

BOARD OF EDUCATION.

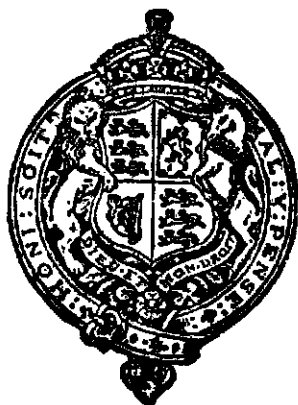
12

SPECIAL REPORTS
ON
EDUCATIONAL SUBJECTS.

VOLUME 9.

EDUCATION IN GERMANY.

Presented to both Houses of Parliament by Command of His Majesty.



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[Introductory Letter to Volume 9 of the Series.]

To Sir G. W. KEKEWICH, K.C.B.,
Secretary of the Board of Education.

SIR,

I HAVE the honour to present to you the accompanying volume of Special Reports on Education in Germany.

The reports deal with recent changes in secondary education for boys in Prussia; with primary education in Prussia and Saxony; with school gardens in Germany; with the German higher schools for girls, and with certain contrasts between secondary education for girls in Germany and in England; with the continuation schools in Berlin; with the growth of the Technical High Schools; with recent developments of higher commercial education; with the methods of measuring mental fatigue which have been adopted by some German students of education; and with the education of feeble-minded children and the care of neglected children in Germany.

I desire to take this opportunity of acknowledging the courtesy with which the various Governments concerned have permitted English students to visit schools and colleges under their jurisdiction, and of thanking the writers of the different papers, and not least, Dr. Bertram, for many years Stadtschulrat of Berlin, for his account of the Continuation Schools in that city.

It should be added that the writers of the various papers included in this volume are alone responsible for the opinions which they express.

I have the honour to be, Sir,

Your obedient Servant,

MICHAEL E. SADLER,

Director of Special Inquiries and Reports.

December, 1901.

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**THE
UNREST IN SECONDARY EDUCATION
IN
GERMANY AND ELSEWHERE**

THE UNREST IN SECONDARY EDUCATION. IN GERMANY AND ELSEWHERE.

SYNOPSIS OF CONTENTS.

INTRODUCTORY NOTE.

CHAPTER I.

INTRODUCTION.—The cross-currents in educational opinion at the present time. Fairly general agreement that England needs much better education and much more education than is provided at present. Marked absence of agreement as to what would constitute such a "better education." Divergence of opinion (1) as to the aims which should permeate a course of education preparatory to one of the many forms of business life, and (2) as to the different kinds of commercial education necessary for different kinds of business and for different grades in the business hierarchy.

Increasing prominence of educational questions all over the world. Educational unrest everywhere. The educational problem greatly differs in different countries according (1) to varying power of tradition; (2) to differences in the national ideal of education; some nations having a far more complex task for which to prepare the rising generation than others have; (3) to the varying powers of direct control and interference entrusted to the State. The problem of educational reform in England more intricate than elsewhere. Historical and social reasons for this.

The points in which England has dropped behind her rivals in the educational race. Certain advantages which we have retained through not following Continental fashions in education. Changes in many school studies and in the importance to be assigned to the intellectual elements in education are being forced upon us by the action of other nations. Any such change brings with it the risk of losing many traditional elements of great educational value. But reform necessary and urgently required. The full benefit of a large educational reform not completely felt for nearly thirty years. What England has to do is to readjust her educational system, so as not only to meet present conditions in international life, but to equip Englishmen for what is likely to be the greater strain of competition twenty or thirty years hence.

CHAPTER II.

SOME CAUSES OF THE PRESENT UNCERTAINTY IN REGARD TO EDUCATIONAL QUESTIONS.—Closer study of the science and art of education, though it has led to improvements in methods of teaching and in the hygiene of school life, has revealed more clearly than ever the fact that certain fundamental aims (about which there is the utmost divergence of opinion) really govern all educational effort, and even determine in some measure our choice of methods and what is most appropriate in the conditions of school work and discipline. Some of these underlying questions stated. Their extreme complexity and difficulty. For example, what kind of "life" and what form of social order should schools seek, or be required, to prepare different sorts of children and young people for?

Social ideals are implicit in educational controversy. Hence the heat so often generated in discussions about educational arrangements. At times like the present, when economic and other conditions are rapidly changing, people interested in educational reform find it more difficult than ever to put their aspirations into words, and are often hampered by the habit of

using forms of argument which refer to bygone conditions, and no longer fit their real sympathies. But in spite of the difficulty of finding exact expression for educational ideals, the latter are still (possibly as much as ever) in conflict, and the struggle between them, though inarticulate, is none the less severe.

A national system of education involves, implicitly or explicitly, a definite theory as to the right ordering of national life. The establishment of educational unity presupposes general agreement as to national aims, and as to the best form of social organisation. Where two ideals of national organisation and of social welfare are in conflict, and those in sympathy with the one ideal are fairly well balanced by those in sympathy with the other, there tends to be an educational deadlock so far as systematic unification is concerned.

