

## C O N T E N T S

1. Child Welfare Committee- Auxiliary Services of  
Juvenile Courts. (1931.IV.1.) 128pp.
  2. Child Welfare Committee- Child Welfare Councils  
(Norway, Denmark, Sweden.) (1937.IV.1.) 96pp.
  3. Advisory Committee on Social Questions- Principles  
applicable to the Functioning of Juvenile Courts  
and Similar Bodies, Auxiliary Services and  
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**LEAGUE OF NATIONS**

**CHILD WELFARE COMMITTEE**

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**AUXILIARY SERVICES OF JUVENILE  
COURTS**

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## AUXILIARY SERVICES OF JUVENILE COURTS.

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### HISTORY OF THE QUESTION.

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The Child Welfare Committee, at its fourth session (1928), took note of the report drawn up by the International Prison Commission on juvenile courts, and expressed the hope that the enquiry would be extended to include the question of the auxiliary services of those courts, particularly in regard to the social action which can be undertaken to reform delinquent children and improve their home environment. The Committee adopted the following resolution:

“ The Child Welfare Committee has examined the report of the enquiry about juvenile courts made by the International Prison Commission, and it desires to express its appreciation of the preliminary work done by the Commission and of the valuable report which it has drawn up.

“ The Committee decided to appoint three Rapporteurs to submit proposals, after consulting the International Prison Commission regarding the form in which an enquiry into the different auxiliary services of juvenile courts could be pursued. ”

The three Rapporteurs chosen were Dr. Gertrud BÄUMER, Miss LATHROP and M. ROLLET.

This resolution was approved by the Council at its fiftieth session, on June 4th, 1928.

At its fifth session (1929), the Committee received a draft questionnaire from its Rapporteurs, examined it and decided that, after revision by the Rapporteurs, it should be sent, in the first place, to Governments only. At the 1930 session, however, after examining the information thus obtained, it would decide whether the particulars received from official sources should be supplemented by sending to private organisations a suitable questionnaire drafted jointly with the International Prison Commission.

The Committee approved the following resolution:

“ The Committee approves the questionnaire concerning the auxiliary services of juvenile courts, and desires that it should be sent out to all Governments, including those which are not Members of the League of Nations. ”

Another resolution submitted by the Rapporteurs and worded as follows was adopted by the Committee:

“ The Child Welfare Committee decides to keep on its agenda the study of the question of Juvenile Courts and proposes at a future meeting to undertake, in agreement with the International Prison Commission, a study of the institutions which enforce the decisions of the Juvenile Courts. ”

These resolutions were approved by the Council at its fifty-fifth session, on June 12th, 1929.

In pursuance of this decision, the Secretary-General, on August 1st, 1929, sent the following questionnaire to all the States Members and non-Members of the League of Nations.

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## QUESTIONNAIRE

ADDRESSED TO VARIOUS GOVERNMENTS PRELIMINARY TO A PROPOSED STUDY OF THE DIFFERENT AUXILIARY SERVICES OF JUVENILE COURTS.

### *Question I.*

Are there in your country one or more auxiliary services in connection with the juvenile courts ?

- A. What are the services which act at present ?
- B. Are these auxiliary services created by a law ? If so, please forward a copy of the law.
- C. Have these services been accepted by the courts on the basis of a liberal interpretation of laws already in existence ?

### *Question II.*

What are the duties of these auxiliary services ? Are they laid down in a standing order ? If so, what is the standing order ?

- A. Are the auxiliary services called upon before the court takes its decision in order to establish the nature of the facts on which that decision is based ?
- B. At the time when the court takes its decision ?
- C. After the court has taken its decision ?

#### *A. Before the Decision :*

What are the duties of an auxiliary service in carrying out a preliminary enquiry as to the facts and in investigating the deeper causes of the act committed (study of the

family and of the child's surroundings, study of the character and of the physical and mental state of the child) for the purpose of furnishing the judge with any information that may assist him in taking the best steps in the interest of the child's education ?

Can the educational authorities be required to give information regarding the child's career and progress at school ?

What action is taken by an auxiliary to assist the judge in taking temporary measures for the child during the course of the enquiry ?

*B. At the Time when the Court takes its Decision :*

What part do the auxiliary services take in the assistance and defence of minors in the furnishing of information, and in helping to carry out the decisions of the judge ?

*C. After the Court has taken its Decision :*

What part do the auxiliary services take in carrying out the orders of the juvenile court (probation, the visiting of children in public and private institutions and establishments, etc.) ?

Do the auxiliary services intervene and apply to the court to modify its first decision, and if so, how ?

*Question III.*

What is the organisation of these auxiliary services ?

Are they part of a general system covering the whole country ?

Are these services public or private ?

Are their members public officials ? Are they officials employed by private institutions or are they volunteers ?

Are they paid or not ?

What is their training ?

To what authority are they responsible ?

How are the expenses of these auxiliary services met ?

*Question IV.*

What part do women play in the auxiliary services attached to the juvenile courts ?

*Question V.*

What are the duties of doctors in connection with these courts ?

What steps are taken in regard to abnormal children ?

*Question VI.*

What are the results obtained by the auxiliary services in the work of the juvenile courts ?

*Question VII.*

What changes would you suggest in the methods by which the auxiliary services assist the courts in your country ?

*Supplementary Question.*

Name one or more juvenile courts in your country in which the assistance of the auxiliary services is considered of particular value to children.

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The Child Welfare Committee adopted at its sixth session the following resolution, which was approved by the Council on May 13th, 1930:

" The Child Welfare Committee, after having examined the interesting report submitted by the Secretariat concerning the enquiry on auxiliary services of juvenile courts and also the reports received from States subsequent to this enquiry, decides:

" 1. . . . .

" 2. *To keep on its agenda the present enquiry on auxiliary services, as the Secretariat is to submit a report on the question at the next session.*

" 3. . . . .

In execution of this decision, a reminder, accompanied by a fresh copy of the questionnaire, was sent on June 17th, 1930 to all the States which had not yet supplied information on the question of the auxiliary services of juvenile courts.

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## REPLIES FROM GOVERNMENTS.

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### LIST OF COUNTRIES FROM WHICH REPLIES HAVE BEEN RECEIVED.

Up to to-day's date, fifty-four replies have been received by the Secretariat. They come from the Governments of the following countries:

ALBANIA	GREECE	PERSIA
AUSTRALIA	GUATEMALA	PERU
BELGIUM	HAITI	POLAND
BULGARIA	HUNGARY	PORTUGAL
CANADA	ICELAND	ROUMANIA
CHILE	INDIA	SIAM
COLOMBIA	IRAQ	SOUTHERN RHODESIA
COSTA RICA	ITALY	SPAIN
CZECHOSLOVAKIA	LATVIA	SUDAN (Condominium)
DANZIG (Free City of)	LIECHTENSTEIN	SURINAM (Netherlands Indies)
DENMARK	LUXEMBURG	SWEDEN
DOMINICAN REPUBLIC	MEXICO	SWITZERLAND
ECUADOR	MONACO	TURKEY
EGYPT	NETHERLANDS	UNION OF SOUTH AFRICA
ESTONIA	NEWFOUNDLAND	UNITED STATES OF AMERICA
FINLAND	(British Colony)	VENEZUELA
FRANCE	NEW ZEALAND	YUGOSLAVIA
GERMANY	NORWAY	
GREAT BRITAIN:	PANAMA	
ENGLAND AND WALES		

### EXISTENCE OF AUXILIARY SERVICES.

Of the fifty-four replies received, twenty-three contain information relating to the whole or part of the questionnaire. These countries are: Australia, Belgium, British India, Canada (for the provinces of Manitoba, Nova-Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan), Chile, Colombia, Czechoslovakia, the Free City of Danzig, France, Germany, Great Britain (England and Wales), Hungary, Italy, Mexico, Netherlands, New Zealand, Peru, Poland, Portugal, Spain, Switzerland, Union of South Africa and Yugoslavia.



Thirty-one of the replies state that there are no auxiliary services in the countries or provinces in question: Albania, Bulgaria, Canada (for the provinces of British Columbia and New Brunswick), Costa Rica, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Finland, Greece, Guatemala, Haiti, Iceland, Iraq, Latvia, Liechtenstein, Luxemburg, Monaco, Newfoundland (British Colony), Norway, Panama, Persia, Roumania, Siam, Southern Rhodesia, Sudan (Condominium), Surinam (Netherlands Indies), Sweden, Turkey and Venezuela. All these countries, except Canada (for British Columbia), Egypt, Latvia Newfoundland and Roumania (for Transylvania), have no auxiliary services because they have no juvenile courts. Some of them have sent an account of the manner in which they treat juvenile delinquency. As this information is not covered by the questionnaire, it has not been included in the present document.

Canada (for the province of British Columbia), Egypt, Latvia and Newfoundland state that they have no auxiliary services for juvenile courts, but give no reason for the absence of such services.

The Roumanian Government replies that " there are, in Transylvania, special juvenile courts provided for by law, but they do not constitute auxiliary services in the strict sense of the term ".

The United States of America state that it cannot give any practical reply to the questions contained in the questionnaire, with a view to an enquiry into the auxiliary services of juvenile courts, as these are organised on a *local* basis and have a large number of different types of service.

The province of Alberta in Canada has a special system. The services described as auxiliary in the questionnaire operate first on their own initiative, and if, in the course of their duties, they feel that they need the assistance of a court to give effect to any of their wishes in handling cases, they go to the courts for the enforcement of these wishes.

Owing to the different point of view adopted, the particulars supplied by the province of Alberta have not been incorporated in the report, but are given in Appendix I.

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## GENERAL STATEMENT

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For the purpose of this report, the auxiliary services are taken to be all those which assist the juvenile courts to take a decision or to modify its first decision in the interests of the minor. Those institutions which carry out the decisions of juvenile courts do not come within the scope of the present enquiry.

The object of special jurisdiction being not merely to educate or re-educate the minor, but also to prevent delinquency, the preliminary enquiry before a decision is taken, control of the treatment prescribed, and of the progress made are of capital importance, and new services and duties were called into being in order to meet these requirements.

It is extremely rare for juvenile courts to function without auxiliary services. It is the case, for instance, in British Columbia (Canada), which, since 1918, has possessed juvenile courts but has not organised auxiliary services. In Spain, on the other hand, the Law of November 28th, 1918, relating to juvenile courts amended by a decree-law of the Military Directorship of July 15th, 1925, provides for the establishment of a special court dealing with questions affecting minors "in all provincial capitals and principal towns which possess special institutions for the protection of abandoned or delinquent children". The creation of juvenile courts is thus made conditional upon the existence of certain kinds of auxiliary services.

The organisation of the auxiliary services differs from country to country. They may be either official or private.

*Public Services.* — The official services may be divided into two main categories, as follows:

(a) Those *which are set up to assist the juvenile courts* and whose duties are confined to such assistance.

Of these services, particular mention may be made of probation officers and remand homes. A brief account of the aims and work of these services will be given after this introduction.

(b) The official services *having general functions or dealing with various aspects of child welfare work, including certain forms of co-operation with the juvenile courts.*

The most representative services belonging to this category are the police, and the departments (or committees, councils, charitable organisations, directors, general supervisors, etc.) for child welfare, such as exist, for instance, in Germany, in the States of Australia, in certain provinces of Canada, in Italy and in some Swiss cantons.

These official services may co-operate closely with private bodies, and, if the latter are recognised by the competent authority, their duties are usually determined by law—for instance, children's aid societies in some of the Canadian provinces, India (the province of Bombay), etc.

*Private Services.* — Juvenile courts may also have recourse to private institutions and private persons, who may be divided into two categories, according to the nature of their co-operation:

(a) Those *who may be called upon* in virtue of the special services which they are in a position to render or in virtue of a liberal interpretation of the law—for instance, Scouts, Girl Guides, the "Big Brothers" and "Big Sisters" Associations, and private institutions to whose care children may be entrusted while their cases are pending, etc.

(b) Those which *enjoy a special degree of legal recognition or on whom the law imposes special obligations.* Of the latter, mention may, in the case of certain countries, be made of doctors, nurses and schoolmasters, homes legally recognised as suitable for use as remand homes, certain charitable organisations or federations, etc.

#### PROBATION OFFICERS.

The duty of probation officers as defined by the International Penitentiary Congress at Washington in 1910 (see Acts of the Penitentiary Congress) is to assist magistrates in dealing with youthful delinquents by investigating the cases in advance and supervising and assisting youthful delinquents placed on probation.

Most of the countries which have juvenile courts have attached probation officers to those courts. Moreover, it is clear from the documents supplied by certain countries which do not mention probation officers in the list of auxiliary services that organisations with a large number of functions (such as children's aid societies, child welfare societies, young people's organisations, welfare groups, etc.) comprise either a service of probation officers or services of enquiry and supervision which in practice correspond to the duties of probation officers—as in India (province of Bombay), several of the States of Australia, Canada (province of Quebec), the Free City of Danzig, Czechoslovakia, etc.

*Status of Probation Officers.* — The status of probation officers is not identical in all countries.

They may consist of the following:

(1) *Public officials only*—as, for instance, Great Britain. When they are public officials, they are usually paid. Nevertheless, Tasmania states that the probation officers of the juvenile courts are officials but receive no remuneration;

(2) *Paid officials to whom are attached unpaid volunteers, or members of child welfare organisations* who may or may not be paid by their organisations—as, for instance, in Spain, Portugal, India (Bengal) and Australia (Victoria);

(3) *Persons who are not officials*, but who nevertheless co-operate generally in the work of the juvenile court—as in Belgium, France and Poland. In Poland, probation officers are only paid under a special decree; in Belgium, they are only paid when attached to the larger jurisdictions in view of the specially arduous duties which they have to perform; while, in France, those who so request are entitled to a travelling allowance.

The method of appointing these officers varies. They may be appointed by the children's judge—as, for instance, in Belgium and Poland, although in Belgium the appointment of paid probation officers must be approved by the Minister of Justice; by the court which they assist—as, for instance, in Spain; by a Minister—*e.g.*, the Minister of Justice in the Union of South Africa; by the Government or the Governor—as, for example, in India in the Province of Bengal and in Tasmania. In Great Britain (England and Wales) probation officers are appointed by the justices or the Probation Committee, except in London, where they are appointed by the Home Secretary.

Some of the countries do not mention any authority to whom the probation officers are generally responsible. According to information received, this authority is in some cases the magistrate or court which has appointed them, sometimes an administrative department—for instance, the Department of Prisons in the Union of South Africa—or a judicial authority. In the State of Victoria, Australia, the Chief Probation Officer is directly responsible to the Attorney-General, and the others are responsible to the Attorney-General through the Chief Probation Officer. In France, probation officers are responsible to the Director of the *Association amicale des rapporteurs et délégués*.

#### REMAND HOMES.

In most of the countries which have special courts for minors, steps have been taken to avoid bringing juvenile delinquents into contact with adult criminals. Moreover, it is desirable, from the point of view of re-education, on the value of which children's judges and courts are generally agreed, that steps should be taken to avoid sending minors to prison.

In certain countries, therefore, the law provides that they shall be detained during proceedings in houses of refuge, homes or remand homes for children only. These institutions may be public or private. Nevertheless, in certain countries, the law, while laying down the general principle that minors shall not be detained in prisons when under remand, allows of this being done in certain cases or in certain circumstances.

In other countries, where there is no legislation on this subject, the competent authorities utilise homes or houses of refuge for the accommodation of minors on remand if such institutions are available.

Sometimes, while proceedings are pending, minors are handed over to the care of institutions set up for the purpose of carrying out the sentences pronounced by the juvenile courts.

As no question relating to remand homes for minors is included in the questionnaire, only some of the countries have furnished information—Germany, Australia (Victoria), Belgium, Canada, Colombia, Great Britain, Peru, Union of South Africa, United States of America, Yugoslavia, etc. Other countries which supplied no data might, however, have been able to furnish interesting information.

#### PLAN FOLLOWED IN PRESENTING THE INFORMATION RECEIVED.

The data collected follow the order of the points of the questionnaire. The replies to the various sub-questions in each point of the questionnaire are grouped under a general heading corresponding to the main question.

The replies to Question I are published in tabular form. Wherever the auxiliary services have been created by a law or a regulation issued by the executive, this has been mentioned. Similarly, when specific powers in connection with the juvenile courts have been given by a law or regulation to official services or institutions with wider powers, and when institutions and private persons are accorded a special degree of recognition by the law or have assumed particular obligations under the law, this is also mentioned. As the references given are as accurate as possible, it did not seem necessary to append to the present document the text of the laws and regulations, which are filed with the League Secretariat.

The replies to Question II, which are grouped under the heading "Duties of the auxiliary services", are published *in extenso* in view of the diversity of the duties and of the way in which they were performed by those services in the various countries.

The data relating to the "Organisation of the auxiliary services" (Question III) has been partly resumed and partly published country by country.

The replies to Questions IV, V, VI and VII have been summarised as far as possible. A few countries have replied to Questions VI and VII.

A list of the courts which derive most benefit from the assistance of the auxiliary services is appended to the present document.

## Replies to Question I.

### AUXILIARY SERVICES OF JUVENILE COURTS.

Country	Auxiliary services created by law or regulations promulgated by the Executive	Official services and institutions appointed to act in an auxiliary capacity	Private institutions and persons	
			A. Private institutions which may be called upon	B. Institutions and persons specially recognised by law or entrusted with special obligations by law
GERMANY . . .	The medical service was set up under Art. 31 of the Law of February 16th, 1923, on juvenile courts.	The child welfare offices created under the Reich Law on child welfare of July 9th, 1922, the co-operation of which with the juvenile courts is regulated by the following provisions of the Law on Juvenile Courts dated February 16th, 1923 : Art. 8, § 1; 12, § 5; 20, § 1; 22-23, § 2; 27; 28, § 3; 29; 31, §§1 and 3; 32, §§ 1, 2 and 3; 34; 42.	Private associations co-operate with the auxiliary services under the auspices of the child welfare offices, of which they are ordinary members. The duties of the auxiliary services attached to the juvenile courts may, however, be entrusted entirely to private associations.	
AUSTRALIA: New South Wales		The police service includes eight women special constables. The Child Welfare Department administers the Child Welfare Act, 1923.	The various private auxiliary services are mostly of a religious nature and are organised by the various denominations.	
Victoria. . .	Probation officers under Art. 8 to 10 of the Children's Court Act of 1915.	The Child Welfare Department, the duties of which as an auxiliary service are regulated by the Children's Welfare Act of 1915, Art. 9, 20, 25 <i>et seq.</i> The homes created under the Children's Welfare Act of 1915, Art. 4, utilised as places of preventive internment under the Children's Courts Act, Art. 19, § 4.	Medical officers, psychologists and psychiatrists.	

Country	Auxiliary services created by law or regulations promulgated by the Executive	Official services and institutions appointed to act in an auxiliary capacity	Private institutions and persons	
			A. Private institutions which may be called upon	B. Institutions and person specially recognised by law or entrusted with special obligations by law
<b>AUSTRALIA</b> <i>(cont'd)</i> : <b>Queensland</b> .		<p>The State Children's Department created by the State Children's Acts of 1911 to 1928, Art. 6, for the administration of this law.</p> <p>The police.</p> <p>The work of these two services in connection with the children's courts is regulated by the State Children's Acts (1911 to 1928) and the Children's Courts Act of 1907.</p>		
<b>South Australia</b>		<p>The Children's Welfare Department, empowered under the Maintenance Act of 1926.</p> <p>Psychologists attached to the Education Department.</p> <p>The police (see Maintenance Act, 1926, Art. 101).</p>		
<b>Western Australia</b>		<p>The Child Welfare Department, constituted under Art. 5 of the Child Welfare Act of 1907-1927, its duties being defined by the said Act.</p> <p>The police (see Art. 29 of the same Act).</p>		
<b>Tasmania</b> . .	<p>Probation officers appointed under the Children's Charter of 1918, Art. 30 et 31.</p>	<p>The State Children's Department, to which the children's courts may entrust certain children under the Children's Charter.</p> <p>The police (see Children's Charter).</p>		

Country	Auxiliary services created by law or regulations promulgated by the Executive	Official services and institutions appointed to act in an auxiliary capacity	Private institutions and persons	
			A. Private institutions which may be called upon	B. Institutions and persons specially recognised by law or entrusted with special obligations by law
BELGIUM . . .	<p>Probation officers appointed under the Child Welfare Law of May 15th, 1912 (Art. 25 and 26).</p> <p><i>Observation.</i> — Under the Law of May 15th, 1912, the magistrate is bound to keep in touch with all institutions connected with child welfare, the latter thus becoming auxiliary services of the juvenile courts.</p>	<p>Public establishments in which children can be detained provisionally or placed under observation before the magistrate's final decision.</p>	<p>Private establishments and homes governed by welfare committees in which children may be detained provisionally or placed under observation before the magistrate's decision.</p>	
CANADA: Manitoba . . .	<p>Peace officers created under Art. 17 (4) of the Juvenile Delinquents Act (Canada), 1929, being Chapter 46 of the 1929 Statutes of Canada; and by Arts. 15 and 18 of the Child Welfare Act of 1924, being Chapter 30 of the Consolidated Amendments, 1924.</p> <p>Juvenile court probation officers created under Art. 20 (4) of the Juvenile Delinquents Act (Canada), 1929, and by Art. 10 of the School Attendance Act, being Chapter 164 of the said Consolidated Amendments, 1924.</p> <p>Juvenile court committees instituted under Arts. 27 and 28 of the Juvenile Delinquents Act (Canada), 1929.</p> <p>Detention homes. Juvenile Delinquents Act (Canada), 1929, Art. 13 (1).</p>	<p>Chief of Municipal Police.</p> <p>Chief of Provincial Police.</p> <p>Chief of the Royal Mounted Canadian Constabulary.</p> <p>The Director of Child Welfare, Arts. 5 and 31 of the Child Welfare Act (Manitoba), 1924.</p>	<p>The following are private, semi-private or philanthropic associations:</p> <p>Big Sisters' Association of Greater Winnipeg;</p> <p>Y.M.C.A.;</p> <p>Cathol. Women's Hostel;</p> <p>Salvation Army;</p> <p>Rotary Club;</p> <p>Kiwanis Club;</p> <p>Fresh Air Camps;</p> <p>United Churches City Mission;</p> <p>Children's Aid Association, Winnipeg;</p> <p>Jewish Orphanage and Children's Aid of Western Canada;</p> <p>St. Adelard Society;</p> <p>Church of England Church Army;</p> <p>Church of England City Mission;</p> <p>Boy Scouts; Girl Guides;</p> <p>The Children's Home of Winnipeg.</p>	<p>Any physician, nurse, teacher or psychiatrist (Child Welfare Act, Arts. 87 and 93).</p>
Nova Scotia	<p>Probation officers appointed under the Children's Protection Act of 1917, being Chap. 166 of the revised Statutes of Nova Scotia, 1913, Chap. 1, Art. 6.</p> <p>Committees of the Children's aid societies instituted under Arts. 27 and 28 of the Juvenile Delinquents Act (Canada), 1929, and Art. 13 of the Children's Protection Act, 1917.</p>	<p>The superintendent of neglected and delinquent children, appointed under Part I, Art. 8, of the Children's Protection Act of 1917 (see also the Act of 1926 to amend Chap. 166 of the revised Statutes of Nova Scotia, 1923, Arts. 1 and 2.</p> <p>The police (see Art. 22, Children's Protection Act, 1917).</p>		<p>Nova Scotia Society for the Prevention of Cruelty.</p> <p>Children's Protection Act, 1917, Chap. 1, Art. 17.</p>



Country	Auxiliary services created by law or regulations promulgated by the Executive	Official services and institutions appointed to act in an auxiliary capacity	Private institutions and persons	
			A. Private institutions which may be called upon	B. Institutions and persons specially recognised by law or entrusted with special obligations by law
CANADA (contd.): Ontario . . .		There are several auxiliary services. The Children's Aid Branch, one of the most useful services, is a provincial Government organisation established under the Children's Protection Act, 1927, Arts. 3 and 4 of Chap. 78 of the Statutes of the Province of Ontario. This branch includes local children's aid societies and various philanthropic organisations in the different countries and towns.	Big Brothers' and Big Sisters' Associations.	
Prince Edward Island	Children's Committees (see Children's Protection Act, being Chap. 15, Art. 6, of the Statutes of 1910).	The superintendent of neglected and dependent children, appointed under Arts. 3 and 4 of the Children's Protection Act, being Chap. 15 of the 1910 Statutes.		Children's aid societies (see Children's Protection Act, 1910).
Quebec . . . .	The Catholic Committee and the Protestant Committee, created under Art. 27 of the Juvenile Delinquents Act (Canada), 1929.			
Saskatchewan	The Committees of the Children's Courts. Probation officers. These services were instituted under Art. 27 to 31 of the Juvenile Delinquents Act (Canada), 1929.			
CHILE . . . . .	Services for observation from a social, medico-anthropological, psychological and pedagogic point of view, established under Law 4447 of October 18th, 1928, concerning the protection of minors (Art. 5 to 9) (see also the Administrative Rules, December 24th, 1928).			

