENTIVE MEASURES.

The Criminal Procedure Code provides for Preventive measures of two kinds against habitual offenders. Under section 110, security can be taken for their good behaviour (*vide* Chapter 3, Security Cases), while under section 565, they can be ordered to be placed under police surveillance for a period extending up to five years in the event of their conviction of certain offences. In the Punjab another important remedy is provided by the "Restriction of Habitual Offenders Act. 1918". Under this Act an habitual offender can be restricted in his movements to a certain area or required to report himself at times and places in the manner prescribed in the order. An order or restriction may be passed in the same circumstances in which an order for security for good behaviour may be passed. Now in view of the amendments of sections 7 and 12 of the Act by Punjab Act No. XXI of 1949 -an order of restriction can be passed in addition to an order for security for good behaviour. The procedure to be followed in proceedings under this Act is mostly the same as that in proceedings under section 110 of the Code of Criminal Procedure; but there are certain differences. For instance, when an order of restriction for a period of more than one year is passed by a Magistrate, the order of restriction does not require any confirmation by the Sessions Judge. Care should be taken to see that the order of restriction is in conformity with the rules framed by the State Government under the Act (*vide* Part F of this Chapter). An order directing a person not to leave his house between 8 P.M. and 5. A.M. was held in I.L.R. 8 Lahore, 267, to be *ultra vires*, not being in conformity with the aforesaid rules, District Magistrates have power to make an order of restriction in addition to an order for security under

section 110, Criminal Procedure Code, in any case coming to their notice. Sessions Judges can make *a* similar order in cases submitted to them under section 123(2), Criminal Procedure Code.

An order of restriction is especially suitable in the case of habitual offenders who are not in a position to furnish security and in whose case an order for security under section 110 Criminal Procedure Code would necessitate their commitment to Jail.