But the State cannot cut the knot by severing its connection with every kind of education. It is committed, and necessarily committed, to bearing part in educational work, because the latter touches essential matters of national welfare, to which the State cannot be indifferent.

The difficulty of educational problems is increased by the fact that "education" is an ambiguous term, signifying various kinds of power which can be applied in contrary directions, and made to produce opposite results. This conflict of educational aims illustrated by the controversy as to rural education.

Again, we cannot simplify the problem by cutting up national education into separate compartments, and dealing with each compartment quite independently. The welfare of each grade of national education depends, directly or indirectly, on the welfare of the rest, and the welfare of the whole system of school and college training depends primarily and continuously on the aims and tone of home life. Yet what may appear at first sight to be the separate fragments of a national system of education are sometimes portions of two quite distinct systems of education, co-existing in the same country, but embodying very different traditions and many different aims. This can be seen in France and in England.

Comparative statistics of educational expenditure are generally incomplete and often misleading, because the grades of education are somewhat differently classified in different countries; because the sources of educational income are very various, and not always completely enumerated; because under the one word "education" are lumped conflicting tendencies and intentionally opposite results; and because there are always doubts as to what kinds of expenditure "national education" should be rightly held to include. No mere school system, however elaborately organised, is really co-extensive with what is meant by national education. But in statistics the two are frequently treated as identical.

Different nations attach special value to different results of secondary education. The German, the American, the French, and the English standpoint summarised. The English and American tendency is to lay much less exclusive stress on the intellectual discipline imparted by school training than is usual with the French and the Germans. The persistence of the English view that education ought to be more concerned with physical and moral training than with intellectual. All three aspects of education must constantly be taken into account together. But it is a condition precedent to all effective education that we should know what we are aiming at, and what kind of character and aptitude we want to produce. The Germans and Americans are, on the whole, very much clearer than the English as to the social aims of education. We oscillate between one theory and another, shrinking from either extreme, but apt to fall into tepid compromise, which misses much that is good in each alternative. This half-heartedness seems to be partly due to a right preference for moderate measures, partly to an instinctive feeling that the best solution of all social and ethical problems involves some union and harmony of apparently opposite truths, partly to an inner deadlock of conflicting social ideals. Its effects are specially noticeable in the sphere of education.

Our hesitation is also due to a just sense of the complexity of the influences which really constitute "education." Educational thought all

over the world is taking much more account of social environment in its analysis of the functions of schools in national life. Hence there is much more sympathy with the customary English view of education. But "social environment" includes not merely material conditions of domicile, food, clothing, etc., but spiritual, moral, and intellectual surroundings, and the power of tradition.

Each nation (or, when a people comprises very different types of temperament, each great element in a nation) seems to have woven round itself something like a web of tradition. This is the essential part of national education. An alien system of schools may cut and injure it. Hence, when a nation feels itself in danger of succumbing too readily to foreign influences, or to influences which would weaken what it instinctively feels to be an essential part of its own self-discipline, it readjusts its system of education, often laying special stress on those kinds of training which will fortify it against its special forms of weakness. This national development of education is specially characteristic of the present time, because the extraordinary increase in the number and variety of cheap means of communication has made international and cosmopolitan influences stronger than they ever were before. These influences necessarily affect education. Attempts are made to balance or counteract them by emphasising the national elements in education.

But education has not only to concern itself with environment. Its work is complicated by differences in inherited power. But in any case the development of this or that out of many inherited aptitudes, and the degree of encouragement given to particular kinds of ability, depend in large measure on environment—if the latter word be used in its widest sense.

In consequence of the complexity of educational problems, some people seem inclined to give up all hopes of comprehensive improvement, and to argue that we should at all costs keep whatever we have got of tested excellence in education, jealously guarding it from outside interference, preserving it rather than trying to extend it, disregarding apparent waste in the process, provided that a few first-rate minds are produced by it. This view finds increasing support among those who believe that the tendency of great systems of state-organised education is to promote the interests of the average boy rather than to develop and encourage exceptional ability. But so closely intertwined are the various parts of national life and education that it is impossible to keep any section really intact from new and disintegrating influences. Mere exclusiveness in education is not a practicable remedy.

Therefore we are compelled to face the question what we want our various grades of schools to accomplish, and what, with a view to fulfilling their part of the common task, secondary schools ought to teach. Some of the various and conflicting opinions which have been advanced on this subject. They indicate deep-seated unrest, and must be regarded as danger signals. Little likelihood of any sudden or complete break in the older educational tradition. Much latent wisdom in many courses of discipline and methods of teaching which may be momentarily unpopular. But there seems to be a growing dislike of many of the old traditions. The discussion tends more and more to turn on the effect of education on conduct and character. This raises ethical considerations as well as intellectual. English schools have paid more attention to the first, Continental schools to the latter. Each has much to learn from the other in seeking the proper mean.

CHAPTER III.

The achievements of Prussia in the sphere of education.