Country	Auxiliary services created by law or regulations promulgated by the Executive	Official services and institutions appointed to act in an auxiliary capacity	Private institutions and persons	
			A. Private institutions which may be called upon	B. Institutions and persons specially recognised by law or entrusted with special obligations by law
<p><b>COLOMBIA</b><sup>1</sup></p> <p>(At present there are Children's courts only at Bogota, Medellin, Bucaramanga and Manizelos.)</p>	<p>Law No. 15, of February 3rd, 1923, empowers departmental councils to set up and maintain what are termed "Minors' Homes" and "Reformatory Schools" ("Casas de Menores" and "Escuelas de Trabajo"), for the welfare of boys. Several departments have created these institutions, which are utilised mainly for the enforcing of sentences pronounced by the children's magistrate, though minors may be placed in these homes while their case is pending.</p> <p>Moreover, it would seem that at Manizelos, Department of Caldos, the Minors' Home serve to a certain extent as observation home.</p>		<p>Various private institutions for boys and girls, their purposes being educative, reformatory, or preventive. These institutions would appear to be available for remanded cases in the four departments which possess juvenile courts.</p>	
<p><b>DANZIG</b> (FREE CITY OF)</p>		<p>The six young persons' offices (Jugendämter) created under the Young People's Welfare Law of July 8th, 1927 (<i>Danziger Gesetzblatt</i>, 1927, p. 269), and under the Law of November 25th, 1927, on juvenile courts (<i>Danziger Gesetzblatt</i>, 1927, p. 562).</p>	<p>The young persons' welfare services attached to the courts (Gerichtliche Jugendwohlfahrtspflege);</p> <p>The Danzig Young Persons' Protection Union (Danziger Jugendfürsorgeverband);</p> <p>The Youth Department of the Free City Association for the Home Mission (Freistadtverein für Innern Mission);</p> <p>The Charity Association (Caritasverband) for the Free City of Danzig;</p> <p>The National Workers' Relief Committee (Landesausschuss für Arbeiterwohlfahrt).</p>	

<sup>1</sup> The information received from Colombia will be published at a later date, in a report consecrated to the institutions which enforce the decisions of the juvenile courts.

Country	Auxiliary services created by law or regulations promulgated by the Executive	Official services and institutions appointed to act in an auxiliary capacity	Private institutions and persons	
			A. Private institutions which may be called upon	B. Institutions and persons specially recognised by law or entrusted with special obligations by law
SPAIN . . . . .	The service for enquiries regarding the family and the child's environment; service for the observation of minors; probation and preventive supervision services. All these services are instituted under the Decree-Law and Regulation of February 3rd, 1929.			
UNITED STATES OF AMERICA <sup>1</sup>	<p>The Government of the United States of America states that the questions submitted in the questionnaire cannot be answered in a practical manner in the United States, where the juvenile courts are organised on a <i>local</i> basis and with a great many types of services.</p> <p>Although, however, there are considerable local differences in the organisation of the various juvenile courts and their auxiliary services, it may be said that the official services are:</p> <ol style="list-style-type: none"> <li>(1) Probation;</li> <li>(2) Psychiatric and medical clinics;</li> <li>(3) Detention homes;</li> <li>(4) Institutions for delinquent children;</li> <li>(5) School attendance inspection;</li> <li>(6) Police services.</li> </ol> <p>All these services are created by laws or authorised by provisions of the local council, special legislation for the organisation of these services being in most cases unnecessary.</p>		Welfare organisations co-operating with the juvenile courts in most localities, such as "Big Brothers" and "Big Sisters".	

<sup>1</sup> The reports on the work of the juvenile courts in the United States are published by the Children's Bureau of the Department of Labour, which supplies them on request.

Country	Auxiliary services created by law or regulations promulgated by the Executive	Official services and institutions appointed to act in an auxiliary capacity	Private institutions and persons	
			A. Private institutions which may be called upon	B. Institutions and persons specially recognised by law or entrusted with special obligations by law
FRANCE . . . .	<p>The service of rapporteurs and probation officers was created under Art. 4, 20 <i>et seqq.</i> of the Law of July 22nd, 1912, on juvenile courts, young persons and probation.</p> <p>The medico-psychological service and the service for social enquiries, at La Petite-Roquette and at Fresnes, which is attached to it, were set up in October 1927 and August 1929 respectively by the Seine Bench of Magistrates, with the approval and authorisation of the Chancellery.</p>		<p>The service for rescuing children exposed to moral danger was set up through a very wide interpretation of the Law on Courts for Children and young Persons and Probation of July 22nd, 1912, Art. 4.</p> <p>"Patronages" (social centres for boys and girls) which can offer temporary hospitality.</p> <p>Both these services are recognised as being of public utility.</p>	<p>The Committee for the defence of children brought into court.</p> <p>This service was not created under any law, though the Law of July 22nd, 1912, Art. 3, provided for its existence.</p>
GREAT BRITAIN (England and Wales) <sup>1</sup>	<p>The probation system is based on the Probation of Offenders Act, 1907, the Criminal Justice Administration Act, 1914, Art. 7, 8 and 9, the Criminal Justice Act, 1925, Part I, and the Probation Rules.</p> <p>Among other auxiliary services of a less direct character are those given by remand homes, established under Art. 108 of the Children Act, 1908.</p>	<p>The local education authority draws its general powers from the Education Act, 1921.</p> <p>The police administration is based on a number of police statutes.</p>	<p>Clinics.</p> <p>A number of voluntary agencies of various kinds. Among these may be mentioned the National Society for the Prevention of Cruelty to Children, the Boy Scout and Girl Guide movements, and numerous clubs for working boys and working girls, many of which are provided and organised by religious bodies.</p>	
HUNGARY . .	<p>"Patronage"</p> <p>Minors' supervision officers.</p> <p>These services are created under Laws XXXVI of 1908 and VII of 1913 and by the Decrees promulgated by the Minister of Justice in execution of those laws (Art. 22, 25, 29 and 30, first paragraph of Art. 31 of Law XXXVI of 1908; Art. 7, 16, 19, 28, 30, 46, 48, 53, 54 and 66 of Law VII, 1913; Decree No. 21/191/1914.I.M. of the Royal</p>			

<sup>1</sup> In some directions, the auxiliary services of the juvenile courts are based on definite requirements of the law, but in other directions there have been considerable developments. The practice of juvenile courts differs considerably in different parts of the country, but the general desire is to study the interests of the child and to obtain help from any sources, official or voluntary, that may be available.

Country	Auxiliary services created by law or regulations promulgated by the Executive	Official services and institutions appointed to act in an auxiliary capacity	Private institutions and persons	
			A. Private institutions which may be called upon	B. Institutions and persons specially recognised by law or entrusted with special obligations by law
HUNGARY ( <i>contd.</i> )	Hungarian Minister of Justice; Art. 9 to 34 of Decree No. 56000/1913.I.M. of the Royal Hungarian Minister of Justice; Art. 6 to 14 of Decree No. 27100/1909.I.M. of the Royal Hungarian Minister of Justice; and the whole of Decree No. 27400/1909.I.M. of the Royal Hungarian Minister of Justice.			
INDIA (Juvenile courts only exist in the Bengal and Bombay Presidencies.) Bengal . . .	Probation officers appointed under the Bengal Children Act of 1922, Art. 24 and 28. The law is only in force in Calcutta and in a very restricted area around the city.			
Bombay . . . (There is only one juvenile court in the Bombay Presidency—the City of Bombay Children's Court.)	Probation officers appointed under Rule No. 7 of the City Juvenile Court Rules of 1927. There is no provision entrusting the administration of this branch of work to any philanthropic society.		Children's Aid Society. It helps to apply the Bombay Children Act XIII, 1924.	The remand house of Umarkhadi (Bombay) recognised under Rule No. 4 of December 1926.
ITALY . . . . .		The organs of the National Mothers' and Children's Protection Society (central body, provincial federation in each provincial capital, and committees in each commune). The service is governed mainly by Law No. 2277 of December 10th, 1925, amended by		

Country	Auxiliary services created by law or regulations promulgated by the Executive	Official services and institutions appointed to act in an auxiliary capacity	Private institutions and persons	
			A. Private institutions which may be called upon	B. Institutions and persons specially recognised by law or entrusted with special obligations by law
ITALY ( <i>contd.</i> )		Decree-Law No. 1004 of October 21st, 1926, converted into Law No. 239 of January 5th, 1928 and by Rule No. 718 of April 15th, 1926; by the unified text of Law No. 1848 of November 6th, 1926, on public safety, and Rule No. 68 of January 21st, 1929; the existing Criminal Code and Code of Criminal Procedure; the Law and Rules on Prisons (February 1st, 1891) and the Rules on Homes of Correction and Reformatory Education (February 1st, 1891, and July 24th, 1907); Circular No. 2936 of the Ministry of Justice, September 24th, 1929, and the corresponding Circular No. 32 of the National Mothers' and Children's Welfare Society of September 30th, 1929.		
MEXICO . . . . . (The only juvenile courts in the Republic are at Mexico City and San Luis Potosi.)	Observation Centre. Society Research Section. Psychological Research Section. Pedagogical Research Section. Medical Research Section. Probation Officers. The Pedography Section. All these services were created by the Law on Social Measures in regard to Delinquency among Children in the Federal District, dated March 30th, 1928 (Chap. II, Art. 11). The rôle of these various services is defined in the Rules of the Federal District Juvenile Court.	Police headquarters of the Central Department. The jurisdiction of the police with regard to delinquent minors is defined by the Law on Social Measures in regard to Delinquency among Children in the Federal District, dated March 30th, 1928 (Art. 4). Public relief institutions (see Art. 9 of the Rules of the Federal District Juvenile Court). Government Departments (see same article of same rules).	All private societies and institutions.	

Country	Auxiliary services created by law or regulations promulgated by the Executive	Official services and institutions appointed to act in an auxiliary capacity	Private institutions and persons	
			A. Private institutions which may be called upon	B. Institutions and persons specially recognised by law or entrusted with special obligations by law
NEW ZEALAND	The Child Welfare Branch of the Education Department created by the Child Welfare Act of 1925 (Part I, Art. 3) and the Child Welfare Amendment Act of 1927.			
NETHERLANDS (The Law of July 5th, 1921, entrusted only part of the procedure in connection with minors to children's magistrates.)		<p>Guardianship boards and family guardians. Cf., as regards their creation and subsequent modification, the Laws of February 6th, 1901 (<i>Legal Gazette</i>, No. 62), of September 27th, 1909 (<i>Legal Gazette</i>, No. 322), of July 5th, 1921 (<i>Legal Gazette</i>, No. 834), and of May 19th, 1922 (<i>Legal Gazette</i>, No. 325). The two services are recognised in Art. 385b and 373* of the Civil Code.</p> <p>Officials responsible for carrying out the laws in regard to children. Art. 3 of the Public Administration Regulations of June 19th, 1922 (<i>Legal Gazette</i>, No. 402), and Art. 2 of the Public Administration Regulations of December 24th, 1925 (<i>Legal Gazette</i>, No. 486).</p> <p>Probation officers, who, while chiefly having to do with adult criminals, may also deal with children if need be. See Art. 2 of the Public Administration Regulations of December 24th, 1925 (<i>Legal Gazette</i>, No. 486).</p> <p>The police, which, in the large towns, have a special section for children.</p>	Private societies, the chief of which are the "Pro Juventute" societies.	

Country	Auxiliary services created by law or regulations promulgated by the Executive	Official services and institutions appointed to act in an auxiliary capacity	Private institutions and persons	
			A. Private institutions which may be called upon	B. Institutions and persons specially recognised by law or entrusted with special obligations by law
PERU . . . . .	<p>The medical service of the juvenile courts.</p> <p>The examining magistrates for minors.</p> <p>Inspectors who conduct enquiries.</p> <p>Remand homes.</p> <p>All these services have been instituted under the Penal Code (see Volume I, Chap. 18, Art. 137 to 149) and the Rules of December 12th, 1925.</p>	<p>The local "patronage" councils instituted under the Penal Code (see Volume IV, Chap. 5, Art. 402 to 407; Chap. 5, Art. 410 to 416).</p>	<p>Private "patronage" societies, the statutes of which must be approved by the local councils.</p>	
POLAND. . . . .	<p>The probation officers for whom provision is made in the Decree of February 7th, 1919, creating juvenile courts.</p>		<p>Society for the Protection of Minors in Abnormal Circumstances.</p> <p>Institute of Abnormal Pedagogy.</p> <p>Bureau of Pedagogical Consultations.</p> <p>The Warsaw Minors' "Patronage" Society.</p> <p>The Red Cross (Young People's Clubs).</p> <p>The Scouts Association.</p> <p>The Union of Catholic Women.</p> <p>League for the Protection of Abandoned Children and Children in Moral Danger.</p> <p>Polish Young People's Christian Association.</p> <p>Section for the Protection of Minors attached to the Released Prisoners' Aid Society.</p> <p>Girls' Friendly Society.</p> <p>Polish Society for School Aid.</p> <p>Madeleine Sisters Religious Association.</p> <p>Samaritan Sisters Religious Association.</p> <p>Albertine Brothers Religious Association.</p>	



Country	Auxiliary services created by law or regulations promulgated by the Executive	Official services and institutions appointed to act in an auxiliary capacity	Private institutions and persons	
			A. Private institutions which may be called upon	B. Institutions and persons specially recognised by law or entrusted with special obligations by law
PORTUGAL. . .	Refuges (Refugios). Probation service. These services were created and their powers defined by the Child Welfare Law of May 27th, 1911, and the Rules of May 15th, 1925.	The police.	Various child welfare homes. Home for Abnormal Females.	The National Federation of Child Welfare Institutions. See Decree No. 10767 of May 15th, 1925, Art. 12; <i>et seq.</i>
SWITZERLAND: <sup>1</sup> Geneva . . .		Official Committee for the Protection of Minors, instituted under the Law of October 19th, 1912, concerning the protection of minors, and the Rules of February 22nd, 1913, for the administration of this law. Its services are recognised by the courts (children's criminal chambers) under the Law of October 4th, 1913, instituting a children's criminal chamber.		
Zurich . . .	Young Persons Counsel (Jugend-anwaltschaften), instituted under the Law of May 14th, 1919, on penal procedure. As regards their organisation and jurisdiction, see Ordinance of July 10th, 1919.	The Cantonal Office for Young Persons (Jugendamt), created under the Ordinance on the Zurich Cantonal Office of February 10th, 1919 (paragraph 1), which under the same Ordinance paragraph 3a), is entrusted with the auxiliary service of the juvenile court.  Commissions for the Protection of Young Persons (Jugendschutzkommissionen), created in the various districts and communes of the Canton of		

<sup>1</sup> In Switzerland, judicial organisation, procedure and the administration of the law come under cantonal law, so that no general reply can be given to the question dealt with in this enquiry. These questions have to be examined separately for each canton.

Only some of the twenty-five Swiss cantons possess special courts for children. Their organisation—and also that of the auxiliary services—differs in each case. Most of the cantons have merely lightened the severity of criminal law where children and young persons are concerned. It should be remembered that the various protective measures on behalf of young delinquents also include, besides the work of the services co-operating with existing juvenile courts, the work of public and private institutions which, within the existing framework of the law, aim at protecting minors and, in particular, placing young delinquents in educational or reformatory establishments. The guardianship and relief authorities, the guardianship offices, committees for the protection of minors, committees for assisting released *apprentices* and persons sentenced to contingent punishment should also be mentioned. The list of these organisations would naturally be much shorter if mention were only made, as in the questionnaire, of institutions that may strictly be regarded as auxiliary services attached to juvenile courts.

As examples of these auxiliary services, as they exist in several Swiss cantons, we may quote the cantonal institutions of Geneva and Zurich, in which these organs have been specially developed and constitute what are practically auxiliary services of the juvenile courts. We think it unnecessary, therefore, to describe the less important institutions which are in existence in some other cantons.

Country	Auxiliary services created by law or regulations promulgated by the Executive	Official services and institutions appointed to act in an auxiliary capacity	Private institutions and persons	
			A. Private institutions which may be called upon	B. Institutions and persons specially recognised by law or entrusted with special obligations by law
SWITZERLAND (continued) Zurich (contd.)		Zurich by the Ordinance on the Cantonal Office of February 10th, 1919 (paragraph 16), and accredited to the juvenile courts under the Law on Penal Procedure of May 4th, 1919 (Art. 389). For their organisation and jurisdiction, see Ordinance of July 10th, 1919.		
CZECHO-SLOVAKIA: <sup>1</sup> Provinces of Bohemia and Moravia-Silesia		Semi-official organisations: District groups of the Young Persons Welfare Society. These groups are under the central provincial committee of the Young Persons' Welfare Society. For the Statute, see Decree of March 23rd, 1923, No. 3188/1 of the Ministry of Social Welfare.		
Slovakia and Sub-Carpathian Russia		Semi-official organisations: District groups of the Young Persons' Welfare Society. For Statute, see Decree of March 23rd, 1923, No. 3188/1 of the Ministry of Social Welfare. The "Children's Sections" of the local groups of the Czechoslovak Red Cross. Provincial Young Person's Welfare Society in Sub-Carpathian Russia.	The "Zivena" Association, the members of which are schoolmistresses.	In Sub-Carpathian Russia, the "Prosvit" and "Skolnaya Pomosc" societies and other private societies, whose powers and duties are defined under paragraph 7 of Article-Law VII of 1913 concerning juvenile courts.

<sup>1</sup> Czechoslovakia comprises two territories to which different laws apply: the territory of the former Austrian legislation—i.e., the provinces of Bohemia and Moravia-Silesia; the territory of former Hungarian legislation—i.e., Slovakia and Sub-Carpathian Russia.

Country	Auxiliary services created by law or regulations promulgated by the Executive	Official services and institutions appointed to act in an auxiliary capacity	Private institutions and persons	
			A. Private institutions which may be called upon	B. Institutions and persons specially recognised by law or entrusted with special obligations by law
UNION OF SOUTH AFRICA	<p>Probation officers. The probation system was created by regulations framed under Section 362 of the Criminal Procedure and Evidence Act, No. 31, of 1917, Regulation 18 <i>et seq.</i></p> <p>Hostel system, established by Act No. 46 of 1920, Art. 5.</p>		Doctors and psychiatrists.	
YUGOSLAVIA . . (Juvenile courts were instituted throughout the State by the Code of Criminal Procedure, dated February 16th, 1929 (Chap. XXII, I, Art. 433-454). This law will not come into force in the Skopje Court of Appeal district and the district of the Podgoritz Higher Court until January 1st, 1932.		The State establishments in which young persons are kept whilst on remand. Code of Criminal Procedure, 1929, Art. 438.		<p>All these services are specially recognised in the Code of Criminal Procedure, 1929. The private societies for the welfare of minors, Art. 435, 438, 440, 454.</p> <p>Private establishments where young persons may be lodged while on remand, Art. 438.</p> <p>Doctors, schoolmasters and clergymen, Art. 440 and 441.</p> <p>Trustworthy families and persons to whom minors may be entrusted during procedure, enquiries, etc., Art. 435, 438, 441, 443, 444, 445, 454.</p>

## Replies to Question II.

### DUTIES OF THE AUXILIARY SERVICES.

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#### INTRODUCTION.

It appears that the auxiliary services of the juvenile courts are entrusted in nearly all countries with the duty of investigating the deeper causes of the act committed, and with this object they study the child's personal position, the conditions of its family life and its character, and its physical and mental condition. Much less frequently—for instance, in *Hungary, New Zealand, Peru, and Switzerland* (Canton of *Zurich*)—the auxiliary services not only investigate the deeper causes but have to determine, or help to determine, the facts which constitute the offence. When the police are regarded as an auxiliary service of the juvenile courts—as, for instance, in *England* and in *Queensland*—they must furnish information bearing on the offence itself and the general conduct of the young person concerned. In *England*, the police also take the charge and present the evidence, while in *Queensland* the police carry out the whole enquiry, including the investigation into the deeper causes of the offence and act as public prosecutor to the court.

The Government of *Tasmania* states that the auxiliary services are not called upon before the court takes its decision.

It appears that, in all countries, the educational authorities collaborate in the preliminary enquiry; in most cases, however, no steps are contemplated to compel the authorities to give information regarding the child's career and progress at school, such information being usually freely and willingly given.

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#### GERMANY.

The auxiliary services of juvenile courts are regulated in detail, not by law but by decrees of the Governments of the States.

##### A. BEFORE THE DECISION.

According to the present regulations, the auxiliary services of the juvenile courts do *not* take part in determining the facts which constitute the offence committed by the

young person, but these services have to collect the material relating to the personal circumstances of the young person which furnishes the basis for the court's decision. For this report, forms are used.<sup>1</sup>

This report by the auxiliary services of the juvenile courts is intended, not only to furnish the basis for the court's decision, but also to help in preparing such measures as may be thought necessary. It must therefore reach the court in time to allow of the necessary measures of education being taken before the decision is given. If there is doubt as to the child's moral understanding or of its power to choose between right and wrong, the auxiliary services may have the young person examined by a neurologist or suggest that the court should order such an examination to be held.

For the purposes of these enquiries, all the appropriate authorities, and therefore the school authorities, in accordance with Article 5 of the Reich Law on Child Welfare, are required to assist the auxiliary services of the juvenile courts and to help the juvenile court in its study of the young person's character.

Prior to the hearing of the case in court, the young persons, as a rule, remain in their usual surroundings. If a change of milieu is thought necessary, the auxiliary services of the juvenile courts endeavour to obtain the child's admission to a home.

If the young person is strongly suspected of the offence and it is thought likely that he will try to escape, he is placed in provisional custody. In many towns, however, homes have been established which may take the place of this custody. At the police headquarters in Berlin, there is a home for the special custody of young persons, with comfortable rooms and a library, where the children are supervised by a welfare worker (*Fürsorger*), who finds them occupation. The law grants the auxiliary services the right to communicate with children awaiting trial in custody.

#### B. AT THE TIME OF THE DECISION.

The auxiliary services of the juvenile courts are admitted to the main proceedings, although these proceedings are not public. The courts are obliged to inform the auxiliary services in good time of the date of the hearing. The duty of these services is to assist the court with pedagogic advice. They represent, it is true, the interests of the minor before the court, but not in the sense of an absolute defence endeavouring to turn every factor to the advantage of the accused. On the contrary, after an impartial examination of the circumstances, they must endeavour to influence the outcome of the proceedings, particularly from the point of view of the educational effects on the young offender. For this reason, auxiliary services rarely make use of the right accorded to them under paragraph 29 of the Law on Juvenile Courts to be appointed as *counsel* for the accused.

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<sup>1</sup> The form used by the Child Welfare Office at Hamburg has been placed in the archives of the Secretariat.

minor, as they can make their influence felt just as well by acting in their capacity as auxiliary of the juvenile court. The appointment by the juvenile court of a counsel for the defence is only necessary in cases which come before the Central Juvenile Court—*i.e.*, in grave cases. In other cases, the court *may* appoint a counsel if it wishes. During the proceedings, the auxiliary services may not, in their capacity of pedagogic advisers to the court, ask any questions. But they are entitled to intervene in the proceedings in accordance with their functions—*e.g.*, in order to supplement verbally the report on the investigations. The auxiliary services can also propose the temporary removal of the minor if it appears from certain evidence—*e.g.*, the report of the doctor—that the effect upon the minor is likely to be injurious.