Concerted specialisation the characteristic of intellectual life and of national organisation in Germany. The initial and underlying cause of the scientific greatness of Germany was not organisation, but an intense and self-sacrificing enthusiasm for truth.

The causes that induced Prussia to submit to a form of centralised control, which has always been resisted in England.

The effects of German science and organisation as seen in the sphere of commerce and industry, and in national life. The indirect effects of compulsory military service on German education, and on commercial enterprise. The collective German exhibits at the Paris Exhibition, 1900. The contrast afforded by the British industrial exhibits.

England's place in medical research. Contrast between England and Germany in regard to organised scientific investigation. The position of "experts" in the two countries. The different attitude of the two nations towards questions of social organisation. The advantages, and the weaknesses, of the German methods.

In Germany, a greater love of abstract knowledge than in England. A fundamental national difference. Difficulty of producing any rapid change. Yet the necessity for strengthening the intellectual side both of our education and of other departments of our national life.

Unrest in German secondary education. Its causes. The problems especially under discussion. (1) Relation between primary and secondary education. (2) The future of classical studies in secondary schools. (3) Secondary schools and preparation for the duties of life. (4) The danger of an "academic proletariat." (5) The effect of secondary education on character. (6) The need for more freedom of educational experiment. (7) The Frankfurt Curricula, and the postponement of the beginnings of Latin teaching.

Summary of the chief features of the present organisation of Prussian Secondary Schools. (a) The various types of school. (b) The curricula. (c) Linguistic discipline. (d) Methods of teaching. (e) Study of modern languages. (f) The intellectual qualifications of the teachers. (g) The primacy of the *Gymnasien*; its historical developments; the recent changes. (h) State control: stages of its growth; the *Abschluss-Prüfung*: summary of "privileges."

Survey of recent movements of opinion and administrative changes in regard to the problems (1) to (7) above.

Summary, and contrast between Prussian and English secondary education.

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MOVEMENTS OF OPINION IN FRANCE AND AMERICA IN REGARD TO SECONDARY EDUCATION.

i. In France.

The special excellences and defects of French secondary education. Its difficulties.

Classical education in France. The "modern idea." Movement in favour of a type of secondary education which will prepare boys for "practical life." The report of the French Parliamentary Commission on Secondary Education. Admiration for certain sides of English public school life. The social difficulty in French secondary education. The over-stocking of the literary professions.

Desire for increased freedom in secondary schools.

ii. In America.

Influence of American ideas on European education. The need for more efficient schools in view of the commercial struggle between nations. American regard for individuality in education.

The differences between the educational development, in colonial days, in Virginia and in New England. English education comprises the two tendencies.

"Declaration of Principles" adopted by the National Educational Association of the United States in 1900. Recent American criticisms on the schools. Miss Shute's article.

Tension specially felt in the secondary schools. Sketch of the history of secondary education in America: Grammar Schools, Academies, and High Schools. The conflict of opinion in regard to direct public management of secondary schools.

President Eliot's summary of the chief educational changes in America during the past fifty years. Report of the "Committee of Ten on Secondary School Studies." Quantitative versus qualitative view of school studies. Report of the "Committee on the Unification of College Entrance Requirements." Demand for elective courses. American reluctance to approve the differentiation of types of secondary school with a view to preparation for different callings. Conflict between the claims of "liberal" and "technical" education. The views of those interested in engineering education. Overcrowding of secondary school curricula. The teaching of modern languages. Classical education.

Professor John Dewey's criticisms of the prevailing tradition of secondary education.

CHAPTER V.

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- I. Possibility of an Excess of Secondary Education.
 - II. The Royal Decree on Secondary Education in Prussia. November 26th, 1900.
 - III. The New Time Tables for Secondary Schools in Prussia. April 3rd, 1901.
 - IV. Special Types of Approved Curricula of Secondary Schools in Prussia:—
 - (A) The Frankfurt Curricula.
 - (B) Curriculum of the Oberrealschule with Reform-Realgymnasium at Kiel.
 - (C) Curriculum of the Berlin Realschulen.
 - V. Limitations on freedom of teaching contemporary French History in French public secondary schools.
 - VI. Outline of the organisation of a French secondary school.
 - VII. Reform of Classical and Modern Secondary Education in France.
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“Education is one of the greatest and hardest tasks which it lies on each generation of human society to fulfil. So great, so difficult, so full of unexplored and unknown conditions, and opposite and apparently contradictory requirements, that human thought and wisdom are not wide enough to take in the whole field it presents to them, they stand perplexed and baffled before many of its important problems. . . . We come more and more to see how in all its parts it must be a combination of authority and liberty; how essential it is that, with discipline and control, there should also be frank confidence and trust; how teacher and scholar act and react on one another; how much the scholar has to give and teach; how greatly he must be induced to contribute to his own education, if it is to be a successful one. . . . Education only fulfils half its office, it works with a maimed and distorted idea, unless it deals with character as well as with intellect; unless, again, it opens and enlightens the mind as well as directs, and purifies, and fortifies the will.”—DEAN CHURCH. *Pascal and Other Sermons*, pp. 217-218.

APPENDIX I.

SUMMARY OF AGENDA OF THE CONGRESS.

1. The Reading Book in Defective Schools.—Herr Ehrig, Leipzig ; Herr Kielhorn, Brunswick
 2. Manual Training for Boys.—Herr Basedow, Hanover.
 3. Statistics.—Herr Winterman, Bremen.
 4. The Pedagogical and Economic Aspects of the Special School.—H Hanke, Görlitz.
 5. Medical Aspects of Feeble-mindedness.—Dr. Müller, Augsburg ;
Herr Stumpf, Würzburg.
 6. Resolutions of the Congress.—Herr Kielhorn, Brunswick
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APPENDIX II.

TABLE OF GERMAN DEFECTIVE SCHOOLS (HILFSSCHULEN).

No.	Name of Town.	Number of Classes.			Number of Children returned to Ordinary School in last Three Years.	Number of Hours of Manual Work.		Percentage of Children able to earn after School Age.
			Boys.	Girls.		Boys.	Girls.	
1	Aix-la-Chapelle .	6	94	94	4	—	4	95
2	Altona	2	99	49	19	3	6	75
3	Apolda	2	20	20	42	2	3	87½
4	Barmen	4	128	103	2	2	2	75
5	Bernburg	1	16	4	—	?	?	—
6	Bonn	3	25	35	1	2	2	50
7	Breslau I.	3	30	22	—	—	2	80
8	Breslau II.	3	36	24	3	—	2	90
9	Breslau III.	2	22	16	—	—	2	7
10	Breslau IV.	2	27	20	4	—	2	100
11	Breslau V.	3	31	21	8	—	2	60
12	Breslau VI.	2	22	20	—	—	2	100
13	Breslau VII.	2	22	21	—	—	2	100
14	Bremen	5	59	51	1	4	4	75
15	Bremerhaven	2	17	14	—	4	4	100
16	Brandenburg	2	17	10	—	4	4	?
17	Braunschweig	9	124	81	1	4	4	80
18	Bronberg	2	28	23	—	2/2	2/2	—
19	Cassel	6	71	38	—	4	4	?
20	Charlottenburg I.	4	50	30	6	3	3	76
21	Charlottenburg II.	5	56	28	2	3	3	100
22	Chemnitz	6	73	54	26	—	2	?
23	Cottbus	3	28	26	1	4	4	83½
24	Darmstadt	3	43	25	—	2	4	—
25	Dessau	1	7	13	—	?	?	—
26	Dortmund	2	25	16	14	—	2	80
27	Dulsden I.	6	65	55	—	4	4	78½
28	Dresden-Löbtau	1	29	1	—	—	—	—
29	Düsseldorf	7	108	92	2	—	3	96
30	Eisenach	2	12	11	4	2	4	80
31	Elberfeld	6	87	74	3	2	4	92
32	Erfurt	5	49	32	12	4	4	82
33	Essen a. d. Ruhr I.	3	30	43	—	2	4	12
34	Essen a. d. Ruhr II.	3	40	36	2	2	4	88-8
35	Freiberg	2	45	39	11	—	2	100
36	Frankfurt a. M.	7	88	65	12	4	4	?
37	Fürth	1	11	10	—	2	2	—
38	Gera Reuss	3	36	29	—	4	4	75
39	Giessen	?	6	5	—	—	—	—
40	Glauchau	?	52	21	?	—	—	—
41	Görlitz	3	21	25	36	4	4	54
42	Gotha	3	37	43	—	4	4	75
43	Göttingen	2	23	13	13	—	2	85-5
44	Grimma i. S.	1	4	4	2	—	—	—
45	Hagen i. W.	1	18	7	—	—	—	—
46	Hamburg I.	4	51	29	4	—	2	100
47	Hamburg II.	4	85	—	1	—	—	50
48	Hamburg III.	6	141	—	3	—	—	97
49	Hamburg IV.	5	—	106	2	—	1	77
50	Hamburg V.	4	—	92	11	—	3½	85
51	Hamburg-Eimsbüttel.	3	37	18	—	—	2	—

APPENDIX II.—continued.