A circumstantial report on the result of the proceedings, the prosecution's proposals, the judgment, and the attitude of the minor and his family is drawn up by most of the auxiliary services as a basis for the subsequent handling of the case.

The auxiliary services are only able to make a legal appeal to the court to modify its first decision when they have been appointed as *counsel* for the accused. They may, however, request the court at any time to change measures which can be modified without the actual procedure of appeal.

The presence of the auxiliary services at the main proceedings also makes it possible to take immediate measures of relief in favour of a juvenile offender—*e.g.*, the finding of a home for an accused minor hitherto under arrest who is released as a result of the proceedings.

### C. AFTER THE DECISION.

After the decision, the auxiliary services are usually called upon to co-operate in carrying out the educational measures ordered by the judge; they also see to it that the minor discharges the obligations laid upon him, such as the payment of a fine or other reparation for damage, or, if need be, they arrange for his employment or apprenticeship. In particular, the auxiliary services take care of the minor during the period of probation. At the end of this period, they have to report on the minor's behaviour and express an opinion as to whether his punishment should be discontinued or the period of probation prolonged. During the period of probation, the auxiliary services may also ask that warnings should be issued, and, in case of bad behaviour, may cause the cancellation of the reprieve. During the execution of the sentence, the minors are also visited in the juvenile prisons by members of the auxiliary services. These services also get into touch with the parents or the competent child welfare office with a view to arranging for the shelter and employment of the minor when he is released.

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## **AUSTRALIA.**

### **New South Wales.**

The duties of the auxiliary services are to see that provisions of the Child Welfare Act, 1923, are carried out. This duty applies to the Police and Child Welfare Departments, the private auxiliary services having no power under the Act to take action in regard to a court case until such case is dealt with by the court.

A. The auxiliary services are called upon before the court takes its decision for the purpose of assisting the presiding magistrate in arriving at his decision—for instance, by supplying evidence in regard to the home life, antecedents, etc., of the child concerned. A report of the medical officer attached to the court is also admitted.

B. The court decides the case on the evidence set out before it.

C. After the court has taken its decision, the child dealt with is released on probation or placed in an institution, according to the court's decision. Such child is under the supervision of the child welfare officers, who are specially trained in the treatment of children. The auxiliary services also help in the guidance and reformation of the children when dealt with by the children's court.

### **A. BEFORE THE DECISION.**

Under the Child Welfare Act, and in the interest of the children generally, all cases are fully enquired into in regard to the home life, environment and general circumstances of the child. All those particulars are set out on a prescribed form and are placed before the presiding magistrate when the case is for hearing.

The treatment of juvenile offenders—persons under the age of 18 years—is the charge of the Child Welfare Department, of which the Minister for Education is the Head, so that the co-operation of the education authorities is assured. The particulars in regard to school attendance are set out on a prescribed form, mentioned previously.

Children under detention, or who have been committed by court to institutions, are detained at appropriate children's shelters pending suitable arrangements for their custody being made by the Child Welfare Department. Male children committed by a court in the country or suburbs as uncontrollables or juvenile offenders, between the ages of 5 and 18 years, are sent to the Metropolitan Boys' Shelter at Commonwealth and Albion Streets, Sydney. Girls between 10 and 18 years of age, committed under the Act as uncontrollables or juvenile offenders, are sent to the Metropolitan Girls' Shelter, Avon Street, Glebe. Boys 5 years of age and under and girls 10 years of age and under, committed by court, are sent to "Bidura", Glebe Road, Glebe. Children rescued by the

police as destitute, or committed by the children's court as neglected—no offence having been committed by the child—are dealt with as follows: boys over 5 and up to 18 are sent to " Royleston ", 270, Glebe Road, Glebe; and girls over 10 and up to 18 years are sent to " Bidura ", 357, Glebe Road, Glebe. It will thus be seen that the sexes are kept separate, and it is ensured that young offenders are not contaminated by others older than themselves. If the court is of the opinion that the parent or guardian has full control of a child, such child is usually placed in the care and custody of such parent or guardian.

#### B. AT THE TIME OF THE DECISION.

All facts in favour of the child are placed before the court by the Police and Child Welfare Departments, or the private services. All information affecting the case, whether for or against the child, is welcomed by the court.

#### C. AFTER THE DECISION.

After the court proceedings, the child is placed on probation for a certain term, under the care of its parents or guardian, or placed in an institution, as the court decides. This child is immediately under the care of the Child Welfare Department and the supervision of the police. The different private organisations or services also assist in this regard. If a child appears to have reformed and is apparently continuing to be of good behaviour, application is sometimes made to the Minister for Education to have the decision of the court altered. If a child is, say, committed to an institution for a certain period, and the child and the guardian or parent give an assurance that the child will not again be the cause of further complaint, application may be made to the Minister for Education (the Head of the Child Welfare Department) to have the child released from the institution before the termination of the period it was committed for. In the case of a child being on probation, this is not necessary, as the child is under the care of its parent or guardian, and is not further dealt with unless he again offends.

#### Victoria.

The duties of the probation officers are:

(a) To investigate the circumstances of any complaint, charge, information or application made in respect of any child and endeavour to ascertain its address and that of its parents;

(b) To enquire and furnish the court with information as to the child's habit, conduct and mode of living;



- (c) To render to the court such assistance as it may require;
- (d) To visit and supervise any child before the hearing and determination of the case, as may be directed by the court, and to perform any other duties that the Governor in Council may have directed.

The duties of the Welfare Department are to take care of the neglected children which have been directed to them by the children's courts. The Secretary of the department shall become the guardian of the person of the child.

#### A. BEFORE THE DECISION.

Before the court takes its decision, the police, the probation officers, the psychologists and psychiatrists are called upon. The education authorities can be consulted and the child can be remanded.

#### B. AT THE TIME OF THE DECISION.

At the time when the court takes its decision, the probation officer may appear in the children's court to represent the interest of the child, and, when the child is not represented by a barrister or a solicitor, the probation officer may be heard in court on such child's behalf.

#### C. AFTER THE DECISION.

After the court has taken its decision, if the child is released on probation, the probation officer must carry out all duties of his charge.

#### Queensland.

The duties of the auxiliary services are to give the court full information regarding cases being heard, and also to advise the court as to the best action to be taken after coming to its decision. They are not laid down in any standing order.

- A. The auxiliary services are called upon by the court for all facts before the decision is given.
- B. The court considers the facts before giving a decision.
- C. After the court has given its decision, the auxiliary services advise the correct institution to which the child should be sent.

**A. BEFORE THE DECISION.**

Full enquiries are made by the police as to the facts of the case to be submitted to the court, and also information regarding the family life and the child's surroundings; the character of the parents and the physical and mental state of the child. The educational authorities do give information regarding the child's career and progress at school. The State Children Department is at times called upon to make temporary arrangements for the welfare of the child during the course of an enquiry.

**B. AT THE TIME OF THE DECISION.**

The auxiliary services take no part in the defence of minors, but the police act as prosecutors in most of the children's offences; but any information which is known to either of the auxiliary services is given to the court, and thus the magistrate is helped in coming to a decision.

**C. AFTER THE DECISION.**

The State Children Department is responsible to see that the orders of the juvenile court have been carried out, and a child released on probation is visited by inspectors of that department, as are also the children committed to institutions. The court only commits children to institutions licensed under the State Children Act, and does not send them to other private institutions, so that there is no need for officers of the State Children Department to visit such private institutions.

**South Australia.**

The duties of the auxiliary services are as follows, and are provided for in the Maintenance Act of 1926:

A. The probation officers of the Children's Welfare Department, who are all women, make preliminary enquiries.

B. The report on each case is made available for the information of the court after the conviction for the offence charged and before the penalty is imposed.

C. The women police also assist the court by preliminary enquiries in cases of unfit guardianship and uncontrollable children.

**A. BEFORE THE DECISION.**

The probation officers of the Children's Welfare Department make preliminary enquiries as to the home and previous history of the juvenile offender.

Subnormal delinquents are examined by the psychologist attached to the Education Department, and in some cases of sexual offences by subnormal boys the medical officer attached to the Children's Welfare Department medically examines the offender, and reports from both these officers are made available for the information of the court.

**B. AT THE TIME OF THE DECISION.**

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**C. AFTER THE DECISION.**

The Child Welfare Department carries out the orders of the court as laid down in the regulations.

**Western Australia.**

The duties of the auxiliary services are provided for in the Child Welfare Act.

The officers of the department use their own judgment in administering the Act, and carry out the rules or regulations as strictly as possible.

A. Inspectors of the Child Welfare Department and the probation officer make enquiries for the court.

B. The facts are stated to the court at the hearing and before the court takes its decision.

C. The officers of the Child Welfare Department assist the court in carrying out its decisions. The Police Department also renders help to the court in certain cases. Women police and male officers of the Police Department have also assisted when it has been necessary to call upon the Police Department to assist.

**A. BEFORE THE DECISION.**

The officers of the Child Welfare Department make preliminary investigations regarding the home conditions, the child's behaviour, etc., and, when considered necessary, obtain a report from the State psychologist for submission to the court.

Educational authorities are willing, and do, when required, furnish information regarding a child's career and progress at school.

The Child Welfare Department provides for the child temporarily in an institution controlled by the department, or can make other arrangements pending the decision of the court. Bail can be arranged in some cases.

**B. AT THE TIME OF THE DECISION.**

The officers of the Child Welfare Department attend the court and can speak on behalf of the child and make suggestions to the court. They also assist to carry out the decisions of the court.

In some cases, minors are defended by their parents or solicitors.

**C. AFTER THE DECISION.**

The Child Welfare Department, which has been constituted for the purpose, carries out the orders of the children's court and supervises children in public and private institutions and establishments, also children released on probation and children boarded out or released on parole. The Child Welfare Department does intervene, but does not necessarily apply to the court to modify its decision. The Minister controlling the Child Welfare Department can review decisions of the court, and can authorise the placing of delinquent children on parole. The Secretary of the department can place other children with suitable persons when considered advisable. Although children are placed out on parole or otherwise, unless formally released by the order of the Governor in Executive Council, they are subject to supervision by the officers of the Child Welfare Department.

**Tasmania.**

The probation officers are not called upon before the court takes its decision or at the time when the court takes its decision. They are called upon after the court has taken its decision—that is to say, when the presiding magistrate has given his decision as to the placing of the child on probation.

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**BELGIUM.**

The duties of the auxiliary services are based on the powers conferred on children's judges by the Law of May 15th, 1912. A children's judge may at any time summon a minor, or the persons who are responsible for the minor's custody or the probation officers, to appear before him. He may either, through the probation officers or direct, consult the communal administration concerned, minister of religion, family doctor or the masters

of the school which the child has attended, the employers for whom he has worked, the visitors of the poor, visiting committees (*comités de patronage*) and the representatives of societies who are acquainted with the child. He keeps in touch with all the public or private institutions to which the child and his environment are known and which thus become to some extent auxiliaries of the juvenile courts.

#### A. BEFORE THE DECISION.

During the enquiry, the judge may leave the minor with his family or may place him provisionally in the charge of a relative, a private person, a society or a public or private charitable or educational institution. Frequently, minors are thus placed *in provisional custody* in the institution in which the court, by its final judgment, ultimately places them. If there is any doubt regarding the minor's physical or mental condition, he is placed *under observation*. The State has created a medico-pedagogic observation establishment for boys at Moll,<sup>1</sup> and another for girls at Saint-Servais (Namur). Some private establishments have also organised observation departments.

As stated above, the judge may, either directly or through the probation officers, take the advice of the school authority to which the child has been subject. In order to keep in touch with the auxiliary services, the law provides for the appointment of probation officers (Articles 25 and 26 of the Law of May 15th, 1912), whose duty it is, before and after sentence, to inform the judge regarding the minor's situation and his family surroundings; and, after judgment, in case of probation, to exercise active supervision over the minor's conduct. They report to the judge at least once a month and, if necessary, propose any measures they consider to be in the minor's interest (Ministerial Circular of September 24th, 1912, paragraph 21).

#### B. AT THE TIME OF THE DECISION.

The law on child welfare is very elastic in respect of the judge's final decision regarding the child. It entitles him to take a number of steps of increasing severity.

If the charge is not proved the judge acquits the child.

If the offence is not serious, and especially if the child is in no moral danger, the judge merely reprimands him and returns him to the persons responsible for his custody, urging them to supervise him better in future. The child then remains with his family "on probation". The probation officers report to the judge each month on his conduct and circumstances.

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<sup>1</sup> A report by the Director of the Moll Medico-Pedagogic Establishment on the work of this institution is appended to the report (see Appendix II).

For certain children, the family environment is a cause of suffering and danger. They require, in particular, an affectionate but firm upbringing. The judge entrusts them to a charitable person, who agrees to look after their education and to teach them a trade. Many are received free of charge, either by charity if they are young, or because they can already render services or prove helpful.

Other children first require severer treatment. They must be given systematic training at an institution in order to begin the difficult work of re-education. The judge may place these minors in a public or private educational or charitable institution. About twenty such institutions receive a large number of these children; many other institutions receive a few.

The placing of children with private persons and in institutions is subject to the supervision of the child welfare office in respect of their education and occupational training and in all matters concerning their welfare.

The judge may also place children in State establishments. In accordance with the spirit of the law, these represent a severer method of treatment and are intended for the worst and most difficult cases. Indeed, these establishments are bound to take the minors whom other institutions refuse.

The decision to place the child at the disposal of the Government may be conditional, and this forms a further step in the progressive scale of legal measures at the disposal of the judge. In cases of crime or extreme moral perversity, the judge may decide that the minor shall be placed in a State reformatory and remain there until after his majority. There are, in fact, no special institutions for these minors; but disciplinary quarters have been established in certain institutions.

Finally, when the medical examination shows that the minor is in a low physical or mental condition and is therefore not responsible for his actions, the judge orders him to be placed in a home or special establishment suitable for his condition.

### C. AFTER THE DECISION.

The duties of the probation officers have been defined above.

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## CANADA.

### Manitoba.

The duties of the auxiliary services are investigation, medical and mental examination, supervision, detention and probation.

They are laid down in part by statute as follows: Sections 15, 18, 29 and 31 of the Child Welfare Act and Sections 27 and 28 of the Juvenile Delinquents Act (Canada), 1929.

A. The auxiliary services are called upon, as far as possible, before the court takes its decision. Their duties consist of investigating the deeper causes of the act committed (study of the family and of the child's surroundings, study of the character and of the physical and mental state of the child) for the purpose of furnishing the judge with any information that may assist him in taking the best steps in the interest of the child's education.

The educational authorities can be required to give information regarding the child's career and progress at school (see the School Attendance Act, being Chapter 164 of the Consolidated Amendments, 1924).

During the course of an enquiry, the auxiliary services make investigation, apprehension, readjustment, medical and mental examination and treatment, supervision, detention and probation.

B. At the time when the court takes its decision, the auxiliary services provide supervision, custodial care, detention and probation.

C. After the court has taken its decision, the auxiliary services provide personal attendance in court, written reports, medical service, detention and supervision, close co-operation, monthly reports, periodical visitations in private homes, securing of positions and general supervision.

#### **Nova Scotia.**

The duties of the auxiliary services are: (1) advisory, (2) providing service.

These duties are laid down in the Juvenile Delinquents Act (Canada), 1929, Articles 27 to 31, and the Children's Protection Act of Nova Scotia, Articles 13 to 17 and 21.

A. Except the probation officer's report the auxiliary services are not called upon before the court takes its decision, in order to establish the nature of the facts on which the decision is based.

B. They are not called upon when the court takes its decision.

C. They are called upon when the court has taken its decision.

#### **A. BEFORE THE DECISION.**

Courts have services of provincial psychiatrist, probation officer and court committee.

The educational authorities can be required to give information regarding the child's career and progress at school.

The temporary measures in the taking of which auxiliary services can assist the judge during the course of an enquiry are the providing of detention home or shelter when required.

**B. AT THE TIME OF THE DECISION.**

The several agencies co-operate to give such assistance as may be required by court.

**C. AFTER THE DECISION.**

After the court has taken its decision, probation officers appointed by the province and individuals acting voluntarily may intervene.

**Ontario.**

The majority of the auxiliary services are in the preventive field.

It frequently happens that parents come to the juvenile courts for assistance before any action or information is lodged by the police or other authorities to bring the child to court. Thus, with the consent and co-operation of the parents, many of the juvenile courts are acting as child clinics, and it is in this work that the auxiliary services take a very important part in the work of the court.

These auxiliary services render assistance in gathering information for the use of the court, and also help in cases where it is thought advisable to bring about an adjustment of the family and child after the court has dealt with the matter. Generally, the probation system, which in our province is an integral part of the juvenile court work, deals with the more serious and complicated problems and especially those where judicial authority is necessary.

**Prince Edward Island.**

The executive officer of the Children's Aid Society helps in investigating the charge. He makes full examination as to the parentage and surroundings of the child and all the circumstances of the case and reports the same to the judge. This officer may be authorised by the judge to take the child and bind it over to some suitable person till it attains the age of 21, or for any less time.

**Quebec.**

The committees study the different cases regarding children brought before the court, and submit their reports to the judge.

The auxiliary services are not called upon before the court takes its decision, nor at the time when the court takes its decision, nor after the court has taken its decision.



**Saskatchewan.**

The duties of the auxiliary services are investigation and are not laid down in a standing order.

**A. BEFORE THE DECISION.**

The auxiliary services make a study of the family and of the child's surroundings, of the character and of the physical and mental state of the child.

The educational authorities can be required to give information regarding the child's career and progress at school.

During the course of the enquiry, the auxiliary services request adjournment if necessary.

**B. AT THE TIME OF THE DECISION.**

Auxiliary services present reports from probation officers.

**C. AFTER THE DECISION.**

Auxiliary services supervise both volunteer and paid officials.

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**CHILE.**

The duty of the auxiliary services is to enlighten the magistrate of the juvenile court as to the personality of each child. This duty is defined in Law No. 4447 of October 18th, 1928 (Article 6), and in the regulations of December 24th, 1928 (Articles 11, 15 and 19).

**A. BEFORE THE DECISION.**

Before the court reaches its decision, the law provides that the child shall be studied by a welfare visitor; the doctor, the psychologist and the teacher of the establishment, who shall report upon it from their respective points of view—social, medico-anthropological, psychological and educational—thus providing full information as to the child's personality.

The education authorities are required to supply any particulars concerning the child for which they may be asked in connection with this investigation.

The duration of the investigation is undeterminate, and the child will remain in the children's home until it is completed.

**B. AT THE TIME OF THE DECISION.**

At the time of taking his decision, the magistrate must be in possession of all the reports upon the child, and may, if he thinks fit, again consult the officials who have taken part in the examination of the child, in order to ensure that his decision may be consistent with the physical and social circumstances.

**C. AFTER THE DECISION.**

After the decision has been taken, if the child is placed on probation as a means of protection, he is under the supervision of the welfare visitor appointed for that purpose, who is in almost every case the same visitor as examined the child from the social point of view. When a child is placed in a public or private institution, the head of such institution must report monthly on the child's condition.

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**FREE CITY OF DANZIG.**

The duties of the auxiliary services are to assist the juvenile court in all steps necessary for the protection of young offenders or young persons who are in moral danger or neglected in any manner. These duties are defined by the Young People's Welfare Law and the Law on Juvenile Courts, and are as follows:

A. Before the court's decision, to draw up reports giving information regarding the substance of the case, especially in respect of the young offender's conduct and its home life.

B. At the time of the decision, to be present at the hearing.

C. After the decision, to carry out any educational measures ordered by the court in addition to the penalty, such as placing the child in the custody of the person responsible for its education, sending it to school or putting him on probation.

**A. BEFORE THE DECISION.**

The auxiliary services are not under any obligation to make enquiries with regard to the actual charge. This duty falls on the public prosecutor and his auxiliary organs—in particular, the police. The auxiliary services are mainly concerned with investigating the deeper causes of the act by getting into touch with the young persons themselves, studying their family, social relations and environment, working conditions, etc., in order to enable the judge to take the most suitable steps for their education. The school authorities willingly supply these services and the juvenile court itself with any useful information regarding the scholars. The auxiliary services attached to the juvenile courts provide lodgings under the best possible conditions for young persons who for any reason cannot remain in their previous environment until the main proceedings, and, if necessary, for young persons who have been arrested by the police or who should not be placed on remand.

**B. AT THE TIME OF THE DECISION.**

The Young Persons' Office may, on request, be appointed to defend the case (paragraph 29 of the Law on Juvenile Courts). The auxiliary services attached to the juvenile courts undertake to carry out educational measures ordered under paragraph 7 of the Law on Juvenile Courts (probation, finding employment, supervision of penalties, etc.).

**C. AFTER THE DECISION.**

The auxiliary services perform the supervision entrusted to them. The juvenile court cannot itself change a judgment once it has given it. On the other hand, the young persons have legal remedies (appeal or cassation) against the decision of the juvenile court (judgment of first instance).

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**SPAIN.**

The duties of the auxiliary services, which are governed by the Regulations of February 3rd, 1929, are as follows:

**A. BEFORE THE DECISION.**

The enquiry service, dealt with in Article 66 of the Regulations, aims at studying the moral, social and economic situation of the family, the conditions in which the

minor was brought up and the environment in which it lives. Under Article 69 and 70, this information is confidential; the names of those supplying the information need not be mentioned, and it is only necessary to state the circumstances which permitted them to obtain the particulars in question. The service for the observation of minors is governed by Article 126, which provides for the existence of an "observation house" attached to each court either at the place where it sits or in the vicinity, without prejudice to the creation of other observation centres. If possible, adds the article, psychological laboratories will be established in these observation houses, and even psychiatric clinics. In practice, in the lesser provincial capitals there are only small empirical observation houses, whereas in the large towns scientific methods are employed; it is thus possible to supply the court with psychomedico-pedagogical particulars.

Furthermore, the Regulations, in Articles 27 and 68, authorise the courts to obtain the assistance of the authorities and officials of all kinds, and that of persons they consider particularly qualified to enlighten them; they may thus call upon the school authorities for information.

These auxiliary services not only furnish the courts with the information they require to enable them to take their decisions, but facilitate the rapid adoption of precautionary measures during the progress of the enquiry. The President of the court has the right to place the minor temporarily in an observation or educational establishment or to entrust it to a family if he thinks fit, when it is desired to improve the child or to protect it from the dangers which might threaten its security or its education; for the Spanish juvenile court performs three distinct functions—that of reclaiming minors who have offended against the laws, and corrupt or insubordinate minors; that of withdrawing from unworthy parents or guardians the right of custody and education of the minor; and that of punishing certain offences committed by adults against children below the age of 16.

#### B. AT THE TIME OF THE DECISION.

The auxiliary services do not intervene.

#### C. AFTER THE DECISION.

The probation and preventive supervision services are those chiefly called upon to carry out the orders of the court.

In the case of probation, the duty of the delegates is to supervise, direct and even reprimand minors having committed offences, and dissolute or insubordinate children, whom it is thought possible to reform in their own homes. In the case of preventive

supervision, the delegates' duty is to keep watch on families which might have a harmful influence on the morals or education of the minors and to prepare the ground for the court to withdraw the right of custody and education of the children from the parents or guardians. If the minors are sent to families or institutions, the delegates satisfy themselves as to the material and moral treatment given them by those to whom they are entrusted.

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## FRANCE.

At Paris, the "Association amicale des rapporteurs et délégués" supervises delinquent minors sent back to their families. The rapporteurs help the magistrates in the examining cases concerning minors over 13 years of age; the delegates arrange for their supervision when they are placed on probation by the courts.

The "Comité de défense des enfants traduits en justice" is responsible for these different duties in the provinces; it also examines all questions connected with the "child offender".

The "Service social de l'enfance en danger moral" assists the magistrates in the examination of cases concerning minors. It arranges for their supervision in the capacity of delegates in the case of minors under the age of 13, when this measure is prescribed by the juvenile court. The judge has recourse to its assistance for enquiries concerning requests for parental punishment and the consequences of such requests. The deputy of the juvenile court, responsible for investigating cases in which there has been deprivation of parental authority, also co-operates with the "Service social" under the same conditions.