No.	Name of Town.	Number of Classes.			Number of Children returned to ordinary School in last Three Years.	Number of Hours of Manual Work.		Percentage of Children able to earn after School Age.
			Boys.	Girls.		Boys.	Girls.	
52	Hanau	1	16	13	4	—	2	—
53	Halle a. S.	5	68	54	31	2	2	?
54	Halberstadt	2	46	24	5	4	2	90
55	Hanover I.	6	78	60	—	2	4	—
56	Hanover II.	3	40	35	—	2	6	—
57	Jena	5	31	11	4	4	4	40
58	Kaiserslautern	1	13	13	10	2	2	30
59	Kamenz*	—	—	—	—	—	—	—
60	Karlsruhe	3	36	37	1	—	—	50
61	Königsberg I.	4	28	18	9	4	4	10
62	Königsberg II.	4	34	26	3	4	4	50
63	Königshütte	2	21	28	19	—	—	100
64	Köln (Cologne)	12	190	164	15	2	4	85½
65	Krefeld	4	67	48	8	—	2	51
66	Leipzig I.	14	108	86	1	6	6	90
67	Leipzig II.	3	32	11	—	4	4	?
68	Leipzig III.	2	22	11	—	6	6	—
69	Lüneburg	1	9	8	39	2	4	—
70	Linden	2	22	27	4	—	2	—
71	Lübeck	6	64	48	—	4	6	80
72	Ludwigshafen	1	12	15	11	2	2	80
73	Magdeburg	10	135	117	46	4	4	60
74	Mayence	3	41	32	7	—	3	65
75	Meiningen	2	5	14	—	—	2	—
76	Mülhausen (Alsace).	2	25	25	77	—	3	88
77	Mülhausen (Thüringen).	1	17	7	—	2	4	—
78	Netzschan	2	25	18	—	2	3	100
79	Nordhausen	2	20	18	4	4	4	90
80	Nürnberg	6	71	64	4	2	2	56
81	Ölsnitz	2	—	—	—	—	—	—
82	Osnabrück	2	22	17	—	4	4	—
83	Oschatz	1	9	7	—	—	4	100
84	Pforzheim	1	20	12	—	—	4	100
85	Pirmasens	1	12	16	—	—	2	—
86	Plauen	6	61	56	2	2	2	?
87	Posen	3	35	29	—	2	2	—
88	Reichenbach	2	22	23	28	—	—	—
89	Schwelm	1	17	14	—	2	2	—
90	Strassburg	3	40	23	6	3	3	71.5
91	Stettin	2	14	27	—	—	2½	80
92	Stolp	1	11	9	—	1	1	—
93	Steglitz	1	19	10	1	2 in summer. 4 in winter.	4	75
94	Stuttgart	1	7	7	3	2	2	50
95	Weimar	1	12	10	6	2	2	60
96	Wittert	1	13	12	—	—	—	—
97	Wilmersdorf	1	14	6	—	4	4	—
98	Worms	1	21	13	—	2	2	—
99	Zittau	1	14	8	1	2	4	80
100	Zwickau	4	56	34	1	2	2	90

* Auxiliary classes attached to ordinary school.

† The school has only been recently opened.

ON THE EDUCATION OF NEGLECTED CHILDREN IN GERMANY.*

Child-Crime and its Prevention.—The opinion is more and more gaining ground that the most effective means of combating crime is not in subjecting children to treatment as criminals. More and more it is recognised that the real question is not how to improve youthful criminals after they have got within the meshes of the law, but to prevent them from becoming criminals. How little can be accomplished by the former method is shown by the increasing juvenile criminality in Germany.

According to the official Criminal Statistics for 1896,† in the German Empire in the year 1882, 30,697, and in the year 1896, 43,962, "young persons"—i.e., between twelve and eighteen years—were punished for crimes and offences against the laws of the Empire (all minor offences are excepted). This means an increase of 43.2 per cent., and in relation to population an increase of 22 per cent. Crimes by adults increased during the same period only 34.1 per cent., or 16 per cent. relatively to population. A very considerable part of this increase is in convictions for dangerous injuries to the person (112.5 per cent.), for injuries to property (48 per cent.), and for using compulsion and threats (about 300 per cent.).

Neglect and the State.—The new law, which came into force in Germany on January 1st, 1900, as also the corresponding Land Laws, were intended to effect a change as to this class of crime and to adopt, to some extent, new methods. It was assumed that the right of parents to educate their children was subordinate to the right of the State to prevent children being ruined through neglect. If through want of proper education, it was said, the number of criminals increases, the community is the sufferer. On this ground, and as the guardian of public morals, the State possessed a right and an interest in concerning itself with education. The interference on the part of the State in the education of minors is no longer regarded as a repressive, but as a preventive, measure. In the preparation of the law special and repeated reference was made to the experience acquired in England, where the State and private benevolence have taken in hand the education of juveniles with good results.

The Prussian law of July 2nd, 1900, which came into force on

* Reprinted by permission of the Society of Comparative Legislation from the *Journal of the Society of Comparative Legislation*, New Series, No. VII., June, 1901.

† See "Statistik des Deutschen Reiches," vol. xcv. i., p. 28.

April 1st, 1901, for the "guardianship education" of minors (*Fürsorge-Erziehung Minderjähriger*) is a part of the legislation regarding the education of neglected children. In order to correctly understand and appreciate the new law, a short explanation is necessary of the previous state of the law on this subject.

Offenders under Twelve.—According to the Imperial Penal Code (sec. 55), no penal proceedings can be taken against persons who have not yet completed their twelfth year. They may be placed in a family,* or in a school or reformatory, if the judge of the Court of Ward (not the judge of criminal cases) shall have previously satisfied himself as to the commission of the offence, and declared that it is expedient to place the culprit in a family or reformatory. Persons from twelve to eighteen years of age—minors in the stricter sense of the word—can be dealt with by the judge of criminal cases. They are, however, to be released if in the commission of the offence for which they are charged they did not possess sufficient intelligence to perceive the culpability of the offence. In such a case the culprit may be either handed over to a family or sent to a school or reformatory (Penal Code, sec. 56). The State, it will be seen, interferes in education only when a punishable offence has been committed.

Operation of the Old Law.—Many of the German States have availed themselves of the provisions of sec. 55. A Prussian law of March 13th, 1878, relating to the provision for neglected children enacts that "whoever commits a punishable offence after the completion of the sixth year and before the completion of their twelfth year of age may be placed in a family, or sent to a school or reformatory, if this course is *necessary*, taking into consideration the nature of the offence, the character of the parents or other guardian of the children and the other conditions of life, in order to prevent further neglect."

In order that the provisions of this law might take effect, two conditions were necessary—the commission of a punishable offence and *de facto* neglect. The right of compulsory education ceased with the completion of the eighteenth year of age or with a decision putting an end to compulsory education. Children of from six to twelve years could not, if they were able to understand the culpability of the offence (and could therefore be dealt with), be sent to a reformatory school. On the other hand, children from six to twelve years, even when there was *de facto* neglect and a clear necessity of provision being made for them, could not be compulsorily educated when there was no evidence of a punishable offence committed by the child.† To neglected children who had not

* Only permissible since January 1st, 1900.

† This was the principal fault of the Prussian law. See thereon, especially, Appellius's book, "Behandlung jugendlicher Verbrecher und verwahrloster Kinder," Berlin, 1892, p. 115. Other Laws—for example, those of Hesse and Baden—went farther; they ignored the requirement that the child must have committed a punishable offence, and authorised

yet committed any punishable offence, only the provisions of the Prussian Allgemeines Landrecht of February 5th, 1794 (sec. 86, Part II., 2), applied: it allowed interference by the State with the parental right of education, against the will of the parents, but only when the parents were culpable—that is to say, when they cruelly maltreated their children, or brought them up in evil ways, or deprived them of necessary support.

Neglected Children not Criminals—Conditions of State Intervention.—The state of the law which I have described could not be regarded as satisfactory. The Code of Civil Law which came into force on January 1st, 1900, applies to such cases. First of all it leaves the above-mentioned provisions of the Penal Code unrepealed, and they still apply to all cases where the neglect of the child results in a punishable offence, the punishment for which is not inflicted owing to the tender age of the child or to its being unable to understand the culpability of the offence. The Civil Code, however, contains also provisions with regard to neglected young persons who are not criminals. It permits the public education of a child without the latter having committed a punishable offence when the father or other person acting as parent (the mother or guardian) is guilty of a neglect of education. Thus, under sec. 1666 the Court of Ward (not that of Administration) is empowered to take the necessary measures for removing the danger “if the mental or bodily well-being of the child is endangered” (not simply prejudicially affected). “Endangered” includes these cases: (a) where the father abuses his right to take care of the person of the child; (b) where he neglects the child; or (c) if he is guilty of dishonourable or immoral conduct. The measures which are permitted may especially, though not exclusively, consist of the child being, for the purposes of education, placed in a suitable family or in a school or reformatory. An essential condition, it will be noted, is some offence by the father or mother, if they exercise the parental authority; as, for instance, if the father should employ the child in criminal or immoral acts; if he should abuse his right of chastising in such a way as to be dangerous to the child; if he should deprive a child a few months old of its mother without sufficient grounds;* if, owing to his being imprisoned, he is not in a position to provide for the maintenance and education of his child.† The above-mentioned cases illustrate clause (a); illustrations of clause (b) will be as follows: neglect to send to school, insufficient food, clothing and bodily attention; of (c): alcoholism, personal violence, begging, prostitution, procurement of the father

compulsory education even in the case of the moral neglect of the child. Others again—as, for instance, those of Saxony and Wurtemberg—extended the age limit up to which the order for compulsory education should be permissible to beyond the twelfth year.

* Oberlandesgericht Stuttgart in the “Deutsche Juristen Zeitung,” vol. v., p. 399.

† Kammergericht in the “Rechtsprechung der Oberlandesgerichte,” vol. i., p. 286.

as regards the mother. The conduct of the father in religious or political matters is not a ground for the intervention of the Court of Ward; this has been expressly recognised by the Legislature.

If the child be under the charge of a guardian and there be reason to fear continued neglect, the judicial authority may place the child under compulsory education (sec. 1838), even when the guardian is in no way responsible for the defective education. If in this case the care of the person of the child devolves on the father or the mother, the placing of the child under compulsory education can be effected only under sec. 1666—*i.e.*, where the parents are guilty of a neglect of education. With the consent of the father, and on his application, compulsory education is also permissible according to the Imperial law (sec. 1631).

Opposition of Person "in Loco Parentis."—After a long parliamentary contest, the principle has been established by legislation (by the *Einführungsgesetz* of the Civil Code, Art. 135) that, independently of evidence of a fault on the part of the person acting as parent, the compulsory education of the child may be ordered even against the expressed wish of such persons "if it is *necessary* in order to prevent *complete* moral ruin."