The "Comité d'études et d'action pour la diminution du crime" also carries out social enquiries, in addition to theoretical studies on the penitentiary systems.

### A. BEFORE THE DECISION.

Before the decision in this preparatory rôle, whether in the case of the prosecution of a minor, parental punishment or deprivation of parental authority, the auxiliary services endeavour to supply the magistrates with the most circumstantial information on the family circumstances and environment, on the character of the child, his education, instruction and physical and mental deficiencies. The school authorities are consulted

and make no objection to supplying the information which is discreetly requested. On the proposal of the auxiliaries, or on his own initiative, the examining magistrate requests the "patronage" associations and the public welfare authorities to arrange for the custody of the child, who may also be entrusted to a person of good character proposed by the auxiliaries.

#### B. AT THE TIME OF THE DECISION.

The defence of minors is provided for by an advocate, but the auxiliaries who have prepared the way for the decision are requested to be present at the hearing to supplement the particulars contained in their reports and to propose solutions, educational measures, treatment, change of environment, etc.

#### C. AFTER THE DECISION.

Auxiliary services whose members are appointed by the court as probation delegates must arrange for frequent visits to the minors entrusted to them.

Reports are sent to the courts which pronounce the decision.

They may apply to the court to modify the first decision, by putting forward a "plea". The decision may be either made more severe or mitigated (Law of March 26th, 1927, on the transfer of the right of custody).

When the auxiliary services have been asked to supervise a minor entrusted to his family, they must satisfy themselves by means of frequent visits as to the conduct and work of the child, supervise the material and moral conditions in which it lives and make sure that the persons in charge of the child remain in all respects worthy of the confidence reposed in them. They must take care not to offend in any way the beliefs or convictions of the child's parents. When they have to complain of systematic obstacles placed in the way of their supervision, or when the minor's conduct seems to them to call for special measures, they make a detailed report to the President of the court, who may order the child and persons responsible for its custody to appear before the court, which shall pronounce upon the case afresh. In less serious cases, the President of the court confines himself to addressing a verbal or written admonishment to the minor's family.

It may be well to explain here the circumstances in which these auxiliary services, and notably the "Service social", the medico-psychological service and the association of probation rapporteurs and delegates, were accredited to the juvenile court and what are their duties.

In the last few years, the juvenile court of the Seine has introduced measures to ensure a more efficient application of the legislative provisions and regulations; to procure more detailed information on the various cases and thus a greater degree of justice; and to harmonise as much as possible the enquiries and proceedings concerning these cases with the new philosophic and social ideas which now prevail and govern the various solutions of the problem of unfortunate or delinquent children.

In October 1927, the Public Prosecutor of the Seine, approving the proposals of the President of the juvenile court, issued a circular authorising as an experiment the medico-psychological examination of the boys under detention at "La Petite-Roquette".

This examination is carried out at the prison itself by specialist doctors.

This examination involves a general study of the child and of its physical, intellectual and moral condition, its antecedents, heredity, family, past record, etc.

In a report summarising the medico-psychological findings, the specialist proposes a solution. The court judges the case and its decision is based on more definite information inasmuch as it obtains additional reports on the family environment by means of a "social enquiry" carried out simultaneously with this medical examination.

This "social enquiry" has from the outset been entrusted to the female social assistants of the "Service social de l'enfance en danger moral".

This medical report and the social enquiry on the child are annexed to the dossier of the proceedings and have proved their value; from the outset they have been highly appreciated by the magistrates of the bench and of the *Parquet*, and they are a great aid to justice.

In view of this success, and at the express request of the magistrates of the juvenile court, a second circular of the *Parquet* of the Seine, issued by the Public Prosecutor in July 1929 with the authorisation of the Chancellery, extended to all boys and girls detained at "La Petite-Roquette" and Fresnes the obligation of undergoing this medico-psychological examination attended by social enquiries.

This extension of the service has necessitated precise instructions drawn up by the magistrates of the juvenile court in complete agreement with the Permanent Commission of the National Child Welfare Committee of the Chancellery.

It has been in operation since August 1st, 1929, under the control of the magistrates of the juvenile court.

A doctor of medicine, assisted by specialists as mentioned above, is responsible for the medical work.

Social assistants belonging to the "Service social" and to the "Comité d'étude et d'action pour la diminution du crime" and delegates of the association of probation delegates accredited to the juvenile court display the greatest zeal, self-sacrifice and competence in carrying out the social enquiries which are so valuable to the specialist doctors in helping them to reach conclusions and lay proposals before the juvenile court, and also to the juvenile court itself before it pronounces judgment.

The reports supplied by the doctors making the enquiry are first of all annexed to the dossier of the proceedings and then to the "administrative dossier" of the child, formed in accordance with the provisions of the Decree of January 19th, 1929, this dossier being kept up to date by the secretariat of the juvenile court under the supervision of the President and deputy.

The probation delegates also contribute more and more to the work of making enquiries in regard to children under detention. They form an association officially accredited to the juvenile court and number about four hundred. They assist the work of justice by supervising children acquitted as having acted without discernment and returned to their families. Their assistance is indispensable, and there can be no doubt that their growing activities have greatly helped towards combating juvenile crime.

The most recent circulars of the *Parquet* of the Seine on the organisation of the medico-psychological service included the association of probation delegates in the list of institutions entrusted with social enquiries.

Furthermore, these delegates have offered their services to the penitentiary administration for the supervision of a number of wards released from supervised education houses or protection schools.

The influence of the "Service social" is also exercised in the sphere of parental punishment. Before pronouncing judgment, the judge dealing with such cases, assisted by his deputy, examines the parents and, more often than not, has recourse to the assistance of the "Service social" which carried out an enquiry. The social assistant visits the family, makes a thorough study of the family environment, and supplies useful information to the judges, who take a decision with a sufficient knowledge of the facts.

In cases of deprivation of parental authority, the "Service social" makes supplementary enquiries, either before or after the judicial decision. These enquiries are submitted to the court, which pronounces the final decision.

Before submitting to the juvenile court an application for deprivation of parental authority or custody, the *Parquet* of the court has adopted the practice of summoning each week the offending parents. In the presence of the social assistant of the "Service social" which is officially accredited to the juvenile court, it hears the parents' explanations, draws their attention to the gravity of the facts complained of, appeals to their parental feelings, and, in many cases, obtains a promise of an improvement in their conduct, or their consent to sending the children to a suitable institution, to giving appropriate medical treatment, etc. All this is done under the supervision and direct control of the "Service social", which makes itself responsible for the placing, treatment and medico-psychological examination of the child, and which from time to time, or a fixed date, furnishes a detailed progress report and draws attention to failures to fulfil promises.

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## GREAT BRITAIN.

(England and Wales.)

The duties of the auxiliary services are as follows:

### 1. *The Probation System.*

Each petty sessional court is required to have the services of one or more probation officers. Where the circumstances permit, probation officers for children are persons who have had special experience in dealing with children. Apart, however, from the largest towns, where the number of children dealt with may be fairly large, the probation officer who attends the juvenile court does not give all his or her time to children's work. In London, however, there is a staff of women probation officers especially selected for the purpose, who devote all their energies to children's problems in connection with the juvenile courts.

The duties of the probation officers attending the juvenile courts include, among others:

- (a) The making of detailed enquiries, both in the home and elsewhere, as to children who are brought before the juvenile court;
- (b) In suitable cases, escorting children to homes or schools to which they may be sent for training;
- (c) Acting, when requested to do so, as *guardian ad litem* in adoption cases;
- (d) Undertaking the supervision of a child who may be placed by the court on probation.

The last-mentioned duty, which forms the most important part of the probation officer's work, is included here, though it is not, strictly speaking, an auxiliary service, but a method of treatment.

### 2. *Local Education Authorities.*

The local education authorities, who are responsible for the education of children, work generally in close co-operation with the juvenile courts and supply, on request, full information in regard to the educational standard, conduct, medical history, etc., of any child who may come before the juvenile courts. In some places (as, for instance, in London), a specially selected officer of the education authority makes preliminary enquiries and subsequently attends the court to give any information or assistance that may be necessary. The education authority, which is responsible for providing institutional training in regard to certain classes of children, is often in a position to advise the court as to suitable residential schools, and in some centres provides facilities for special medical

or psychological examination. The Children Act places upon the local education authority, in certain cases, a responsibility for bringing children before the juvenile court who are suffering from neglect or living in undesirable surroundings. The local education authority also acts as *guardian ad litem* in adoption cases when requested to do so by the courts.

### 3. *The Police Authority.*

The police take a great interest in the welfare of children and co-operate closely with the work of the juvenile courts. When it is necessary to bring a boy or girl before the juvenile court for an offence, the police officers take the charge, present the evidence and furnish information bearing on the circumstances which have led to the offence and the general conduct of the young person concerned. Police officers also help the court in looking after the children and witnesses during the proceedings and in other necessary work connected with the court. In many places, the practice is for police officers to attend the juvenile courts in plain clothes and not in uniform.

Women police are now employed on some of the police duties connected with the juvenile court, especially in escorting children to and from their homes or places to which they may be remanded.

The Children Act places upon the police authority, together with the local education authority, a responsibility for bringing before the juvenile court certain classes of neglected children or children living in undesirable surroundings.

### 4. *Remand Homes.*

It is frequently necessary for a juvenile court to remand a child for further enquiries or to provide temporary accommodation until the child can be sent to a home or school. For this purpose, remand homes (or places of detention) are provided. These places can also be used for detention as a punishment for a period not exceeding a month, but this practice has largely been abandoned.

In London, the remand home is under the education authority, but elsewhere the police authority is responsible for making suitable temporary provision. This temporary accommodation is of many kinds. It may be, in a small town, merely a room reserved for children in the house of a married policeman or probation officer; it may be the workhouse; or it may be a voluntary home. In larger towns, there is generally a special building for the purpose, and better conditions exist for the proper medical examination of the child and for giving it suitable education and occupation for the duration of the proceedings.

### 5. *Clinics.*

In some of the larger towns (especially London), clinics under medical supervision have been established for the observation and study of difficult cases, especially where

there is any reason to suspect mental or emotional disturbance. Some of these clinics are assisting the juvenile court with expert advice. Among other clinics in London may be mentioned the Tavistock Clinic and the Child Guidance Clinic, the latter of which owes its inauguration to the Commonwealth Fund of America.

#### 6. *Other Voluntary Agencies.*

Voluntary work has always been a prominent feature of child welfare in Great Britain, and no account of the auxiliary services of the juvenile court would be complete without some reference to the valuable help given by voluntary agencies. Among these may be mentioned the National Society for the Prevention of Cruelty to Children, the Boy Scout and Girl Guide movements and numerous clubs for working boys and working girls, many of which are provided and organised by religious bodies.

#### A. BEFORE THE DECISION.

As already explained, the juvenile court relies on three main sources of information which may enable it to come to a decision—the probation officer, the officer of the local education authority and the police. The part which each of these plays varies to some extent, but there is a growing tendency to use the probation officer for making enquiries into the home surroundings, to rely on the officer of the education authority for information as to the child's school history, and to look to the police for information as to the circumstances of the offence.

When a court needs medical advice at this stage, it is usually obtained either at the remand home or from one of the medical officers attached to the education service. In other cases, application is made to hospitals or clinics, some of which are now giving special attention to children. Psychological reports can also be obtained in some centres, such as in London, where the London County Council has psychologists on its staff and is always ready to offer their services.

#### B. AT THE TIME OF THE DECISION.

The proceedings of a juvenile court are not open to the public (though the Press are given by statute a right to be present); attendance is restricted to persons directly interested, and in some courts the proceedings are made as informal as possible. The probation officer, however, and in some courts the officer of the education authority, are present, and any information which is favourable to the child is given as well as that which may be unfavourable. In some sense the probation officer is *amicus curiæ*, though it is only in an adoption case that the officer of the education authority (or less frequently

the probation officer) is given an official status as *guardian ad litem* to look after the interests of the child in respect of whom an application is made.

### C. AFTER THE DECISION.

In the great majority of cases which are not met by a simple fine, the court either resorts to a period of supervision by a probation officer with or without a condition as to residence, or arranges to send the child to a school or home for a period of training.

When a child is placed on probation, the probation officer attached to the particular court is made responsible for its supervision for the period named in the probation order, which is usually one or two years and which must not exceed three years. The probation order also contains certain general conditions which the child must observe.

Sometimes when the home surroundings are definitely undesirable, it is made a condition that the child shall reside elsewhere than in its own home. The duty of the probation officer is to visit the child at frequent intervals, to see that the child attends school or, if over school-age, to find employment, and to obtain the co-operation of religious and social agencies so as to bring the right sort of influence to bear. Most probation officers make a point of getting their probationers in touch with clubs, Scouts or Guides or other movements for helping young people.

If the probationer fails to respond to the influence brought to bear or to observe the conditions attached to the probation order or commits further offences, it is the duty of the probation officer to report the matter to the court. The court may then warn the child or, in serious cases, may decide to deal with the child for a breach of the probation order. Some other method, such as sending away to a residential school—*i.e.*, industrial and reformatory schools—may then be resorted to.

The probation officer is sometimes consulted before the child goes home or to its place of employment and may take a share in the duty of helping it and looking after it.

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## HUNGARY.

The Visiting Board and Minors' Supervisory Board each have their special functions. Both bodies were established in virtue of laws and decrees.

### A. BEFORE THE DECISION.

On an order from the juvenile court, a member of the Visiting Board may conduct an enquiry into a child's antecedents. The visitor ascertains the facts, but his main

mission is to discover and lay before the court all the characteristic elements of the child's individuality, the degree of its intellectual and moral development and the circumstances of its home life. The object of the report on the child's environment is to enable the judge to decide on the best course to adopt. The school authorities are bound to furnish all information concerning the child's school career.

In order that the judge may be in a position to take provisional measures, he may ask the visitor to submit a preliminary report.

#### B. AT THE TIME OF THE DECISION.

During the hearing, the visitor who has conducted the enquiry reports verbally on the facts he has noted, and comments on the statements made by the parents, guardians, teachers, employers or other witnesses.

#### C. AFTER THE DECISION.

After the judgment or decision of the court, the Visiting Board or Minors' Supervisory Board continue to follow the child's career. If the judge leaves the child at liberty while placing it under supervision, the Visiting Board looks after it, and the member of the board appointed for the purpose regularly visits the child at home, at school or at its employer's and advises it regarding its conduct.

On the report of this visitor, the judge may again summon a child who has been left at liberty or may take such other steps as are in its best interest.

If the court decides to place the child in a public or private institution, the Minors' Supervisory Board takes up the case, its special duty being to ascertain, by means of periodical visits, the results of the child's reformatory education and, if necessary, to suggest further measures to the Ministry of Justice.

The Minors' Supervisory Board is also called upon to give advisory opinions and to make proposals in connection with the employment of children outside educational institutions.

The Board assist in obtaining employment on probation for children leaving educational institutions and supervises their conduct; if necessary, it may propose that they should return to the institutions which they have left.

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**BRITISH INDIA.**

**Bengal.**

The duties of the auxiliary services are the attendance in courts and carrying out orders of the trying magistrates in respect of enquiring into the antecedents of the juvenile offenders, into the suitability of the custody in which the juvenile offenders are placed by the courts, and supervision over such offenders after their cases are decided.

These duties have been laid down by an order of the Board of the House of Detention.

The voluntary officers, however, do not regularly attend courts, but visit the juvenile offenders occasionally along with the paid probationary officers who are entrusted with supervision of such offenders. They also visit the under-trial offenders in the House of Detention and give them moral instructions.

A. The auxiliary services are not always called upon before the court takes its decision.

B. They are called upon when the court takes its decision, on the facts elicited on enquiry by the paid probationary officers regarding the antecedents of the offenders.

C. The auxiliary services are called upon when the court has taken its decision when order for supervision by probationary officers is passed.

**A. BEFORE THE DECISION.**

The paid probationers give evidence before the courts with regard to the antecedents of the offenders, the conditions of the family and the surroundings and to the character of the child. They sometimes make informal reports also to the trying magistrate regarding the above facts, and the decision of the court is very often based on such evidence and report.

Few of the children dealt with have ever been to school.

No other action is taken besides those mentioned.

**B. AT THE TIME OF THE DECISION.**

As already stated, the auxiliary services furnish the information regarding the child's antecedents, and the conditions of the family.

**C. AFTER THE DECISION.**

Probation officers visit children who have been placed in "suitable custody" — *i.e.*, left with parents or guardians or some private party.

They do not visit or supervise children placed in public institutions.

They may report that the "custody" is not suitable.

**Bombay.**

The duties of the Children's Aid Society in Bombay are:

1. To house all children in the Umarkhadi Home, feed, clothe, afford them medical treatment, give elementary education, etc., during the period of detention;
2. Organising the supervision (or probation) of cases of children liberated from the home after being bound over, etc. Rule No. 7 of June 1927 legalises the appointment of supervisors by the Chief Presidency Magistrate—but no legislation rules that the organisation of this branch of work should be run by this voluntary society in particular—who, through their secretary and a half-time paid supervisor, organise the work amongst the thirty-one voluntary supervisors appointed by the court;
3. Carrying out full enquiry work in every case and submitting same to the juvenile court. No standing order commands this function. So far as Bombay children are concerned, one whole- and one part-time enquiry agent of the Children's Aid Society make full reports to the secretary as to home conditions, etc., and through the secretary the juvenile court is duly informed. So far as up-country children are concerned, letters are sent to the district police, through whom local enquiries have to be made and from whom reports are received and duly laid before the juvenile court;
4. Medical supervision of children. Cases of difficult children are sometimes treated by the police surgeon, the honorary medical officer of the Umarkhadi Home by suggestion. Information is given to the court as to discovery of disease and need for continued remand for medical treatment. In cases of venereal disease, occasion has occurred of a child being kept on remand for two years for full treatment to be given. A trained hospital nurse attends the home for three hours per day as a paid part-time worker of the society.

**A. BEFORE THE DECISION.**

The Children's Aid Society only makes enquiries regarding the type of home, etc., informing the court accordingly before the decision is made. As to the evidence regarding the exact nature of the facts—viz., in theft—enquiry work is done by the local police. Enquiries made of a preliminary type are based on an enquiry form. From this it may be observed that effort is made to as great an extent as possible to find out the deeper causes of the act committed. In the majority of cases, however, it is found that the boys are not Bombay children. Their homes are frequently on the other side of India, and enquiries there have to be delegated to the local police, from whom only very short, inadequate reports are received.

Where a Bombay child is school-going, enquiries are generally made at the school, but the very large majority of children dealt with are not attending schools.

The only action taken by the auxiliary service for temporary measures during the enquiry is by keeping children in the remand home until the court is satisfied that complete enquiry has been made and assisting in the enquiry and maintaining full and detailed file records of every case.

#### B. AT THE TIME OF THE DECISION.

The secretary of the Children's Aid Society and two outdoor workers attend every session of the juvenile court in order to give every assistance possible by means of supplying full information. The court discusses the case with the secretary of the society before making a decision.

The only assistance given by the society in helping to carry out the decisions of the judge is by organising the supervision or probation work. The escort of children to institutions is generally by police sepoy, but the arrangement for their being sent off to the night school is directed by the secretary.

#### C. AFTER THE DECISION.

After the court makes the decision, the child supervisor—a half-time paid worker of the society—in the event of supervision order being passed, sees that the supervisor appointed is duly informed, is taken to visit the case and subsequently submits regular reports each month of the visit made and progress achieved. In the event of the child breaking the condition of supervision, the secretary of the Children's Aid Society brings the matter again before the court. The visiting of children in public and private institutions is not officially a duty of the Children's Aid Society, but the secretary unofficially does visit two homes as often as possible to which most children are sent by the court.

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### ITALY.

#### A. BEFORE THE DECISION.

The organs of the National Maternity and Child Welfare Society investigate and report to the judge the direct and indirect causes leading to and influencing the minor's offence. They are authorised to make the fullest enquiries into the family conditions and environ-



ment of the minor, into his antecedents and those of his nearest relatives, into his education and instruction, and into the diseases from which he may have suffered and the treatment received.

The educational authorities are obliged to give, either to the judge direct or through the auxiliary organs, full information on the child's career at school.

In addition, the provincial headquarters of the auxiliary service may supply the judge with all particulars contained in the special records of delinquent, accused or sentenced minors which the headquarters are responsible for compiling and keeping up to date in their respective provinces.

Furthermore, the auxiliary services must endeavour to arrange that the accused minors should not be detained in ordinary penal establishments but in special institutions devoid of any character of compulsory detention; if necessary, they may recommend that children or young people sentenced should be placed in special sections for medical or mental examination, or should be removed from their own homes and placed in an outside family of good moral repute or in reformatories, educational homes and similar institutions.

#### B. AT THE TIME OF THE DECISION.

The auxiliary services help, *inter alia*, to provide young delinquents with free legal defence by experts. For this purpose the headquarters of the provincial service is responsible for preparing lists of advocates ready to give their assistance free of charge. The judge must always take into due account the information and recommendations submitted to him by such advocates in order that the most suitable measures may be taken for the punishment and reform of the young delinquent.

Another auxiliary service which has given excellent results when tested by the Milan judge for juvenile cases consists of the attendance at the hearings, in virtue of Articles 368 and 399 of the Code of Criminal Procedure, of a psychiatrist authorised to take part in the entire proceedings and responsible for advising the judge on all points on which expert knowledge may be useful or necessary.

The Milan judge for juvenile cases has also created a judicial police service responsible for collecting private and delicate information.

Similar auxiliary services may also be created by the other special courts for minors which it is proposed to institute.

#### C. AFTER THE DECISION.

If the minor has been sentenced and interned in a reformatory, or if he has been acquitted or the proceedings against him have been dropped but he had been sent to an educational institute or an agricultural colony, the members of the patronage committees

must endeavour by means of visits, suggestions, advice, lectures, distributions of books and educational journals, etc., to give him a moral education and a general and technical training such as to fit him for the trade or calling for which he is most suited.

They must also, to the best of their ability, help minors sentenced conditionally, released from prison, or discharged from reformatories or educational establishments, to find an honourable calling, giving them moral and financial support and helping them in every possible way to lead an honest life.

As a rule, this assistance is not expected to go on after the age of 18. Even beyond this age, however, help is not denied to girls who show that they need and deserve it.

In a recent circular, No. 2242, of November 22nd, 1929, the Keeper of the Seals has laid down as a precautionary measure that any sentence pronounced against a minor under 14 years of age should be communicated to him immediately it has become final but before it had been put into force, in order that he may consider whether a reprieve is called for in virtue of the new principle laid down in the new draft Penal Code, which prolongs until the end of the fourteenth year the period during which minors are not considered responsible for their actions.

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## MEXICO.

The rôle assigned to each of the auxiliary services may be deduced from its legal title.

A. Before the sentence (we prefer the word " decision "), the social, psychological, pedagogical and medical sections and the observation centre work together in accordance with the regulations so as to discover every aspect of the child's personality.

B. When the sentence of the court has to be carried out (in reality we do not pronounce any sentence, but apply in the freest manner various treatments unconnected with any idea of punishment), the delegates responsible for the protection of children are called upon to carry into effect the measures ordered by the judges.

C. After the decision, these delegates, who are in contact with the minors and in close touch with the judges, take a direct part in guiding these minors until they have succeeded in adapting them to their social environment, or else give instructions to the persons responsible for their care.

### A. BEFORE THE DECISION.

All the auxiliary services enumerated above, which take part in the proceedings prior to the decision, act as collectors of information.

The school authorities, whenever requested to do so, voluntarily provide full information regarding the school careers of the children. If they do not do so, the court may use compulsion. As regards temporary measures, the auxiliary services, whose duty it is to act before the decision, collect and provide information. The other auxiliary services are executive organs in permanent touch with the judges.

**B. AT THE TIME OF THE DECISION.**

At the time when the decision has to be pronounced, the auxiliary services, as a rule, do not intervene; exceptionally, they are requested to supplement the information previously supplied.

**C. AFTER THE DECISION.**

Once the decision has been pronounced, the auxiliary services detailed to act in conformity with the provisions laid down in the regulations for this stage in the proceedings arrange for the execution of the measures ordered by the judges, with whom they remain in permanent touch.

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**NEW ZEALAND.**

The duties of the child welfare officers, acting as an auxiliary service to the juvenile courts, include full enquiry regarding the child's history, home conditions, school record and all other relevant facts.

**A. BEFORE THE DECISION.**

The child welfare officer is called upon before the court takes its decision in order to establish the nature of the facts on which that decision is based. The teachers always furnish information. The Child Welfare Branch, in order to assist the judge in taking temporary measures for the child during the course of the enquiry, administers receiving homes for boys and girls in all the main centres of population, and children may be admitted at any time pending the hearing or during the course of an enquiry (Sections 13(2) and 48 of the Child Welfare Act of 1925 and Part IV of the Infants Act of 1908).

B. AT THE TIME OF THE DECISION.

The officer concerned attends the court when it takes its decision. He furnishes the court with full information and makes recommendations as to what action should be taken.

C. AFTER THE DECISION.

The Child Welfare Branch is responsible for the carrying out of the decisions of the court (except in cases of young persons committed to borstal institutions controlled by the prisons department). It may be mentioned that, in the supervision of such cases in their own homes, the Child Welfare Branch utilises the services of religious and private organisations, notably the Big Brother Movement under the Y.M.C.A.

After the court has taken its decision, the child welfare officer is called upon to exercise supervision where the child is in his own home or placed in a foster home. For children placed under the guardianship of the superintendent (Section 16 of the Child Welfare Act of 1925) or under the supervision of child welfare officers (Section 13 (4) of the same Act) the Child Welfare Branch is wholly responsible for the placing and visiting of such children.

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NETHERLANDS.

The duties of the auxiliary services are the following:

1. The Guardianship Councils submit, if necessary, to the children's judge's requests for the placing under supervision of minors who for any reason are threatened with physical or moral decadence (see Article 373 of the Civil Code).

Should the request for placing a minor under supervision be submitted to the children's judge by the person exercising paternal power or guardianship over the minor, or by parents or relations up to the fourth degree inclusive, or should the Public Prosecutor submit an application for placing him under supervision, the competent Guardianship Council is consulted (see Article 373 (b) of the Civil Code and Article 1 of the Public Administration Regulations of June 19th, 1922, *Legal Gazette*, No. 402).

While the case is before the court, the Guardianship Council is summoned when the request or application is dealt with in order that it may give its opinion through its secretary and (or) one of its members (see Article 11 of the Public Administration Regulations of June 19th, 1922, *Legal Gazette*, No. 402).

The Guardianship Councils may submit to the children's judge an application for ordering a relative exercising paternal power or the parent-guardian of a minor placed at the disposal of the State to pay an allowance, and, after the judge's decision, they undertake to collect regularly the sum due.

The school authorities are under no obligation to supply information concerning the child's school career. As they are always ready to give the information required voluntarily, there was no need to lay down any such obligation.

2. Private societies and officials responsible for carrying out the laws in regard to children — If a children's judge considers it useful, he can always consult the local "Pro Juventute" society in a penal case if a minor is implicated.

If no such society exists, or if treatment by another organisation is preferable, he may also apply to persons or societies which devote themselves to the protection of children or their reform (see Public Administrative Regulations of December 24th, 1925, *Legal Gazette*, No. 486).

In many cases, such an opinion will already have been asked for by the Public Prosecutor after receiving the official statement of the case, in order that he may decide upon the expediency of taking proceedings (see Article 488 of the Code of Penal Procedure).

In the districts where there is an official responsible for carrying out the laws in regard to children, this official will make the necessary enquiry and draw up a report. In such cases, the rôle of the private societies is confined to the preparation of an opinion. In this opinion, they may recommend the minor's detention or sending him to an observation house.

The "Pro Juventute" society may also be asked by the judge to assist a minor conditionally sentenced. In such a case, it may ask the judge to modify the conditions of the sentence or the period of probation.

3. Family guardians. — The task of the family guardians begins after the sentence ordering that the child should be placed under supervision and designating the guardian. His rights and obligations are governed by Articles 373 (*h*) *et seq.* of the Civil Code and by the Public Administrative Regulations of June 19th, 1922, *Legal Gazette*, No. 402.

There is also a publication entitled "Rights and Obligations of the Family Guardian". This publication is intended for circulation among family guardians and those wishing to become family guardians, and is placed free of charge at the disposal of the children's judges by the Ministry of Justice.

The family guardian is consulted in regard to the prolongation or reduction of the period of probation.

Should the minor be placed under temporary supervision (see Article 373 (*g*) of the Civil Code), the family guardian's task begins even before the decision of the children's judge, and his opinion may influence the decision.

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## PERU.

The duties of the auxiliary services are defined by the Law and Rules (Criminal Code, Book I, Chapter 18, Articles 137 to 149, and the Rules of December 12th, 1925).

### A. BEFORE THE DECISION.

The examining magistrate for minors or the president of the local "patronage" council are informed when a child is in a condition of material or moral neglect, or has committed an act which constitutes a petty offence or a more serious offence. They make a careful enquiry into the family, social and school environment in which the child has been living, and, with the assistance of the minor's physician, ascertain the physical and mental condition of the child. In short, they endeavour to collect any information which will enable the courts to take the most suitable steps for the treatment and training of the child. It is also one of the duties of the members of this auxiliary service during the enquiry to take provisional steps with regard to the child. For instance, they must entrust him to the care of a respectable family, which will look after his welfare; or place him in a home for minors, or in a school belonging to a public authority, or a private school under the direct supervision of an inspector.

### B. AT THE TIME OF THE DECISION.

In addition to the members of the special court, a representative of the Public Prosecutor (prosecutor of the appeal courts), a representative of the local "patronage" council and the medical officer of the court who has conducted the physical and mental examination of the child or adolescent participate in the private proceedings. It is their duty to assist the minor and provide for his defence.

### C. AFTER THE DECISION.

When the court has taken its decision, the above-mentioned auxiliary services continue to take part in the application of the measures ordered; they watch the execution of these measures, either by supervising the conduct of the minors and closely following the treatment they receive when placed in an educational establishment or with a family, or by visiting them in the educational institutions or reformatory schools in which they have been placed, or by appealing to the said courts to obtain a change in the decisions taken.

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## **POLAND.**

The laws in force authorise the judges of the juvenile courts to entrust part of the proceedings in juvenile cases, as well as the supervision of these juveniles, to the child welfare delegates or to members of charitable organisations co-operating with the court or even to trustworthy private individuals. This is the basis of the co-operation between the court and the persons and institutions enumerated in the table answering Question I.

### **A. BEFORE THE DECISION.**

The duties of the auxiliary services are:

- (1) To collect information as to the child's surroundings, its family, and moral, educational and economical environment;
- (2) To examine the child's physical and mental state;
- (3) To study its character and temperament; and
- (4) To take immediate provisional steps for its education.

The judge entrusts all those duties to the child welfare delegates, who perform their task with the help of the doctor and teaching staff of the school which the child attends and with the aid of charitable institutions.

### **B. AT THE TIME OF THE DECISION.**

All the information collected is communicated to the judges by means of a special very detailed form, which is placed in the dossier of the case. The person responsible for the child's protection is permitted to be present in court, and may make proposals concerning the educational measures which he considers the most suitable in view of the results of the enquiry.

### **C. AFTER THE DECISION.**

If the judge has decided to order the child's supervision, the child welfare delegate adopts whatever educational measures he thinks suited to the particular case. Every person or institution responsible for the supervision of children is required periodically to fill up detailed forms acquainting the judge with the results of this supervision. These forms must contain conclusions from which it may be judged whether the measures adopted have given good results, or whether other steps should be taken.

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## PORTUGAL.

The duties of the auxiliary services of the juvenile courts (guardianship offices) are laid down by law.

### A. BEFORE THE DECISION.

The auxiliary services called upon during the preliminary stages of the case and in the course of the proceedings are as follows:

(1) The special police stations attached to the courts, where minors undergo the first formalities and spend a few hours before appearing before the judge.

(2) The probation officers and supervisory agents (under the direction of the guardianship officer) are responsible for citing the parties and for summoning witnesses, enquire into the child's family circumstances and environment, study the most suitable measures to be taken and how minors can be placed under the best possible conditions, and also exercise supervision over minors provisionally released.

(3) The refuges (*refugios*), together with their services of isolation, observation, examination and vocational guidance. These furnish the judge with evidence from the medical, anthropological, psychological and educational points of view, and the minor's examination is supplemented by a study of his behaviour in the communal institution (organised on the Moll system [Belgium]) in which he is finally placed.

The school authorities are required by law to furnish all necessary information either to the probation officers and supervisory agents or direct to the courts. The law even regards elementary teachers as supervisory agents of the guardianship offices. Further, throughout the proceedings the child may be kept on remand at a refuge, or provisionally released and returned to his family, in which case, however, he still remains under the observation and supervision of the probation officer in charge of the enquiry.

### B. AT THE TIME OF THE DECISION.

The probation officers and supervisory agents appear before the courts, are present when judgment is delivered, provide information, submit reports either on their own initiative or at the request of the magistrates, and, in consultation with the latter, advise on the measures to be adopted.



### C. AFTER THE DECISION.

When judgment has been given, the probation officer's duty is almost wholly limited to applying the system of conditional release and to accompanying minors to the institutions in which they are placed. The voluntary probation officers are mainly employed to visit these institutions and the families which take the children and also to visit the minors themselves.

The refuges, which are homes where children are temporarily kept under observation and in detention pending trial, also receive minors who are sentenced by the court to semi-internment for a maximum period of six months. These institutions have separate departments for delinquents and for unruly children, and a temporary centre for minors in moral danger.

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## SWITZERLAND.

### Geneva.

The functions of the Official Committee for the Protection of Minors are determined by law. The Committee exercises general supervision over minors; it reports to the guardianship authorities on cases where their intervention is necessary for the protection of minors whose physical and intellectual development is endangered, or who are morally neglected. For this purpose it makes all useful enquiries and submits the results, if necessary, to the guardianship authority, together with its opinion (see Article 1 of the Law of 1912).

### A. BEFORE THE DECISION.

The Committee may bring an action to deprive a person of his paternal power. As the Committee has the right to make all useful enquiries into the physical and moral circumstances of minors, it is able to supply any information which may be useful to the court (see Article 8 of the Law on Penal Procedure).

### B. AT THE TIME OF THE DECISION.

The Committee takes no part in the proceedings.

### C. AFTER THE DECISION.

A minor may be placed on probation by decision of the Criminal Chamber. The supervision is often entrusted to an official of the Committee itself or to a male or female curator chosen from among the members of the minor's family. This measure implies that the Committee must report periodically to the Criminal Chamber on the steps taken and on the minor's conduct (Articles 16 and 17 of the Law of 1913). The placing of a minor with a small farmer in whose family he lives is considered the most effective method of reforming him. If this measure is unsuccessful, the Criminal Chamber applies to the pastor, the priest or the school-teacher. The child is then placed elsewhere and usually remains in touch with the person who has taken charge of him.

The President of the Criminal Chamber is responsible for the supervision of minors placed with private persons. He corresponds with the parents, curators, teachers or employers.

Other steps are taken by the court itself, such as placing the minor in a reformatory or house of correction, etc.

#### Zurich.

1. The Cantonal Office for Young Persons is the central office of the public and private institutions dealing with the welfare of young people, either in their families or at school. It officially supervises the juvenile courts and all establishments created for sick and abnormal children, reformatories or houses of correction, holiday camps and the work of public or private charitable societies.

In addition, it applies for and supervises the assistance of the authorities or private persons with a view to protecting minors. The State frequently grants subsidies to these child welfare activities. Article 64 *bis*, paragraph 3, of the Federal Constitution provides that the Confederation has the right to grant subsidies to the cantons for constructing penitentiary establishments, reformatories and houses of correction, and for reforms to be carried out in the enforcement of penalties. It is also entitled to grant assistance to institutions protecting neglected children.

2. The young persons' counsel is entrusted with the preliminary investigation of crimes and offences committed by minors and with the execution of the penalties imposed on them, unless these consist of detention. He obtains information from the parents or guardian of the accused, with a view to studying his character and environment and selecting the best means of executing the sentence. He assists the minors placed under "patronage"—for instance, by procuring work, advising and assisting them, and removing them from dangerous and unsuitable employment or occupations (the latter especially in case of probation).

The young persons' counsel takes part in the proceedings in the juvenile court and proposes suitable measures of education or correction. He cannot be regarded as a defending counsel, although it is his duty to safeguard in some respects the interests of the accused. The defence may be entrusted to counsel appointed by the legal representative of the accused.

3. The Commission for the Protection of Young Persons is an organisation instituted in each district by the Cantonal Office for Young Persons. Its duty is to combat criminality among minors, and to assist the young persons' counsel in the preliminary investigation of crimes and offences and in the execution of penalties.

Appeals against decisions of the Court of First Instance may be made to the Cantonal Court (Paragraphs 381 to 384 of the Law on Criminal Procedure).

The young persons' counsel and the institutions referred to above (commissions for the protection of young persons, etc.) assist very extensively in the application of measures ordered by the juvenile courts in respect of education, protection or reform. These courts also frequently obtain the assistance of private educational establishments, homes of refuge or other benevolent institutions. If the steps taken by these various organisations do not appear to the court to be justified, it may change them. This principle is at present generally recognised by the laws in force on the penal treatment of minors.

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## CZECHOSLOVAKIA.

### A. BEFORE THE DECISION.

#### (a) *In the Provinces of Bohemia and Moravia-Silesia.*

The district groups of the Young Persons' Welfare Society, through their male and female agents, assist the criminal courts in their investigations regarding the personal circumstances of young offenders.

The agent entrusted with the enquiry into the personal circumstances (including health) and family and material circumstances of the young offender is provided for this purpose with a questionnaire which he fills up in the course of his enquiry.

On the basis of this questionnaire, he records the life which is and has been led by the young offender and the situation of his family and his environment, and also determines as far as possible, the probable causes of the offence—*i.e.*, he supplies the information required to enable the judge to decide the case and to award a penalty or to suggest to the tutelage or guardianship court any steps for rescuing the child.

The questionnaire contains a number of headings designed to ascertain whether the young offender shows any symptoms of mental disease. If he is over school age and in employment, the enquiry also extends to his employer.

The criminal court itself generally applies to the authorities of the school which the accused is or has been attending for any necessary information. School authorities are obliged to reply to questions of this kind.

The tutelage or guardianship court in Bohemia and Moravia-Silesia is empowered to take provisional measures for the protection of the accused during the proceedings. In cases where such measures must be taken urgently in order to place the child in safety, the judge must advise the tutelage or guardianship court, which then takes such further steps as may be required.

(b) *In Slovakia and Sub-Carpathian Russia.*

In these provinces judges of juvenile courts co-operate with young persons' welfare societies in investigating the personal circumstances of the accused in the same way as in Bohemia and Moravia-Silesia.

The judge of the juvenile court, who, at this stage of the penal procedure, is authorised to take the necessary steps for protection and security, may also request a member of one of these societies to exercise supervision over the accused person in the latter's home or may remove him from his environment and provisionally place him in the custody of such member.

B. AT THE TIME OF THE DECISION.

(a) *In the Provinces of Bohemia and Moravia-Silesia.*

A representative or member of the Young Persons' Welfare Society in question has no official standing as regards the trial, and, in particular, is not empowered to defend the young person, as the defence is in the hands of the latter's legal representative or counsel.

The representative of the welfare organisation (permanent official of the district group of the Young Persons' Welfare Society) and the agent who has conducted the enquiry into the accused's position before the main proceedings may take part in those proceedings. If the hearing is in camera, the representative of the welfare society in question may ask the accused for permission to take part in the proceedings as his representative.

The presence of this representative at the main proceedings may be useful, as he can supply the judge with any further information which may be required regarding the personal circumstances of the accused.

(b) *In Slovakia and Sub-Carpathian Russia.*

If a defending counsel has been appointed for the accused during the preliminary proceedings, the court notifies the counsel and the society which has placed him at the accused's disposal of the date fixed for the trial.

During the proceedings, the court may order the defending counsel to be heard, even if the party does not propose it. In addition, the defending counsel may give his opinion as to the steps which he considers should be taken in the minor's interest.

In other respects the remarks under 2 (a) also apply.

C. AFTER THE DECISION.

(a) *In the Provinces of Bohemia and Moravia-Silesia.*

Unless at the court's suggestion the accused is reprieved by the President of the Republic, or unless sentence is deferred, or unless a period test is fixed, the court must order the penalty to be enforced.

If the court, in deferring the sentence, orders that, during the test period, the young offender shall be subject to protective supervision (patronage), it notifies the tutelage court, which exercises this supervision through an agent, who may be chosen from among the members of the Young Persons' Welfare Society. The agent carries out the court's instructions. The procedure is the same when the young offender, while serving the sentence, is conditionally released and placed under supervision.

In order to attain the object aimed at by protective supervision (paragraphs 4, 10 and 17 of the Law of October 17th, 1919, No. 562 of the "Collection of Laws and Decrees") --i.e., the protection of the minor from the harmful influences which have led him to commit the offence--the agent in question must remain in constant touch with his ward and with the environment in which he lives.

If the young person persistently refuses to follow the agent's advice, the latter may apply to the tutelage court for assistance.

In his reports to the court, the agent must in all cases adduce the facts which he has noted in support of his opinion regarding the minor's conduct.

The tutelage or guardianship court is empowered to take all necessary measures for the protection and education of the offender, and, before reaching a decision, must consult the Young Persons' Welfare Societies.

(b) *In Slovakia and Sub-Carpathian Russia.*

Co-operation is exercised here, not only by means of protective supervision under the Law of October 17th, 1919, No. 562 of the "Collection of Laws and Decrees" (according to paragraph 17 of this law, this supervision must be exercised by the court of the district in which the offender is resident), but also when the young offender is released on probation (paragraphs 46 to 48 of the Article-Law VII of 1913) and when steps must be taken under paragraphs 65 and 66 of the same law in the interest of young offenders and in connection with minors who are exposed by their environment to the danger of moral corruption or who have lapsed into loose conduct, even though they are not suspected of any offence.

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**UNION OF SOUTH AFRICA.**

ies of the auxiliary services are:

- (1) The study and investigation of causes underlying offences, recommendation of treatment and the supervision of offenders placed on probation.
- (2) The physical and psychiatric examination of offenders.
- (3) Psychological observation and, after committal to a hostel, the guardianship and training of delinquents.

A. The probation officer shall make all preliminary investigations required by the court as to any accused person and promptly report results.

B. The probation officer shall enlighten the court as far as possible.

C. The probation officer must watch over the person entrusted to his supervision and serve as his best friend. He must immediately investigate any breach of conditions and report thereon to the court or to the Minister of Justice. He must keep such records as may be directed by the Minister of Justice.

**A. BEFORE THE DECISION.**

In terms of Regulation 21, the probation officer makes preliminary enquiries, and the child is medically examined. The child is also examined by a psychiatrist when such is available (special forms are used for both examinations).

There is no power to compel educational authorities to furnish information as to the child's career and progress at school, but such information is not likely to be refused if asked for by the magistrate or probation officer.

In general, the magistrate determines what measures are to be taken for the custody of the child during the course of the enquiry. The probation officer is available to enquire and advise, if necessary.

#### B. AT THE TIME OF THE DECISION.

The probation officer watches the case generally in the interest of the child and brings to the knowledge of the court any facts which may assist in the determination of the case. The court itself guards the interests of the child during the trial. These measures render any formal defence unnecessary. If a judgment of "guilty" is recorded, the probation officer proceeds to further investigation and recommends where the delinquent shall spend the period occupied in the investigation.

#### C. AFTER THE DECISION.

Probation officers act as supervisors and guardians of delinquents released on probation in their own homes during the period of probation and visit those delinquents who are committed to hostels, but do not exercise any form of guardianship over delinquents committed to any other form of institution.

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### YUGOSLAVIA.

#### A. BEFORE THE DECISION.

In virtue of Article 44I of the Code of Penal Procedure, in order to acquire all the information necessary to judge an adolescent minor's character, the degree of his psychic and moral maturity, his conditions of life and all the other circumstances in which and on account of which he has committed an offence, the judge for adolescent minors may interrogate, in addition to the parents or legal defender, the priest, master, employer and doctor of the adolescent, as well as the tutelary and administrative authorities, and the associations and the institutions that have come into contact with him.

In virtue of the same article, there are no exemptions from the obligation to give evidence in the proceedings concerning adolescents as long as it is only desired to establish facts likely to throw light on the character, degree of psychic and moral maturity and conditions of life of the minor. Accordingly, the school authorities may be required to give information on their pupils' work.

In virtue of the same article, the judge may take temporary measures even during the course of the enquiry to protect and lodge an adolescent minor or to place him in a suitable family away from his other surroundings.

B. AT THE TIME OF THE DECISION.

In virtue of Article 443 of the Code of Penal Procedure, the reliable person entrusted with the care of the child may be heard in court in connection with the measures proposed by the Public Prosecutor. Similarly, this person is invited to the oral proceedings to give the necessary explanations and particulars.

C. AFTER THE DECISION.

When an adolescent minor is placed under observation, the person responsible for the supervision of the adolescent during the period of observation shall report to the judge on the conduct and life of the minor (Article 449).

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INTERVENTION OF THE AUXILIARY SERVICES WITH A VIEW TO OBTAINING  
A MODIFICATION OF THE FIRST DECISION.

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In eleven countries, the auxiliary services intervene and apply direct to the magistrate or juvenile court to modify his or its first decision. These countries are *Australia* (for the State of Victoria), *Belgium*, *Canada* (province of Manitoba), *France*, *Germany*, *Hungary*, *Mexico*, *Peru*, *Portugal*, *Spain*, and the *Union of South Africa*.

In *Great Britain*, the magistrate may decide to have the child brought before him again, if the probation officers report that he is not amenable to influence or refuses to observe the conditions attached to the probation order, or if he commits fresh offences.

In *Australia* (Queensland) the Director of the Children's Department may ask the Secretary for the Interior (who is the Minister responsible for the application of the law) for the decision of the court to be modified. In Western Australia, the Child Welfare Department intervenes in certain cases to obtain modification of treatment, but does not necessarily apply to the court to change its decision. The Minister under whose authority the Child Welfare Department is placed may revise the court's decisions.



Four countries state that the auxiliary services do not intervene or apply to the court to modify its first decision. These are: *Canada* (Nova Scotia, Saskatchewan and Quebec), the *Free City of Danzig*, *India* (Bombay) and *Yugoslavia*.

Nine countries have furnished no information. These are: *Australia* (New South Wales, South Australia and Tasmania), *Canada* (the provinces of Ontario and Prince Edward Island), *Chile*, *Czechoslovakia*, *India* (Bengal), *Netherlands*, *New Zealand*, *Poland* and *Switzerland* (Cantons of Geneva and Zurich).

In *Italy*, the auxiliary services of the juvenile courts cannot apply for the cancellation or modification of decisions of the courts. In certain cases, however, these services may ask that the minor in question may be released from the educational institution or reformatory, or that the enforcement of the order for confinement in a reformatory may be suspended.

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## Replies to Question III.

### ORGANISATION OF AUXILIARY SERVICES.

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It has been possible to summarise the replies to sub-questions 2 and 8 of Question III. The answers to other sub-questions are published country by country.

#### SUB-QUESTION 2. — ARE THE AUXILIARY SERVICES PART OF A GENERAL SYSTEM COVERING THE WHOLE COUNTRY ?

Ten countries state that the auxiliary services are part of a general system covering the whole country. They are: the six States composing the *Commonwealth of Australia*, certain Provinces of *Canada* (Nova Scotia, Ontario, Saskatchewan and Manitoba for certain services), *Chile*, *Germany*, *Great Britain*, *Italy*, *New Zealand*, *Peru*, *Portugal* and *Switzerland* (Cantons of Geneva and Zurich).

As *Czechoslovakia* is divided into two territories with different legislative systems, the territory to which the old Austrian laws apply (the Provinces of Bohemia and Moravia-Silesia), and that where the old Hungarian laws apply (Slovakia and Sub-Carpathian Russia) the organisation of the auxiliary services may present certain differences in these territories.