"Guardianship Education."—By the law of July 2nd, 1900, mentioned above, Prussia has availed herself of this right. The object of this law, which repeals the old Prussian law of March 13, 1878, is interference on the part of the State not only, and not merely, when the child is *already neglected*, but *also when it displays evidence of neglect*. This is shown by the altered title of the law and the alteration in the wording thereof. It is no longer a "compulsory education" which is spoken of, but a "guardianship education" (*Fürsorge-Erziehung*), an expression with which the German language has been enriched through this law; not "compulsory," implying reaction against, but "guardianship," implying protection against neglect. This "guardianship education," which practically amounts in many cases to a complete separation of the child from its family, is only to be resorted to if all other available measures for obtaining a proper education fail. Such other means are religious influence, schooling, the guardianship of the poor, voluntary charity and also the admonishing of the person acting as parent. By law the "guardianship education" can only be ordered in the case of such minors as have not yet completed their eighteenth year (sec. 1).

Unlike the pre-existing law of Prussia, the new law does not fix a minimum age; it thereby considerably increases the number of those persons to whom the State education may apply. It is, however, laid down that children not yet of age to go to school shall only be put under a "guardianship education" if no other measure can be found to prevent the neglect of the child.

In what Cases Permissible.—In three different cases the "guardianship education" is permissible under the law:—

(1) When the provisions of the above-mentioned sec. 1666 or

1838 of the Civil Code apply, and the "guardianship education" is necessary in order to prevent the neglect of the minor—in other words, in case of the father or other person acting as parent (except the guardian) being guilty of a fault of education. It is sufficient that a danger of neglect, whether of moral, mental, or bodily kind should exist; it is not necessary that complete neglect should exist. Examples are given above.

(2) If the minor has been guilty of a punishable offence for which, on account of his tender age, the punishment cannot be inflicted. This applies only to minors under twelve years; but the "guardianship education" must be ordered only after taking into consideration the nature of the offence, the character of the parents, and the other conditions of life, with a view to preventing further neglect of the minor; it must, in fact, be applied as under the former Prussian law, taking into account the whole facts of the case as affecting the mental and material well-being of the particular child. Cases 1 and 2 differ in this, that in the latter a punishable offence (no matter of what kind) committed by the minor and *de facto* neglect (the one does not necessarily imply the other) must exist. The new case is of particular importance, viz.—

(3) If "guardianship education" is necessary in cases other than those above mentioned "on account of inadequate educational influence of the parents or others responsible for the education or of the school, with a view to prevent the complete moral ruin of the minor."

The novel feature of this Statute, and the great advance which it makes, is that there may be "guardianship education" without any fault on the part of a minor or of his parents; though, in order that this may be so, there must be degeneracy of the minor in a moral sense. This will make it possible to bring under compulsory education children who throw off or resist the control of parents and guardians, who frequent bad company against the wishes of their elders, and especially females under age who have given themselves up to professional prostitution, or who are likely to do so. The law will apply in the first instance to children of the poorer classes; but it may be here especially pointed out that also children of well-to-do and rich parents may be placed under "guardianship education," and especially from the point of view mentioned under No. 3.

In view of the far-reaching effect of this enactment I concur in the opinion of a German *savant*,* who says: "Truly it is a heavy blow which is hereby directed against the *patria potestas*, but a blow which is necessary."

How Carried Out—"Suitable Family or Institution."—The "guardianship education" will be "under official supervision and at the public expense" in a suitable family or in an educa-

* v. Calker in the "Deutsche Juristen Zeitung," vol. v., p. 56.

tional or correctional institution (sec. 2). By this clause the difference between the compulsory education provided for in the Civil Code and the "guardianship education" of the present law is defined in the first instance in so far as the latter education takes place at the public expense under the supervision of special Government departments. In both cases the question whether compulsory education or "guardianship education" is to apply is to be decided by the Court of Ward. The latter also decides as to the manner in which the child is to be provided for under compulsory education. The manner of providing for the child under "guardianship education" and the nature of the education itself are left to the discretion of the Government Board of Management. The Court decides upon request or *ex officio* that "guardianship education" is to take place; the class of persons either entitled or bound to make such requests (everybody is entitled to give notice) is defined by sec. 4. If the parents and the legal representative of the minor can be heard without considerable difficulty, they should be heard, and the director or teacher of the school at which the minor in question attends *must* be heard before the Court comes to a decision. There is a right of appeal against the decision ordering "guardianship education" (sec. 4). Minors may be provided for in various ways, either in a suitable family or in an educational or correctional establishment. The Legislature has deliberately declined to determine when education in a family and when education in an institution is to be made use of. In each separate case there is to be a decision according to the peculiarities of the pupil, the kind and the causes of his or her degeneracy and the possibility of finding suitable families.* Neither does the Legislature define whether and when a family is "suitable"; it only insists that "the pupil must be accommodated in a family of his or her own persuasion for the time at least during which he or she is liable to attend school" (sec. 9). As to this matter, rules have been drawn up by the administrative authority. The family "shall offer guarantees for a serious religious and moral education"; it must have a well-regulated and sufficiently large home. Families living in the country or in small towns, where the pupils may have an opportunity of occupying themselves with agricultural and garden work, are to be especially preferred. Families living in large towns or densely populated industrial districts are to be avoided as far as possible. The family should not live too near the present place of abode of the pupil, and not more than one pupil should be accommodated in one family. The "guardianship education" conducted in the pupil's own family may be allowed only subject to the permission being revocable (sec. 10), and it shall only be ordered if the conditions which caused degeneracy have been removed. For every pupil accommodated in a family a "curator" is appointed to watch over his or her education and maintenance (sec. 11). This