Eight countries state that the auxiliary services are not part of a general system covering the whole country: *Belgium*, *Canada* (Quebec), *France*, *Hungary*, *India* (Provinces of Bengal and Bombay), *Mexico*, *Spain* and *Yugoslavia*.

In the *Netherlands*, certain services are general and others are not. *Poland* makes no explicit statement, but the auxiliary services do not seem to be part of a general system. The *Union of South Africa* gives no information, nor does the Province of Prince Edward Island, *Canada*.

#### SUB-QUESTION 8. — HOW ARE THE EXPENSES OF THE AUXILIARY SERVICES MET ?

As the result of a discrepancy between the texts of the questionnaire, most of the countries in replying to this question, state how the expenses of the auxiliary services are met, and not how they are subsequently recovered.

In all the countries where these services are official, provision is made for these expenses in various ways in the State budget, either in full or in part. In certain cases, the State subsidy is supplemented by local rates (as, for instance, in *Great Britain*), by the income of the provincial and municipal child welfare organisations (as, for instance, in *Spain*)<sup>1</sup> by funds for which provision is made by law (as, for instance, in *Peru*, where the visiting board administers a fund in pursuance of Articles 402 *et seq.*, of the Criminal Code (Third Chapter, Fourth Book)).

In *Poland*, the expenses incurred for child welfare, in which are included the auxiliary services, are met by large sums placed each year at the disposal of the juvenile courts by the various municipalities and the Warsaw Prefecture (General Commissariat).

The private organisations obtain their funds from private sources, but are sometimes subsidised (as, for instance, in *Czechoslovakia*, the *Free City of Danzig*, in *India* (Province of Bombay) in the *Netherlands*, in the *Union of South Africa*, etc.

*Belgium* and *Mexico* state that the expenses of the auxiliary services of the juvenile courts cannot be recovered. In *Switzerland* (Canton of Geneva) the Law of October 19th, 1912, on the protection of minors (Article 8) provides for the repayment of the whole or part of the expenses incurred for children, either by parents who are in a position to do so, or by the children themselves (when they have acquired property by succession or donation *inter vivos*) or by the State or commune of origin.

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<sup>1</sup> The income of the provincial and municipal child welfare associations mainly consists of a 5 per cent entertainment tax.

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OTHER INFORMATION RELATING TO THE ORGANISATION OF  
AUXILIARY SERVICES.

(REPLIES TO SUB-QUESTIONS 1, 3, 4, 5, 6 AND 7).

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**GERMANY.**

As regards the organisation of the auxiliary services of the juvenile courts, a distinction must be made between the child welfare offices and private institutions. The child welfare offices are communal or inter-communal authorities. Their ordinary members comprise not only officials but the representatives of private child welfare associations. Owing to this fact, private charity has an opportunity of co-operating in the work of the auxiliary services of the juvenile courts through these offices. The work of assisting the juvenile courts may, however, be entrusted to purely private associations. In such cases, the different child welfare associations of a particular town usually join together for this work. In many cases, the child welfare offices and the private charitable associations work together to assist the courts, the child welfare office distributing the cases appearing before the juvenile courts among the various associations. In such an event, the child welfare office often undertakes the legal representation and study of particularly difficult cases. The form of co-operation between the child welfare offices and the free organisations in the sphere of auxiliary service varies according to local circumstances. In some cases, at Munich, for instance, co-operation between the child welfare associations and the juvenile court is rendered easier by the fact that these associations have their offices in the same building as the court.

In the same way as the auxiliary services consist partly of the child welfare offices and partly of private associations, their collaborators are partly officials and partly voluntary helpers. In most cases, the first enquiries and the report to the juvenile court are made by the official authorities, while the subsequent welfare measures and supervision are attended to by volunteers.

In the large associations, the direction of the auxiliary services is often in the hands of experienced and remunerated persons. The great majority of the paid officials, both of the offices and of the associations, have received a Government course of training in welfare work, followed by a Government examination. The voluntary workers are trained both by the child welfare offices and by the associations. This training takes the form of talks, lectures and also regular courses of training. All the members of the child welfare offices assisting the juvenile courts are responsible to the child welfare offices. The members of the free associations fulfilling the same functions are responsible to their own organisations.

The juvenile courts and their auxiliary services have formed themselves into the "German Association of Juvenile Courts and Auxiliary Services" in order to benefit from their mutual experience. This association has participated in the drafting of the present report.

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## AUSTRALIA.

### New South Wales.

The Police Department and the Child Welfare Department are established in accordance with the law of the State. The private auxiliary services are usually of a religious character and are organised by the various denominations. The members of the police service and the Child Welfare Department are servants of the State, and are paid as such. Members of the private services are not paid by the Government, but are usually supported by the different religious denominations, and, as a rule, receive some remuneration.

Police and child welfare officers are responsible to their respective departmental heads. The private auxiliary services are responsible to the particular organisation to which they belong.

### Victoria.

The auxiliary services are public. The head probation officer is a public official of the Civil Service. Some of the members of the auxiliary services are employed by private institutions and most of the other collaborators are volunteers. The head probation officer and those employed by institutions are paid. The head probation officer is elected on account of legal training and aptitude for the work. The others are selected and trained by him. They are responsible to the Attorney-General, through the head probation officer, and to the children's courts. No provision is made for volunteers.

### Queensland.

The auxiliary services are public.

All members of the State Children Department and the police are public officials. They are all paid.

The officers of the State Children Department are trained in the Department. The members of the police force are trained by their own officers.

The inspectors of the State Children Department are responsible to the head of the Department, who is designated the Director at Brisbane, and the police are responsible to the Commissioner of Police, Brisbane.

**South Australia.**

The Children's Welfare Department is a public service. The officials are public and the institutions are public.

The officials are paid and their training is the experience gained in the Department. They are responsible to the Children's Welfare and Public Relief Board; responsible to Parliament through the Minister.

**West Australia.**

The services of the Child Welfare Department are public.

Their members are public officials. The officials employed in private institutions are not under the control of the Child Welfare Department, but the institutions are subject to visitation by departmental officers. The Department also has boarding-out committees to assist in supervising children.

The officers of the Child Welfare Department are paid.

The lady inspectors are trained nurses. Most of the other officers have gained experience of social work in the Department.

The Child Welfare Department is responsible to the Minister for Child Welfare.

**Tasmania.**

The probation services are public. The probation officers are voluntary public officials, they are not paid. Their training is unknown; they are responsible to the juvenile court.

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**BELGIUM.**

The members of the staff of the State educational establishments are officials, and as such are appointed and paid by the State.

The probation officers are responsible to the children's judges, who appoint and dismiss them. The service is public, but the probation officers are not public officials. Certain probation officers attached to the larger jurisdictions receive a monthly salary. They are selected by the judge from among the persons brought to his notice as most suitable for this work (Ministerial circular of September 24th, 1912, §19). The appointment of paid probation officers is subject to the approval of the Minister of Justice. The probation officers are responsible to the judge.

There are four paid probation officers (plus a visiting nurse) at Brussels, two at Antwerp, two at Mons, two at Liège, two (plus a visiting nurse) at Charleroi and one at Ghent.

Certain probation officers have followed some of the courses at the social service schools. It has been decided in principle that, in future, as far as possible, only social workers who have obtained their diploma for social work, after a year and a-half of theoretical study and a further probationary year and a-half, shall be appointed as paid probation officers. The training of social workers includes specialisation in child welfare work (probationary period with the children's judge).

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## CANADA.

### Manitoba.

The organisation of the auxiliary services is private, charitable, semi-private or governmental.

The auxiliary services may be said to be both public and private. The governmental members — that is to say, such members as municipal and provincial police — are public officials. Some members are officials employed by private institutions and some are volunteers.

Some are paid and some are not paid.

Some have had many years of practical training in social work. Others, who are volunteer workers, are not so well trained. On the whole, those who continue for any length of time are reasonably well trained.

The public officials are responsible to the authority which employs them. The private officials are responsible to their local organisations. Volunteer workers are, generally speaking, responsible to the court and to the organisations under which they operate.

### Nova Scotia.

The auxiliary services are semi-private.

Their members are either public officials — *e.g.*, probation officers — or volunteers as committees of Children's Aid Societies.

They are trained child-welfare workers responsible to the court.

### Ontario.

The Children's Aid work is a branch of the Government of the Province of Ontario, administered by a responsible Minister of the Government; for some years past, by the Provincial Secretary.

This administrative work is immediately in charge of the "Superintendent of Neglected and Dependent Children".

**Prince Edward Island.**

The auxiliary services are either official—*e.g.*, when a Children's Aid Society's officer acts as constable or probation officer—or private—*e.g.*, when Children's Aid Societies supervise homes or asylums for children.

**Quebec.**

Different societies, such as Catholic societies for protection of women and children, the Catholic Big Sisters, the Protestant Big Sisters, sometimes report to the juvenile court cases regarding children. If there is no complaint sworn, the judge, after warning the child, allows the societies to attend to the case.

These societies are private services.

Their employees are employed by the societies and are not public officers; some work voluntarily, others are paid by private institutions.

**Saskatchewan.**

The organisation of the auxiliary services is volunteer committees and probation officers (both volunteer and paid).

They are both public and private.

Some of their members are public officials and some are not.

Some are paid.

They are trained for social service.

They are responsible to the juvenile court and Children's Aid Societies.

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**CHILE.**

The auxiliary services for the observation of children are controlled by a Director-General. They are public services staffed by officials paid by the State.

The welfare visitor receives her technical training at the school of social service; the psychologist has taken a course at the Institute of Education; the teachers are of the elementary grade, and have passed through the experimental schools. All these officials are responsible to the Director-General.

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### FREE CITY OF DANZIG.

The Children's Department is organised on an administrative basis. The other auxiliary services are private. The "Caritasverband" and the "Innere Mission" are part of a general system covering all countries ("Caritas Catholica", Secretariat at Vienna (Austria) and "Internationaler Verband für Innere Mission und Diakonie", head office: Netherlands). The members of the auxiliary services are public officials or employees as far as the Children's Department and the Child Welfare Service at juvenile courts are concerned; some of the members of the other auxiliary services are paid private employees and others work as volunteers.

Those who collaborate with these organisations are prepared for their work, partly at women's social schools and partly by the practical social work itself. If the members in question are officials, they are responsible to the Senate and are paid.

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### SPAIN.

The supervisory services are to a large extent under the authority of the juvenile courts; most of them have been organised by the juvenile courts themselves. All are responsible to the court which they assist, and are under the supreme control of the Central Commission for Juvenile Courts, which is itself under the Central Child Welfare Board (Ministry of the Interior). These services are public owing to their aims; but most of the observation institutions are of private origin.

The probation officers must be appointed direct by the court which they assist and not by benevolent societies; they are responsible for the performance of their duties only to the court which has appointed them. Under Article 10 of the Regulations, there may be two categories of probation officers—expert and volunteer—and the former may be remunerated. No special training is required of unpaid volunteer probation officers. The paid officers, on the other hand, are required to have received a technical training at an official or private instruction centre, or to have high general educational qualifications. The official instruction centre was organised by the central commission with the assistance of the court and of the Madrid Reformatory and of the latter's psychological laboratory. The private centres require to be approved by the central commission. The subjects taught consist of experimental psychology, physiology, hygiene and correctional pedagogy, and lessons are also given in psychiatry and in the law regarding minors.

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## FRANCE.

These auxiliary services are private bodies (with the exception of the Medico-Psychological Examination Service). They work under the regime of declared associations or associations recognised to be of public utility. The Medico-Psychological Examination Service of "La Petite Roquette" has no independent legal standing.

The services of rapporteurs and delegates are private.

The Medico-Psychological Examination Service of "La Petite Roquette" was created by the Directorate of the Penitentiary Administration.

The members are not officials: some are remunerated, others receive no pay.

At Paris, there is a school for women social welfare workers from which the social service recruits the majority of its staff. The rapporteurs and delegates are trained for their duties by more experienced delegates or by the magistrates.

The members are responsible to the directors of the groups.

The rapporteurs and delegates who so request are entitled to a travelling allowance, which cannot be greater than that granted to civil Justices of the Peace.

The doctors and investigators of the Medico-Psychological Examination Service receive a lump sum as allowance.

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## GREAT BRITAIN.

(England and Wales.)

The probation system, which has been in existence for many years, developed out of voluntary effort, and it first obtained statutory recognition in 1887. The appointment of probation officers was authorised by the Probation of Offenders Act, 1907, but the present organisation throughout the country dates from 1925 (Criminal Justice Act, 1925, Part I).

Under this Act, every Petty Sessional Division (that is to say, the area which is served by a Court of Summary Jurisdiction) forms a probation area, but to meet the needs of small towns and country districts one or more Petty Sessional Divisions can be combined to form a combined probation area, and most of the countries in England and Wales are so combined. Each probation area must have one or more probation officers, and in a single area they are appointed by the Justices or by the Probation Committee. In a combined area, they are appointed by the Probation Committee. The Probation Committee is responsible for paying probation officers according to scales fixed by the rules and for supervising their work. The salaries and expenses are paid partly by local rates and partly by a Government grant. In London, all the appointments are made by the Home Secretary, and there is a special Committee whose duty it is to supervise the administration of probation work. The system is thus provided for the whole country and

the services of the probation officer are a public service. Special attention is given to the needs of the juvenile courts as regards the services of probation officers, and in London, where the service is most highly organised, there are twelve highly qualified women who devote all their time to the juvenile courts.

There are two methods of obtaining probation officers. Owing to the development of the probation service from voluntary effort, many of the probation officers are attached to voluntary organisations, notably the Police Court Mission, which has branches in London and in many parts of the country. These men and women may be appointed probation officers, and in that case part of the salary (one-third) is payable by the society. Some courts, however, appoint probation officers who do not belong to any society, but are the whole-time servants of the court.

In smaller districts, when the amount of work is too small to justify the appointment of a full-time officer, it is the practice to appoint part-time officers at a smaller salary.

The training of a probation officer is not definitely prescribed. The appointing authorities attach special importance to the personality of candidates, but weight is also given to educational qualifications and previous experience in social work.

As regards the other auxiliary services described above, the education and police services depend on local organisation and are paid for partly from local rates and partly by Government grant.

Remand homes are provided by the police authorities, except in London, where the education authority is responsible. The cost is also shared between local rates and Government grant.

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## HUNGARY.

Neither body (Visiting Board or Minors' Supervisory Board) is attached to the poor relief organisations which come within the domain of the municipal or Government authorities. They receive their instructions solely from the courts and work for the courts.

Visiting Boards consist mainly of persons appointed by the Government from among officials; some of the visitors are, however, voluntary workers.

Stipendiary visitors (men and women) are appointed by the Ministry of Justice, which pays their salaries. They are responsible for their work to the juvenile courts.

On the order of a magistrate of a juvenile court, expenses incurred by visitors are refunded to them out of the official court funds.

The voluntary visitors are officially authorised by the magistrate of a juvenile court. Most of the visitors have had experience as teachers or social workers.

The Supervisory Boards consist of:

(1) Two judges who deal with children's cases, appointed by the President of the Royal Court of Appeal;

- (2) Two members of the Bench who deal with children's cases appointed by the Public Prosecutor;
- (3) Two members of the Bar appointed by the Bar Council;
- (4) The President of the Guardianship Office of the town and of the Comitatus;
- (5) The senior official of the Comitatus and town;
- (6) The Royal Inspector of Primary Education;
- (7) The Director of the State Orphanage;
- (8) An adequate number of men and women appointed by the Minister of Justice from among persons who are actively engaged or sincerely interested in assisting and protecting children.

Proposals for the appointment of these officials are made by the President of the Royal Court of Appeal after consultation with the Public Prosecutor. Appointments are made for three years. Members either take oath or make a solemn promise.

They undertake to carry out the duties, visits and supervisory work entrusted to them by the Supervisory Board; to prepare reports on the children's home life and environment; be present at the meetings of the Supervisory Board and take action whenever the physical, spiritual or moral needs of a child so require.

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## BRITISH INDIA.

### Bengal.

The Board of the House of Detention, Calcutta, recommends the appointments and, finally, the appointments are made by the Government. There is no definite organisation for such services. The four lady probationary officers (volunteers), however, have been recommended by the Women's Council of India and on such recommendations they have been appointed.

The services of the paid probationary officers are public and they are public officials.

The lady officers are volunteers. The three male probationary officers are paid. There is no particular institution for training them, nor do they receive any preliminary training before appointment. They are responsible to the Board of the House of Detention.

### Bombay.

1. The Children's Aid Society functions for the operation of the Bombay Children Act in Bombay.

2. These services are a private organisation receiving a grant-in-aid from Government.

3. The workers are either paid servants of the Children's Aid Society—for administering the remand home and organising enquiries—or voluntary workers for supervision or probation.

4. Training of workers :

(a) The secretary was trained for rescue work at the Josephine Butler Memorial House, Liverpool.

(b) The chief supervisor is a graduate of an American college and is a life worker of the Social Service League, Bombay.

(c) The voluntary workers are untrained and come mainly from the ranks of young, keen, professional men, especially teachers in Bombay. One lady supervisor is a graduate of Bombay University and has taken a full social training in Birmingham.

Courses of lectures have been arranged at different times to give superficial training to volunteers.

(d) The paid workers are responsible to the Committee for the Children's Aid Society who employs them and the voluntary supervisors to the Chief Presidency Magistrate.

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ITALY.

The organs of the National Maternity and Child Welfare Society which co-ordinate and direct the various other Institutions for the protection of children, in conformity with the Regulations of April 15th, 1926, and on the basis of the agreements concluded with the Ministry of Justice as stated in the circulars of the Ministry and of the Society, are at present organised as follows:

The National Maternity and Child Welfare Society consists of a central council and of local organisations—namely, the Federation and the communal welfare committees.

The members of these bodies are either public officials, such as the President of the Tribunal, the Public Prosecutor, the local magistrate and the Justice of the Peace, the provincial medical officer and the school inspector, the other members are persons particularly well qualified in maternity and child welfare matters or in social questions of all kinds. They receive no remuneration.

In each province, the direction and co-ordination of the auxiliary services for the protection and re-education of dissolute or delinquent minors are entrusted by the President of the Provincial Federation to two magistrates who are *ex officio* members of the Managing Committee of the Federation—namely, to the President of the Tribunal and the Public Prosecutor or to magistrates delegated by them.

The President of the Federation places at the disposal of the two magistrates, at their request, premises for their headquarters, a clerk, and the necessary resources for carrying on correspondence with the various authorities and for compiling the provincial records of delinquents accused or sentenced minors. The work is organised by the two magistrates in agreement with the President of the Federation and in the manner which appears most suitable for the efficiency of the service.

The auxiliary service is part and parcel of a widespread system of social welfare which covers the whole country, because it is assisted by other societies and institutions created by the same law as the National Maternity and Child Welfare Society, and by other fundamental laws, such as the War Orphans' Relief Society, the "Balilla" and "Dopolavoro" organisations, etc.

The members of this auxiliary service are regarded for all purposes as public officials.

Apart from the judicial authorities, on whom they are dependent and with whom they work, the auxiliary services are responsible for discipline to the officers of the National Society by which their members are appointed.

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### MEXICO.

There are public and private services, but the latter play a very small part.

The officials of the auxiliary services of the court are mostly public officials drawing salaries. As a rule, the staff receives professional training.

The staff of the auxiliary services consist of doctors and social workers, who are responsible to the President of the Court.

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### NEW ZEALAND.

The Child Welfare Branch is a special branch of the Education Department. The services are public. Their members are either public officers or volunteer honorary child welfare officers of both sexes. The public officials are paid, the honorary officials are not paid. Prior to appointment there are no special facilities for full training in social work. Female officers are required to possess nursing certificates and the males some previous experience in boys' work. New appointees are trained in the large centres under experienced officers of the Child Welfare Branch. The child welfare officers are responsible to the Child Welfare Branch of the Education Department.

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### NETHERLANDS.

I. The Guardianship Council consists of an uneven number of members, from five to eleven including the President. The members and secretary are appointed by the Crown. There is a Guardianship Council in each district.

All those who are presumed to possess the necessary qualifications may be appointed as members of a Guardianship Council. No special training is available for this post. The Boards are responsible to the Ministry of Justice.

The secretary is paid, but the members and President only have their expenses refunded.

The expenses of the Guardianship Council are borne by the State.

For fuller particulars, see the Public Administrative Regulations of June 15th, 1905 (*Legal Gazette*, No. 207), amended by the Royal Decrees of February 11th, 1909 (*Legal Gazette*, No. 39), of July 28th, 1910 (*Legal Gazette*, No. 244), of March 18th, 1911 (*Legal Gazette*, No. 94), of August 9th, 1913 (*Legal Gazette*, No. 350), and of March 27th, 1928 (*Legal Gazette*, No. 287).

2. There is a "Pro Juventute" society in nearly every district. Hitherto, there had been very little contact between the different societies; but the association of the societies has just been re-organised on more centralised lines.

The members of these private societies are either subscribing members or active members. The latter are not specially trained for their duties and are not responsible to any public authority. The societies are maintained by contributions, gifts and subsidies.

3. The officials responsible for carrying out the laws in regard to children are appointed, subject to the approval of the Ministry of Justice, by a Commission consisting of the President of the Guardianship Council, the Public Prosecutor and the President of the local "Pro Juventute" society. Their remuneration and office and travelling expenses are paid by the latter society, which receives a subsidy from the Government for this purpose.

In several districts, there are one or several officials responsible for carrying out the laws in regard to children. These may be described as "semi-officials" appointed in view of their special qualifications for the work,—e.g., former officials of Government educational institutes (*Rijksopvoedingsgestichten*). They are responsible to the Commission referred to above or, in virtue of a special mandate entrusted to them, to the Guardianship Council, the Public Prosecutor, the children's judge or the "Pro Juventute" society.

4. As regards the organisation of the family guardians' service, see the Law of July 5th, 1921 (*Legal Gazette*, No. 834), in conjunction with that of May 19th, 1922 (*Legal Gazette*, No. 325), and the Public Administrative Regulations of June 19th, 1922 (*Legal Gazette*, No. 422). See also above.

In some districts, the family guardians' organisation forms a section of the "Pro Juventute" society, while in others there are separate family guardians' associations.

These associations do not form part of a general system covering the whole country.

Articles 3 and 4 of the Public Administrative Regulations of June 19th, 1922 (*Legal Gazette*, No. 402), stipulate that private persons, officials responsible for carrying out the laws in regard to children, and probation agents are eligible as family guardians.

As a rule, family guardians are not remunerated. In exceptional cases, the Minister of Justice may allow them a grant not exceeding 10 florins for each case. Their expenses are borne by the State if the child and parents are indigent (see Article 13 of the Regulations quoted above).

The family guardians are not specially trained for their duties. Those who offer themselves for this purpose are chiefly persons doing welfare work or members of philanthropic societies. The children's judge decides as to their competence.

The family guardian is obliged to report at least once a month to the children's judge on the child and his environment. As regards their reports, see Article 373 (e), (k), (l) and (p) and Article 374 of the Civil Code.

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#### PERU.

With the exception of private Visiting Boards of a philanthropic character, the auxiliary services are public and their members are public officials or persons exercising liberal professions, the former working in the capacity of regular members and the latter in that of private members. They receive no special salary for these services, except the doctors, who are entitled to be paid. They are not required to receive any special preparation for their duties, and need only comply with the conditions required by the law and by the relevant regulations. Their legal responsibility is the same as that of all public officials, and they are therefore amenable to the ordinary courts.

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#### POLAND.

The probation officers are appointed by the judge of the juvenile court from among persons of both sexes who are especially qualified to undertake child welfare work.

They are not public officials and most of them are unpaid. Some, however, are paid by a special Decree of the Ministry of Justice.

The probation officers are directly responsible to the judge of the juvenile court and are required to carry out his instructions in regard to the protection of minors.

Most of them are chosen from among teachers; the judge of the Warsaw juvenile court organises special courses for delegates in law, social questions and child psychology.

The " Association for the Special Protection of Minors " was founded at Warsaw in 1930 for the special purpose of collaborating closely with the juvenile courts. The judge



of the Warsaw court is *ex officio* President of the Association. Child welfare organisations may also become members. The Association is gradually becoming a central organisation for the care of children, and this will certainly facilitate the working of the courts.

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## PORTUGAL.

Under the Ministry of Justice is a "General Administration and Inspection of Services for the Jurisdiction and Guardianship of Minors", and attached thereto is a council which acts as an advisory committee and as a superior court of appeal to deal with decisions of the guardianship offices.

The guardianship offices, refuges (*refugios*) and institutions entrusted with the execution of sentences constitute a special organisation within the jurisdiction of the Ministry of Justice. The other auxiliary services, both public and private, belong to the Department of Public Welfare, under the Ministry of the Interior, or are subject to its supervision.

The staff of probation officers consists of public officials paid by the State and of voluntary agents who give their services free.

The refuges, which correspond to purely preventive jurisdiction and guardianship, are official institutions belonging to the State, which pays for their upkeep but collects a monthly sum from families which can afford to pay, this sum being fixed in the sentence in proportion to the family's means.

The refuges attached to the central guardianship offices (with their police stations, isolation stations for psychological, medical, and educational observation, and temporary centres for children in moral danger) are the main centres which co-ordinate juvenile jurisdiction.

The officials and employees are trained for their work by the Institute of Vocational Guidance at Lisbon and by lectures given by the Administrator, the General Inspector concerned, or the senior staff of the services to which they belong.

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## SWITZERLAND.

### Geneva.

The official Commission for Child Welfare is a cantonal commission whose work covers the whole canton: but it may appoint sub-commissions for special branches, or depute one of its members for these duties (Article 4 of the Regulation of 1912). The Commission is assisted in its work by local committees, which are set up as occasion arises.

The Commission is a legal entity and is composed of nine members, three of whom are appointed by the Grand Conseil (Cantonal Parliament) and four by the Conseil d'Etat. It further includes two representatives of the Cantonal Government. The service is public; the members of the Commission are not necessarily professional. Each year the Commission elects its bureau, composed of a chairman, a vice-chairman and a secretary, and also of employees who carry out enquiries and supervise children placed under its care. The director and his employees belong to the pensions fund of the officials and employees of the cantonal administration.

The members of the Commission are responsible to the authority which has elected them.

#### **Zurich.**

(1) The Cantonal Minors' Office comes under the cantonal organisation of the Education Department. The Chairman is elected by the Cantonal Government and is paid as a public official. The law does not determine what preparation shall be required of the members of the Cantonal Minors' Office before they may be appointed.

The selection of these officials will of course depend on their suitability for the work. The expenses of the service are met by the canton.

(2) The Cantonal Government elects a children's lawyer in each district. This is part of the general system of assistance organised in the canton. This lawyer is a public official and is paid by the State. The law does not require candidates to have any special preparation or training. Children's lawyers are responsible to the Cantonal Minors' Office, to which they must submit an annual report on their work.

(3) The Cantonal Minors' Office must organise in each district of the canton a commission of from seven to fifteen members for child welfare. These members are appointed by the Cantonal Government on the proposal of the head of the Education Department. When carrying out their duties, these commissions keep in touch with the children's lawyers and submit an annual report on their work to the Cantonal Minors' Office. These commissions thus form part of the cantonal system of assistance. They are paid by the districts, the communes concerned and the canton.

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#### **CZECHOSLOVAKIA.**

As there are two territories in Czechoslovakia with different legislative systems, the organisation of the auxiliary services may present certain differences in those territories.

The members of the private charitable organisations engaged in child welfare work include private persons who collaborate in this work as volunteers. All the public

authorities of the district which are bound by law to render any sort of social assistance to young persons have their representatives on the administrative committees of the district child welfare groups.

They are not paid for this work.

Expenses such as postage, railway fares, etc., are refunded to the officials of these societies on request.

The representatives of these societies receive no special training. They are prepared for their work by means of courses and lectures; they are also provided with the books necessary for their personal studies. The district child welfare services call meetings of their representatives from time to time, in order to exchange experiences and discuss difficulties and also to receive instructions for future work.

Their business is managed by the secretaries of the child welfare associations, who receive special training at the high school for social welfare work at Prague, where a special course is given in law as applied to youthful delinquents. Moreover, congresses are organised from time to time, which furnish an opportunity of exchanging views and observations.

All the semi-official child welfare associations are under the control of the Civil Service.

As regards responsibility, a distinction should be drawn between those cases entrusted by the court to the society itself and those entrusted direct to one of its members (official or representative). In the former case, the society itself is responsible to the court, while, in the latter case, its member must observe the instructions given direct by the court and is personally responsible to the court for his actions.

In Slovakia and Sub-Carpathian Russia, when an active member of an organisation of this kind is acting in pursuance of an order of the court, he enjoys the same rights and is bound by the same obligations under Article-Law VII, 1913, § 7, as an official representative, and must therefore be regarded as a public official.

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## UNION OF SOUTH AFRICA.

Probation officers are public servants. At Pretoria, Johannesburg, Cape Town and Durban special full-time appointments have been made. These officers fall under the Department of Prisons. Elsewhere, the probation officers are those designated under No. 20 of the Regulations (see answer to question I).

Hostels are controlled by committees and subsidised to an amount of 50 per cent of all charges.

Medical officers are: (1) voluntary; (2) district surgeons paid by the Department of the Interior. Psychiatrists are: (1) honorary; (2) officers of the Department of the Interior.

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#### YUGOSLAVIA.

The organisation of the auxiliary services is not uniform. They may be official or private. Their members may be Government officials or private persons. In virtue of Article 440, allowances may be paid to persons of inadequate means engaging in patronage work. The members acquire efficiency in their duties by devoting themselves to the education of the young and to the care of abandoned children. Some of the institutions are under the authority of the Ministry of Justice and others under that of the Ministry of Public Health and Social Welfare.

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## Replies to Question IV.

### PART PLAYED BY WOMEN IN THE AUXILIARY SERVICES.

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There is apparently no country where women are excluded from the auxiliary services attached to the juvenile courts (the Department of Caldos in *Colombia*, however, states that there are no women holding offices connected with the Manizales court).

The extent to which they co-operate varies from country to country; they are not everywhere allowed to carry out all auxiliary duties, and often their work is confined mainly to cases of children of either sex, or of girls.

On the other hand, in *South Australia*, the supervisory service of the Child Welfare Department is entirely women; in London, all the probation officers attached to the juvenile courts are women. In *Danzig*, nearly all the employees of the auxiliary services are women, men only working as volunteers. In *Hungary*, where women are allowed to collaborate with the juvenile courts on the same footing as men, the officials of the auxiliary services are at the present time mostly women.

The State of Queensland (*Australia*), *Italy* and the Canton of Zurich (*Switzerland*) state that women do not play an important part in the auxiliary services, or that the part they play is not clearly defined.

In view of the many duties performed by women in connection with the auxiliary services, it seems desirable to give a short summary for each country.

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#### GERMANY.

The work of assisting the juvenile courts in Germany is predominantly in the hands of women, acting both as officials of the child welfare offices and as employees and voluntary assistants of the private associations. The masculine element has hitherto been in the minority and deals particularly with the older boy offenders.

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## **AUSTRALIA.**

### **New South Wales.**

Women who are members of the Police Service, or the Child Welfare Department, or other organisations render valuable assistance in dealing with juvenile offenders, especially where a female child is the subject of court proceedings and where infants are involved. Any female child being removed from one part of the State to another is always under the care of a trained female member of the Police Department or of the Child Welfare Department. A matron is usually in charge of each established home.

### **Victoria.**

Women may be probation officers.

### **Queensland.**

Women do not play a very important part in connection with the auxiliary services. There is only one lady inspector in this State, and occasionally she might visit some child released on probation by the court.

### **Western Australia.**

Lady inspectors of the Child Welfare Department visit wards of the Department and also act as probation officers for girls. Ladies are also engaged on other work in the Department in connection with the boarding-out of children, infant life protection, etc. The lady inspectors have authority to arrest children, to lay complaints, and conduct cases in the children's court.

### **South Australia.**

All probation officers of the Children's Welfare Department are women. They administer the Act as required.

### **Tasmania.**

Women justices from time to time sit in the children's court to assist consideration of the cases of juveniles brought before it.

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## **BELGIUM.**

The part played by women in the juvenile courts is defined in the Ministerial circular of September 24th, 1912, paragraph 19, which reads as follows:

“ Ladies may be appointed especially when they are persons willing to undertake the supervision of minors and capable of doing so; they have special experience of the psychology of children; they are attentive to the minor details of life and are able to console many a hidden sorrow. They shall deal specially with cases of girls. ”

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## **CANADA.**

### **Manitoba.**

Women play a most important part in the auxiliary services attached to the juvenile courts, especially relative to the cases of females.

### **Nova Scotia.**

Women play the same part as men. No difference.

### **Ontario.**

The Big Sisters Association is composed wholly of women. The Children's Aid branches and the local Children's Aid Societies have a large number of women in their employ, but almost invariably the chief officers are men. The Big Brothers movement is composed almost entirely of men.

### **Prince Edward Island**

The Act for the Protection of Neglected and Dependent Children states that the children's committees established by the Children's Aid Society shall consist of not less than six persons, at least half of whom shall be women.

### **Quebec.**

Women probation officers look after girls who are brought up before the juvenile court.

### **Saskatchewan.**

Women play a considerable part in the auxiliary services attached to the juvenile courts.

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**CHILE.**

Women play an important part in the auxiliary services as visitors and by forming discharged prisoners' aid societies.

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**COLOMBIA.**

It appears that women now participate in the auxiliary services attached to the juvenile courts of two of the four Departments which have set up such courts: Bucaramanga and Bogotá.

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**FREE CITY OF DANZIG.**

Women do the main work in connection with the auxiliary services attached to the juvenile courts. Nearly all the employees, both of the administrative organisations and of the private organisations, are women, men only collaborating as volunteers.

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**SPAIN.**

Women may act on the same footing as men as delegates and educators in the establishments reserved for girls.

A circular of the Central Commission of April 1929 also recommends that recourse should, if possible, be had to the assistance of a woman member or delegate of the court whenever little girls or young girls have to be questioned on delicate points.

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**FRANCE.**

Women are particularly well qualified to act as social welfare workers. The Social service has liberally availed itself of their assistance, and the results have been excellent.

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**GREAT BRITAIN.**  
**(England and Wales.)**

In London, all the probation officers attached to the juvenile courts are women. Elsewhere, it is the practice to employ women for the most part on probation work connected with the juvenile courts, though generally the older boys are dealt with by men.

When there are policewomen (as in London and in some of the larger towns), their services are utilised in connection with some of the work of the juvenile courts.

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**HUNGARY.**

Officials of the auxiliary services attached to juvenile courts (Visiting Board and Minors' Supervisory Board) may be either men or women. At the present time they are mostly women.

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**BRITISH INDIA.**

**Bengal.**

There are four women probationary officers whose duties are the same as those of men. (They refuse, however, to visit the girls rescued from brothels and placed in different homes.)

**Bombay.**

At the present moment, the secretary of the Children's Aid Society is an Englishwoman. Under her an Indian lady controls the girls' section of the remand home. Amongst the voluntary supervisors, only two are women. *Out-door* work of this nature is at present rather dangerous for young Indian women, especially since the majority of supervision cases live in the worst slums.

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**ITALY.**

Women may be, and often are, members of the Executive Boards of the Provincial Federations of the National Maternity and Child Welfare Society (as representatives of the "Italian Catholic Women's Union" and "Italian Women" Society), and of the patronage committees. They have not, however, any well-defined rôle in the organs of the auxiliary services.

In the Milan juvenile court they have displayed remarkable efficiency and have always rendered admirable services. The local health delegate of the Women's *Fasci* (who is an *ex-officio* member of the Provincial Federation), and also other ladies who have distinguished themselves in the sphere of public and private charity, have been allowed to take part in the proceedings of this court. The health delegate, in particular, has supported and assisted the judge's efforts in the most broad-minded and self-denying manner.

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**MEXICO.**

Hitherto, women have taken part in the work of the auxiliary services of the court on the same footing as men.

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**NEW ZEALAND.**

All cases in which young children, girls and young women are involved are dealt with exclusively by women officials.

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**NETHERLANDS.**

Women have the same rights and obligations as men in the auxiliary services. The majority of the Guardianship councils have one or more women members. The secretaries of some of these boards are also women.

As regards the private societies, the position of women is exactly the same as that of men.

There are several women among the officials responsible for carrying out the laws in regard to children. They devote themselves particularly to the girls in their district.

There are also women as well as men among the family guardians.

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**PERU.**

Women play an important part in the auxiliary services attached to the juvenile courts, running homes for physically or morally neglected minors, supervising their education and reclamation in the private schools under their control, or receiving them into their own homes, where they protect and care for them. Moreover, women belong to private societies or councils, and minors' visiting boards, and, in the capacity of inspectresses of these bodies, supervise the condition of the minors in schools, factories and work-shops.

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### **POLAND.**

Women play a very large part in the auxiliary services attached to the courts, and the work of women child welfare delegates has had excellent results.

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### **PORTUGAL.**

Women co-operate with the auxiliary services as volunteers working with charitable organisations and also as officials (in the judicial, medical and educational services and in connection with professional training, etc.). Their services are specially called upon in institutions reserved for persons of the female sex.

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### **SWITZERLAND.**

The part played by women varies according to the circumstances of the Cantons. Eighty-one women are permanently employed at Berne, which has only fifty male officials.

#### **Geneva.**

The eligibility of women as members of the Child Welfare Committee is not precluded by the Law of 1912, and is expressly provided for as far as the local committees are concerned, by the Regulation of 1913, Article 13.

#### **Zurich.**

Women do not at present play a very important part in connection with juvenile courts, though they are allowed to co-operate with them. They do far more work on the child welfare committees (which often have to be partly composed of women, who work side by side with the doctors, educators and ministers of religion), and in connection with private organisations.

It should be noted that:

- (1) The decree relating to the organisation of the Cantonal Child Welfare Office does not require the appointment of women to the office;
- (2) Minors may be defended in court by a man or a woman (§ 369 of the Law on Criminal Procedure);
- (3) On the other hand, at least one-third of the members of the Child Welfare Committee must be women (§ 4 of the decree of July 10th, 1919).

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#### CZECHOSLOVAKIA.

Generally speaking, women members of voluntary organisations for child welfare work carry out the work of the auxiliary services attached to the juvenile courts in cases where the delinquents are young female persons.

In Slovakia and Sub-Carpathian Russia, section 12 of Decree No. 56000/1913.J.M. of the former Hungarian Minister of Justice, in execution of Article-Law 7 of 1913, allows of the appointment of one woman only to defend young delinquents, apart from their legal representatives and near relations.

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#### UNION OF SOUTH AFRICA.

Female delinquents are dealt with by female probation officers.

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#### YUGOSLAVIA.

Women may undertake patronage work in virtue of Article 440 of the Code of Criminal Procedure; many women, too, are members of the auxiliary institutions, which are often under female management.

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## Replies to Question V.

### DUTIES OF DOCTORS IN CONNECTION WITH JUVENILE COURTS.

#### PARTICIPATION PROVIDED FOR BY A LAW OR DECREE.

The participation of doctors in connection with juvenile courts is expressly provided for by law or decree, in the following countries:

*Germany* (Law of February 16th, 1923, on Juvenile Courts, Article 31).

*Belgium* (Law of May 15th, 1912, Article 21).

*Canada*, Manitoba (Child Welfare Act, 1924, Sections 87, 92, 93).

*Chile* (Law No. 4447 concerning the protection of minors and the regulations for applying this law).

*Danzig (Free City of)* (Law for the protection of youth, Article 55, paragraph 4).

*Spain* (Provisional regulations for the execution of the law on juvenile courts, Article 73).

*Mexico* (Law of March 30th, 1928, on the prevention of juvenile delinquency in the Federal District and Regulations of the Juvenile Court of the Federal District).

*Netherlands* (Civil Code, Article 373 (m), Article 14 of the Regulation for Public Administration of June 19th, 1922 (*Legal Gazette* No. 402), Code of Criminal Investigation, Articles 497, 197 and 198).

*Peru* (Penal Code, Book 1, Chapter XVIII, Article 137).

*Poland* (Decree of 1919, creating juvenile courts).

*Portugal* (Law of May 27th, 1911, and Regulations of May 15th, 1925).

*Czechoslovakia*—Slovakia and Sub-Carpathian Russia (Art. Law VII of 1913, § 18).

*Yugoslavia* (Code of Criminal Procedure, Article 441).

All minors brought before juvenile courts in *Chile*, *Mexico* and *Portugal* must be medically examined.

Such examination depends on the decision of the judge, of the president of the court or of the court, according to the law of the following countries: *Belgium*, *Czechoslovakia* (Slovakia and Sub-Carpathian Russia) *Free City of Danzig*, *Netherlands*, *Peru*, *Spain*, and *Yugoslavia*.

In *Germany*, the law does not state in which cases a medical examination must be made. Following upon a conference of experts, the "German Association for Juvenile

Courts and Auxiliary Services ” inserted the following sentence in the “ Principles and Direction for Auxiliary Services ”:

“ The auxiliary services attached to the juvenile courts will ask for a neurological examination and, if necessary, the summoning of medical experts at the hearing of the case when the offence is particularly serious (*e.g.*, theft, arson) or indicates special moral peculiarities (*e.g.*, offences against decency), when the minor appears to be intellectually or morally abnormal, when he suffers from hereditary disabilities, or when the parents complain that they experience particular difficulties in his education. ”

In many towns—for instance, at Hamburg—, recourse is also had to psychiatrists for the subsequent treatment of the minor.

In *Poland*, the examination is not compulsory for all young offenders, but the judge is *obliged* to request medical advice in cases where he has reason to suppose the existence of physical or psychical abnormality, and, on the doctor’s proposal, the child *must* be placed for an observation period in a special institute.

(*Poland* is apparently the only country where the judge is obliged to conform to the physician’s opinion.)

In *Canada* (Province of Manitoba), when the auxiliary services are applied to before the court gives judgment, the child’s physical and mental conditions must be examined. Moreover, the Child Welfare Act (Section 87) provides that any physician who, in the practice of his profession, has knowledge of any defective child, or of any person who is presumed to be a defective child, shall give notice in writing of the facts of such case to the director of child welfare. Section 93 of this law contains an important provision:

“ When any person is brought before a court of competent jurisdiction, the judge may, if he has reason to believe that such person is feeble-minded or mentally defective, order that the said person shall be examined by a psychiatrist and, if the report of such psychiatrist shows the said person to be feeble-minded or mentally defective or of mental age under fourteen years, the judge may order that such person, without regard to his or her actual age, shall be transferred to the jurisdiction of the judge of the juvenile court. ”

#### PARTICIPATION NOT PROVIDED FOR BY LAW OR DECREE.

In some countries, the medical examination of minors brought before juvenile courts is not regulated by law or decree. This is the case in *Australia* (New South Wales, Victoria, South Australia, Western Australia and Tasmania), *Canada* (the Provinces of Nova Scotia, Ontario and Quebec), *France*, *Great Britain*, *Hungary*, *India* for the provinces of Bengal and Bombay, *Italy*, *New Zealand*, *Switzerland* (Canton of Zurich) and the *Union of South Africa*.

According to the information received, in the Province of Quebec, *Canada*, in *Hungary* and in *Italy* the judge decides to call in a physician or to have a psychological, mental or physical examination made.

In *Australia*, in all the States of the Commonwealth with the exception of Queensland, the duty of the physician is to supply oral or written evidence on the mental or physical condition of the children. In addition, it appears that a physician is attached to the court in New South Wales only, that, in South Australia, the physician's duty is confined to examining young subnormal boys who have committed certain sexual offences, and that, in Tasmania, reports are only submitted on the subject of abnormal children.

In *Canada* (Nova Scotia), doctors' services are always available; in Ontario, when there is a doctor in association with the juvenile court, his chief work is in the field of mental hygiene and psychiatry. He may call in specialists for consultation.

In *Great Britain*, *New Zealand* and the *Union of South Africa*, there is no medical staff, at present directly attached to the juvenile courts.

In *Great Britain*, however, as the importance of medical examination and observation is becoming recognised more and more, different methods have been adopted. In a few cases, a doctor is attached to the remand home; a medical examination can be conducted there and specialist assistance can be obtained if necessary. In some cases, reliance is placed on the medical staff of the education authority, who are called in when required, and, in other cases again, where medical opinion is required, recourse is had to hospitals, clinics, etc. Some courts in a few of the larger centres are also using the services of psychologists, but the work in this direction is largely experimental.

In *New Zealand*, recourse may be had to the services of school doctors, who are State officials, and to such medical officers as, apart from their private practice, treat patients admitted into local homes.

In the *Union of South Africa*, doctors conduct the physical examination of offenders, and their services are accepted under a wide interpretation of the laws.

In *France*, the Medico-Psychological Service was created in October 1927 and August 1929 by the *Parquet de la Seine* after approval by the Minister of Justice. All minors brought before the Court of the Seine must pass through the Medico-Psychological Service.

In *India* in the Province of Bengal, the duty of the doctor attached to the juvenile court is to examine the age of minors and to give evidence on the same. In the Province of Bombay, the Children's Aid Society has three voluntary medical officers—namely, the police surgeon, who certifies regarding age and mental defect; a lady doctor for the girls; a doctor for venereal diseases.

In *Switzerland* (Canton of Zurich), physicians are only requested to participate in special cases which are not indicated. Their principal work is to give advice during the enquiry as to the physical and mental characteristics of the offender.

In *Czechoslovakia* (Bohemia and Moravia-Silesia), if any symptoms of mental abnormality are observed in a young offender (the court is informed of it by the school authorities or by the Child Welfare Group or its agents—see paragraph II, 1 of the Statutes) the court asks the medical experts, generally psychiatrists, for an opinion on the mental condition of the offender before giving its final decision. The principal object is to ascertain whether the minor is affected by a mental disease which would make him irresponsible. At the same time, the judge decides whether he should inform the guardianship or curatorship court, so that it may take other steps to protect the minor (*e.g.*, by placing him in some institute).

#### NON-INTERVENTION OF PHYSICIANS.

Certain countries state that doctors have no duties in connection with children's courts. These countries are the State of Queensland (*Australia*) and the Province of Saskatchewan (*Canada*).

No information is given by *Canada* for Prince Edward Island, or by *Switzerland* for the Canton of Geneva, in respect of the participation of doctors in the work of juvenile courts.

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### STEPS TAKEN IN REGARD TO ABNORMAL CHILDREN.

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#### INTRODUCTION.

The steps in respect of children brought before the courts, who have proved to be abnormal during the investigation, are generally of two kinds: a medical psychological and psychiatric examination, and placing in an institute.

As a rule, it is only decided to place children in institutes after an examination. In some countries, minors may be examined by a doctor or a psychologist or a psychiatric service merely to obtain a report for submission to the court or to advise persons responsible for the minor as to the treatment to be applied.

Many countries do not yet possess educational establishments specially reserved for abnormal minors; in these cases, special sections for minors may be attached to reformatories and re-educational institutions for adults. In other cases, definitely abnormal children are generally sent to homes.

In some other countries, minors who, on investigation, are found to be abnormal, must be reported to the authorities administering the laws relating to mental affections; the authorities then take suitable steps in accordance with those laws.



Two countries stated that they possessed schools or special classes for backward children. As it appears possible that children brought before the juvenile courts in these countries and judged to be backward may be placed in these schools or special classes by a decision of the authority, an indication to that effect is given in the report; but this indication is by no means intended to be complete, and, in many countries which have not mentioned special education for backward children as one of the measures taken in respect of abnormal children, such education has been organised.

#### THE PLACING OF ABNORMAL CHILDREN IN PUBLIC OR PRIVATE INSTITUTES.

Abnormal children are placed in special public or private establishments in the following countries: *Belgium, Canada* (Province of Saskatchewan), *Chile, Czechoslovakia, Danzig, France, Hungary, Italy, Poland, Switzerland* (Cantons of Geneva and Zurich). According to the information received it would not appear that all these countries possess establishments reserved for abnormal minors.

In the *Free City of Danzig*, when it appears necessary to place a minor in an educational institute or a home, this measure is ordered by the court and carried out by the *Jugendamt*.