* Compare in this connection Aschrott, "Die Zwangserziehung Minderjähriger" (J. Guttentag: Verlagsbuchhandlung, Berlin, 1900), p. 41.

office, which is honorary, may be filled by women; for children under twelve years of age and for female pupils women are to be preferred as curators. As to education in institutions, the pupil "as far as possible" is to be accommodated in an institution of his or her own persuasion. In no case may pupils be placed in workhouses or country almshouses. They may be placed in institutions for the sick, infirm, lunatic, deaf and dumb, or blind only so long as may be required by their physical or mental condition (sec. 10). Such institutions must offer opportunities for occupying the pupils out of school hours (the course of instruction to correspond to that of the primary schools) with work in the field, garden, and house. They should be arranged to accommodate from one hundred to one hundred and fifty pupils, and separation of the sexes must be observed. The education in institutions, however, shall continue so long as is absolutely necessary for making the pupil used to good order and discipline, and for strengthening him physically and mentally. When this result has been obtained, the pupil is, according to the rules of the administration, to be placed in a family for his or her education—with the reservation that he or she will be sent back to the institution if he or she should not behave in a proper manner.

Termination of "Guardianship Education."—"Guardianship education" ends when the pupil comes of age (sec. 13)—*i.e.*, after the completion of twenty-one years. It may, however, be terminated sooner by a decision of the administrative authority on his own initiative or upon demand, if the purpose of the "guardianship education" has been obtained or the purpose in view has otherwise been secured (sec. 13)—*i.e.*, if the pupil is under absolutely safe conditions, which make a relapse into degeneracy, so to say, impossible. For this purpose it is stipulated by the administrative authorities that before completion of the time during which the pupil is liable to attend school, a place of service or an apprenticeship with trustworthy and experienced persons shall be provided. The situation must be suitable to his capabilities and conditions of life and, if possible, in accordance with his inclinations. The termination of the "guardianship education" before its due course can take place under reserve of revocation; in such a case the condition will apply that the minor submits to the supervision ordered by the administrative authority.

Expenses and Accommodation.—It is not possible to explain here in detail the conditions as to expenses and the questions as to authorities on whom it devolves to find accommodation for minors. The following remarks may be sufficient: In the first instance the provincial associations (*Provincialverbände*) are under the obligation of establishing educational or correctional institutions. The principal expenses for maintenance and education, and for providing for discharged pupils, are to be borne by the communal associations (*Kommunalverbände*); the Government contributes two-thirds of these expenses. The communal associations

have the right to recover from the pupils, or the persons liable to maintain the same. The law (sec. 5) provides further for a "provisional disposal of the minor," if danger is to be feared. In these cases also the Court of Ward decides on the matter. Finally, there is a new penalty clause with the object of securing the carrying out of the "guardianship education." This clause threatens— independently of unlawful deliverance of prisoners punishable by Imperial law (Penal Code, sec. 120) and of kidnapping (Penal Code sec. 235)—with imprisonment up to two years, with a fine up to one thousand marks, or with any one of these penalties, the person withdrawing any minor respecting whom legal proceedings have been commenced in order to bring the same under "guardianship education," or who has been ordered to undergo "guardianship education," from such said proceedings or such "guardianship education," or inducing the same to withdraw from such process or such "provident education" or intentionally assisting him or her in doing so. The attempt also is punishable. Self-withdrawal, on the other hand, goes without punishment. The law leaves open the question whether foreigners can be subjected to "guardianship education." The question may be answered in the affirmative in case a foreigner according to the laws of his country requires the care of a guardian and the foreign State, upon request of the German Court does not undertake such duty. This is a corollary from the *Einführungsgesetz* of the Civil Code, Art. 23.

The Aim of the Legislation—The Moral Training of the Young.—From this short sketch it appears that the leading idea of the new law is to attempt to prevent the demoralisation of youth by a thorough dissemination of moral principles. The law leaves free play to the activity of guardianship and educational associations and to charity which seeks to act, not so much by giving monetary assistance, as by the force of moral example and restraint. The administration of this law in the manner intended by the Legislature will be the best answer to these words lately uttered by a high German Government official: "The law which makes the judge of the Court of Ward the custodian of youthful persons contrary even to the wishes of their parents implies a terrible accusation against society."

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