In *Poland*, it is not an absolute rule to place abnormal children in establishments for abnormal children; they may be placed under the supervision of a doctor. In any case, if it is recognised that the child is irresponsible, no punishment is inflicted.

In *Czechoslovakia*, when there is any doubt as to the mental condition of a young offender, he undergoes an examination by medical and psychiatric experts. If the child is abnormal, he is sent to the guardianship or curatorship court in the Provinces of Bohemia and Moravia-Silesia and to the guardianship authorities in Slovakia and Sub-Carpathian Silesia. These organs have power to send children to a public or private establishment for abnormal persons.

#### SPECIAL SCHOOLS OR CLASSES IN OFFICIAL SCHOOLS FOR BACKWARD CHILDREN.

Information has been received from *Australia*, in respect of Queensland, and from *Canada*, in respect of Manitoba and Nova Scotia, to the effect that special classes and schools exist in which backward children may be placed.

#### PLACING OF CHILDREN IN SPECIAL INDEPENDENT SECTIONS OF REFORMATORIES AND RE-EDUCATIONAL INSTITUTIONS FOR ADULTS.

*Mexico* and *Peru* state that special independent sections are reserved for minors in reformatories or re-educational institutions for adults. In *Mexico*, however, only abnormal children who are amenable to education are placed in such institutes.

#### HOMES TO WHICH ABNORMAL CHILDREN MAY BE SENT.

*Germany* has a number of homes for difficult or abnormal children and adolescents.

In *Australia*, Western Australia has two homes for abnormal boys, one founded by the Salvation Army and the other by the Roman Catholic Church, which are maintained by private contributions. The creation of a home for girls is under consideration. The State of Victoria also possesses homes for abnormal children.

*Portugal* has not given any exact information, but apparently possesses institutions for abnormal children.

In *Mexico*, abnormal children who are not amenable to education may be sent to homes or private institutions.

#### EXAMINATION BY A PHYSICIAN, A PSYCHOLOGIST, OR A PSYCHIATRIC SERVICE WITH A VIEW TO SUBMITTING A REPORT OR ADVISING TREATMENT.

*Germany*. — With a view to advising parents and social welfare nurses, "advice centres for difficult or abnormal children and adolescents" have been established, at which specially trained nurses are employed, as well as a doctor. Great progress has been made in the sphere of psychology by the German Association for the Cure of Psychologically Abnormal Children; this Association was created for the care of young criminals, but its activities extend much beyond this special sphere.

*Australia*. — In South Australia, subnormal offenders are subject to a psychological and medical examination and reports are submitted for the information of the court. In Western Australia, the State psychologist is requested to submit a report on cases of abnormal children.

In *Canada*, abnormal or backward children may undergo a psychiatric and medical examination in the provinces of Nova Scotia and Quebec; in the province of Ontario, the doctor examines the child with respect to any abnormality and advises suitable treatment.

In *New Zealand*, abnormal children are admitted for observation into institutions placed under the direction of the Ministry of Education.

#### TREATMENT IN ACCORDANCE WITH LAWS RELATING TO MENTAL DISORDERS.

In some countries the treatment of abnormal children comes under laws relating to mental disorders. This is the case in *Australia* (Tasmania)<sup>1</sup>, *Great Britain*<sup>2</sup> and the *Union of South Africa*.<sup>3</sup>

<sup>1</sup> Mental Deficiency Act, 1920, and amendments, 1925.

<sup>2</sup> The Lunacy and Mental Treatment Acts, 1890-1930; Mental Deficiency Acts, 1913-1927.

<sup>3</sup> Mental Disorders Act, No. 38, of 1916.

#### OTHER INFORMATION.

The province of Manitoba in *Canada* has taken various steps for protecting abnormal children—*i.e.*, special supervision, education in special classes, placing in suitable posts, custodial care, making wards of the court and the province.

In the province of Bombay, in *India*, abnormal children are sent to the police surgeon to see if certification is possible. Cases frequently occur where the mental defect is insufficient to warrant certification. As there are no homes for mentally deficient children in India they are sent after having obtained a certificate to adult mental homes, and, if they have not been certified, they are returned to their own ignorant relatives or sent to a certified school to the detriment of normal children.

#### NO SPECIAL STEPS WITH REGARD TO ABNORMAL CHILDREN.

*India* (province of Bengal), *Spain* and *Yugoslavia* appear not to have taken any special steps in favour of abnormal children and not to possess institutions for receiving them. The Spanish Government, however, states that the creation of special establishments for abnormal children placed under the supervision of the juvenile courts is under consideration.

*Canada* (in respect of Prince Edward Island) and *The Netherlands* have not replied to the question regarding the treatment of abnormal children.

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## Replies to Questions VI and VII.

### RESULTS AND SUGGESTED CHANGES.

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Not all countries have replied to these two questions, and those which have replied to both or to either have often done so very briefly.

The following countries state that the results obtained by the co-operation of the auxiliary services and of the juvenile courts are satisfactory and assist the work of the court: *Australia* (New South Wales, Victoria, Queensland, South Australia and Western Australia), *Belgium*, *Chile*, *Czechoslovakia*, *Danzig*, *Great Britain*, *Mexico*, *Netherlands*, *Peru*, *Poland*, *Portugal*, *Union of South Africa*, *Yugoslavia*.

*Australia* (New South Wales, South Australia and Western Australia), *Belgium*, *Danzig*, *New Zealand* and the *Union of South Africa* do not desire any changes in principle in the co-operation of the juvenile courts and the auxiliary services.

*Canada* (in respect of the provinces of Manitoba and Nova Scotia), *Hungary*, *India* (in respect of the provinces of Bengal and Bombay), *Portugal* and *Spain* find the results obtained satisfactory, but would like the organisation of the auxiliary services to be developed and strengthened; *Hungary* adds that it would be desirable for visitors to receive a more adequate training.

In *Italy* the juvenile courts have been established too recently to gauge the results of the work of the auxiliary services attached to them.

*France* states that the courts have more complete information at their disposal, thanks to the assistance of the auxiliary service, and now take their decisions with greater certainty. They thus succeed in individualising the methods of corrective education.

Finally, some countries state in detail what changes they would like to see introduced in the organisation and working of the auxiliary services.

These are as follow:

#### GERMANY.

No modifications in the principles governing the co-operation between the juvenile courts and the auxiliary services seem called for, but a stronger and more developed internal structure is required. The most important question is that of the selection of the right persons and their training, both preparatory and advanced. This applies to all

persons having anything to do with the juvenile courts, whether it be the judge himself, the prosecutor, or the various organs of the auxiliary services.

Further, it is desirable that the auxiliary services should be entrusted with two tasks which are only indirectly connected with the actual proceedings of the juvenile courts. The first of these tasks is the supervision of young criminals over 18. The law on child welfare applies to all minors and thus even to offenders over 18 years of age; it is therefore inadmissible that the child welfare offices should not extend their activities to this group. In many localities, the auxiliary services are responsible for these young people in exactly the same way as if they were juveniles—*i.e.*, they make reports for the main proceedings, arrange for educational measures and particularly exercise supervision during the period of probation. The necessity for this extension of the auxiliary services' work has been increasingly recognised of recent years. The Ministries of Justice of a number of the States have instructed the courts and public prosecutors to notify the child welfare offices of such cases. This procedure should become universal. But it must also be laid down that these cases should be referred to the juvenile courts and, above all, that the legal provisions applicable to such minors should approximate to those of the law on juvenile courts.

The forthcoming reform of German penal law will in all probability realise this aspiration, since it is proposed that, with certain restrictions, persons belonging to this age-group should be dealt with according to the procedure for juvenile cases, and, as a logical consequence, the auxiliary services will take over all the welfare work required in this connection.

The second task referred to above is that of the care of juvenile witnesses, and especially of children and adolescents who have been the victims of indecent assault. As experience has repeatedly shown, they need particular attention, not only on account of the outrage they have suffered, but because in many cases their family circumstances are very unfavourable and they are therefore in a position of great danger.

In many cases, it has been arranged that, where no women police are available, members of the child welfare office should be present at these examinations, or even that the examinations should be entirely entrusted to them. They also make a report on the child or adolescent and express an opinion on his credibility. They are notified of the date of the final hearing. In many localities, the auxiliary services are assigned a special room in the court building, where the children may wait under supervision until called upon to give evidence. The representative of the auxiliary service attends the final hearing. She may remain with the child whenever necessary, and obtains an impression of him which may be of great value in future dealings with him.

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## AUSTRALIA.

### Victoria.

There should be paid probation officers (full time) working under the officer-in-charge, in addition to voluntary help.

### Queensland.

The appointment by the State Children Department of a probation officer to take charge of the probation work specially, and also the appointment of other volunteer officers in different parts of the State.

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## FRANCE.

The creation of a corps of men and women social welfare workers under the public authorities would be desirable.

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## GREAT BRITAIN. (England and Wales.)

The whole question of the treatment of young offenders and neglected children was examined by a Committee, which reported in 1927<sup>1</sup>:

The Committee made a series of recommendations with a view to extending and developing the juvenile courts, and especially giving greater weight and prominence to the work of the auxiliary services.

The need for approved methods of examination and observation is recognised and proposals were made for the provision of central remand homes and observation centres.

It was proposed that probation should be, as far as possible, restricted to supervision in the open and not be associated with institutional treatment; that more hostels should be provided for probation cases.

A system of guardianship by the local education authority is recommended to meet the case of children who require to be moved from the control of their parents, but do not need institutional training.

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## SWITZERLAND. (Canton of Geneva.)

The State Council of the Canton of Geneva is at present considering the creation of the post of official guardian, who will be a valuable auxiliary for the juvenile criminal court.

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<sup>1</sup> Report of the Departmental Committee on the Treatment of Young Offenders (England and Wales, Cmd. 2831). A similar Committee made enquiry in Scotland and published a report in the following year under the title: "Protection and Training".

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### Replies to the Supplementary Question.

#### INDICATION OF ONE OR MORE JUVENILE COURTS IN WHICH THE ASSISTANCE OF THE AUXILIARY SERVICES IS CONSIDERED OF PARTICULAR VALUE.

*Canada* (in respect of the Provinces of Ontario, Prince Edward Island and Quebec), *The Netherlands* and *Switzerland* have not replied to this question.

Some countries where juvenile courts are not yet generally organised were unable to draw a comparison. Such countries are *India*, *Italy* and *Mexico*.

*Belgium*, *Canada* (in respect of the Province of Manitoba) and *New Zealand* have stated that the results obtained from the assistance of the auxiliary services are the same in all the juvenile courts of the country (or province).

The following countries have given detailed information:

*Germany*. — The auxiliary services have naturally developed most in the large towns. Accordingly one must refer, in the first place, to the auxiliary services of these towns, which are generally well organised.

Particulars may be obtained from the "Association of Juvenile Courts and Auxiliary Services" (*Vereinigung für Jugendgerichte und Jugendgerichtshilfen*), Hardenbergstrasse, 19, Berlin-Charlottenburg and the "German Child Welfare Registry" (*Deutsches Archiv für Jugendwohlfahrt*), Moltkestrasse, 7, Berlin, N.W.40.

*Australia*. — New South Wales. — The Sydney juvenile court.

Queensland. — The courts at Brisbane, Rockhampton and Townsville, as at those centres the State Children Department has a branch, of which Brisbane is the headquarters.

Western Australia. — The Perth children's court. This court is held in buildings attached to the offices of the Child Welfare Department and there is useful co-operation between the two.

*Canada*. — Nova Scotia. — The juvenile court of the town of Halifax (county of Picton).

Saskatchewan. — The juvenile court of Regina.

*Chile*. — Santiago juvenile court.

*Danzig*. — The four children's courts attached to the sheriff's courts of Danzig, Zoppot, Tiegenhof and Neuteich and the main children's courts attached to the Danzig sheriff's court.

*Spain.* — The juvenile courts may be mentioned in the order of their creation—*i.e.*, Bilbao, Barcelona, Saragossa, Valencia and Madrid.

*France.* — The juvenile court of the Seine.

*Great Britain* (England and Wales). — The most interesting examples of juvenile court work will be found in those towns, such as London, Birmingham and Liverpool, where the number of children coming before the court had led to considerable attention being devoted to the problem. Both Liverpool and Birmingham have provided special premises for the purpose. The premises at Birmingham, which were provided by a voluntary gift, are the most suitable and attractive.

The work of the auxiliary services is specially interesting in London, owing to the fact that there is a staff of probation officers specially selected and devoting all their time to the work.

*Hungary.* — The juvenile court of Budapest.

*Peru.* — The best results are obtained in the capital of the Republic and in the most important departments, which possess a better trained staff and material more favourable to their development.

*Poland.* — The juvenile courts of Warsaw and Lodz.

*Portugal.* — The central tutelage chambers of Lisbon, Porto and Coïmbre.

*Czechoslovakia.* — The results obtained from the co-operation of voluntary associations in the work of the juvenile courts are, in general, fairly satisfactory, especially in those where the president of the district child welfare group is at the same time the president of the district court. In this respect the best results may perhaps be noted in the welfare bureau for young offenders established at the correctional court of Prague II.

*Union of South Africa.* — The Johannesburg juvenile court.

*Yugoslavia.* — The courts of Belgrade, Zagreb, Sarajevo, Novi Sad, Ljubljana and Split.

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APPENDIX I.

REPLY FROM THE GOVERNMENT OF THE PROVINCE OF ALBERTA (CANADA).

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REPLY TO QUESTION I.

There are no auxiliary services in connection with our juvenile courts.

*Note.* — All auxiliary services as such are under the Neglected and Dependent Children's Branch of the Attorney-General's Department. These services operate first, and if, in the course of their duties, they feel that they need the assistance of a court to give effect to any of their wishes in handling cases, they go to the courts for the enforcement of these wishes. It will be seen, therefore, that the auxiliary services referred to are not attached to the courts, but are established under the Government. This is a far better method than having these services attached to the courts, which are local and operate in a district only. In this manner, the essential services are applied to the whole province.

Throughout the province men and women of understanding in children's work are selected to act as juvenile court commissioners (court judges in some of the other provinces). When case workers find that they need to enforce, legally, their wishes in handling a case, they appeal to these commissioners, who, when the case is explained to them, generally agree to follow the suggestion of the case worker.

REPLY TO QUESTION II.

The duties of these auxiliary services are to do thorough case work, leading up to the social adjustment of all difficulties where children are involved. They supply medical, dental and surgical attention, if such is required—taking children under the care of the Superintendent of the Department as wards of the Government, if such action is necessary. As wards of the Superintendent, these children receive the same care that any child would receive in a well-organised ordinary home. These services are not laid down in standing orders.

These services all operate before the court is asked to consider the case and give a decision.

The duties of these auxiliary services are to do all those things required in a careful and thorough case study; the study of a child's environment, parentage, associations, school relations to the teacher, position in his group (whether leader or follower), and so on.

With regard to character and the physical and mental state of the child, there are, in various parts of the province, clinics and specialists who give us professional advice in regard to the physical and mental care of the child. The steps taken in the interests of the child and its education are taken by the Neglected and Dependent Children's Branch, so that this Branch really does the work in this province that is entrusted to local courts in some other places. It will be seen that the auxiliary services are primary, and that the giving of legal effect to the wishes of a case worker is a very secondary matter. It may also be noted that in most cases the decision of the commissioner (or judge) is dependent on the information and advice received from the case worker. The educational authorities, being also a branch of the Government, are very ready to co-operate with us for the benefit of the child's career and progress in school.

If the case worker feels that probation or institutional care is the solution of the problem he or she suggests the same to the commissioner (or judge), and if it is so agreed (as generally happens), and the court orders accordingly, the case worker carries on in the handling of the case, placing the child under supervision or on probation, or taking the child to an institution and keeping in touch with the child in that institution. The auxiliary services, or any one doing social case work, may apply at any time to the commissioner (or judge), asking him or her to vary a former decision in the interests of the child. In all cases, these commissioners are very anxious to co-operate in the best interests of the child.

#### REPLY TO QUESTION III.

These auxiliary services are organised as a branch of the Attorney-General's Department called "The Neglected and Dependent Children's Branch". They are part of a general system covering the whole province. Let it here be noted that any references made in this respect are to his province only, and not to the country of which we form a part. These services are public. Those supplying the service are public officials. They are paid.

Their training consists of preparatory education, experience, conferences, occasional lectures and reading matter bearing on the subject supplied to them. They are all responsible to the Superintendent, and he, in turn, to the Attorney-General. The expenses of these services are met out of the general funds of the Provincial Government.

#### REPLY TO QUESTION IV.

As it has already been intimated, our services are not attached to courts, but women play an important part in these auxiliary services. There are in the province, paid by the Government and the cities, twenty employees furnishing auxiliary services. Of these,

eight are women and twelve are men. I may here add that, in the case of cities of over five thousand population, each such city is required to provide a sufficient number of officers to furnish these auxiliary services. They are also required to pay the salaries of these officials. Their work, however, is under the general direction of the Provincial Superintendent.

REPLY TO QUESTION V.

As already intimated, the doctors are not employed in connection with courts, but any "case worker" into whose hands a child comes for study or care presents the child to the doctor in order that its physical condition may be known. There are provincial clinics for this purpose in some places. In other places, the services of any ordinary practitioner are elicited and paid for by this branch of the Provincial Government. There are also clinics in connection with the University, where medical ordinary practitioners are elicited and paid for by this branch of the Provincial Government. There are also clinics in connection with the University, where medical and social diagnosis is furnished free. Specialists are employed in all cases demanding treatment. There are specialists in all its branches, in infant feeding and in child care.

With regard to the abnormal child, there are two hospitals for the care of crippled or deformed children, and we have a school for the training of the mentally defective.

REPLY TO QUESTION VI.

It would be impossible to give a detailed answer to this question. One may, in general, say that the results of our services in some cases are very satisfactory and commendable. Children are taken out of very unsavoury conditions, and when they leave our hands are respectable, self-supporting children in very creditable positions: clerks, stenographers, school-teachers and employees of various kinds. There are, however, we must acknowledge, cases in which our efforts are not so successful.

REPLY TO QUESTION VII.

There are at present no suggestions to be made regarding assistance to juvenile courts. The auxiliary service is the main thing, and the duty of the court is simply to give force to the decisions that the case workers have arrived at. And, furthermore, the method of having the services cover the province and having them establish courts for their own convenience is a more thorough and efficient method of doing the work.

REPLY TO SUPPLEMENTARY QUESTION.

It will be quite apparent from the organisation of the work in our province that it is impossible to give an answer to this question.

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## APPENDIX II.

### CENTRAL OBSERVATION STATION AT MOLL-HUTTES (BELGIUM).

#### LAW OF MAY 15TH, 1912.

Reference should first be made to Articles 21 and 29 of the Belgian Law of May 15th, 1912, on child welfare, due to Count Carton de Wiart, then Minister of Justice, who in October 1913 drew up the programme of our work of graduation and re-education by stages.

*Article 21.* — If the children's judge is in doubt as to the physical or mental condition of the child, he may place him under observation and make him undergo a medical examination by one or more specialists.

"If it is ascertained by medical examination that the minor is in a state of physical or mental inferiority, making him incapable of controlling his actions, the children's judge shall order him to be detained at the Government's pleasure and sent to an asylum or special establishment suitable for his condition.

*Article 29.* — Minors detained at the Government's pleasure without any special indication on the part of the judge may be conditionally left to the persons responsible for their care or may be placed under observation in a special establishment, or placed in a Government welfare school, sent to any other establishment suited to their condition or placed in the charge of a person or charitable or educational society or institution, public or private.

"The Minister of Justice shall cause children so placed to be kept under inspection."

The central observation establishment at Moll-Huttes is the central institution of the Child Welfare Office of the Ministry of Justice.

#### PRINCIPLES.

This is not a penal institution but an institute for the protection of juvenile offenders. Accordingly: (a) In order to protect juvenile offenders against excessive penalties unjustly applied, these children must be observed individually; (b) In order to protect them against one another they must be graded according to their condition at the time and their amenability to reform.

To protect the weak against the strong, those who are deficient against those who are not, the best against the worst and the unfortunate against the guilty, juvenile offenders must be graded and differential treatment applied.

This graduation must be based on the predominant needs and most urgent requirements of all these children.

#### PROLONGED OBSERVATION.

Children, and especially child offenders, must be regarded as the product of social factors.

A rapid examination only enables the most obvious facts to be ascertained; and the so-called "medico-pedagogic" clinics are unable to observe either slight mental anomalies (which are the most difficult to appraise and to deal with) or affective irregularities, which lie at the root of the majority of our psychiatric cases. The mere determination of the mental age by means of psychometrical "scales" is unreliable and, in any case, provides no solution for the only important problem, the treatment and the eventual rehabilitation of the child.

Prolonged observation is necessary for non-evident mental cases and for all affective cases.

The second International Child Welfare Congress<sup>1</sup> unanimously adopted the following rule, which had already been applied at this observation station for years before being proposed to a congress:

"In all cases, and particularly in order to detect affective irregularities with certainty, each subject systematically classified as 'amenable' should, as soon as he enters the institution, be placed under prolonged initial observation in a special environment closely approaching normal life; in this environment everything stimulates to activity, the whole regime constitutes a permanent test of affectivity and of morality, and observation is always and everywhere carried on under the direction of a person specially responsible for the child.

"For children who are suffering from moral irregularities graduated regimes should be provided corresponding to the different stages of amendment, from social perversity and simple perversity to definite amenability, partial affective improvement and complete amendment.

"Pending the creation of the new institutions necessitated by this graduated regime, the existing establishments should be specialised to a greater extent and sections should be introduced based firstly on biological age (puberty) and secondly on the treatment to be applied to the different categories of juvenile offenders according to their predominant needs and their degree of improvement."

Experience suggests the following classification after initial observation of the children entrusted to us by the judges.

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<sup>1</sup> Brussels, July 18th to 21st, 1921.

### THE NECESSARY CLASSIFICATION.

*Medically irregular* (average 4.05 per cent on January 1st, 1930):

- (1) Having serious physical deficiencies (1.29 per cent);
- (2) Suffering from curable diseases (2.27 per cent);
- (3) Suffering from incurable diseases (0.49 per cent).

*Psychically irregular* (30.57 per cent):

- (1) Recognised as backward (1.54 per cent);
- (2) Abnormals capable of education (26.34 per cent);
- (3) Abnormals who may be placed in a family (2.6 per cent).

*Morally irregular* (56.51 per cent):

- (1) Amended (children to whom the regime of semi-liberty or liberty on probation may be applied) (2.01 per cent);
- (2) Improved (first specific signs of amendment) (3.11 per cent);
- (3) Definitely amenable (first signs of amenability) (17.49 per cent);
- (4) Ordinary amenable (cases still doubtful but without indiscipline) (28.12 per cent);
- (5) Perverts and perverted (personal and social indiscipline) (5.25 per cent);
- (6) Social perverts (preaching of evil, boasting) (0.43 per cent).

*"Pure" social irregulars without any real fault imputed to them* (8.87 per cent):

- (1) "Without family" (in law or in fact) (8.77 per cent);
- (2) "Untrained for work" (0.10 per cent).

### FIRST INDIVIDUAL OBSERVATION.

The central observation establishment is a public State institution (Royal Order of March 31st, 1921).

Minors of the male sex who are eventually to be sent to the State institutions for juvenile offenders first of all pass through this establishment.

Here they are observed—*i.e.*, examined at length in all their vital reactions—the significance of which is systematically verified in the psycho-pedagogical laboratory.

The external aspect is not that of a prison, and the entrance is calculated to give a home-like impression to the children.

On the threshold of the institute the child experiences perhaps the most moving moment of its life.

But he is then ushered into a bright and attractive little visiting room. Here the first interview takes place, not with a severe-looking guardian, but with a man who has children of his own living near by and who understands how much the first words, the first gestures and the first looks count. On the basis of what the first moment's emotion reveals of the child's character, he writes down a few general notes aimed at guiding and facilitating subsequent observation.

\* \* \*

After the compulsory ablutions of the first day and after the articles of clothing which have to be discarded or are unsuitable have been replaced, the child is given a cubicle in the reception pavilion. A few hours' rest are appreciated after the storms of the previous day.

On the table he will find books and pencils. If he wants to do so, the child writes or reads. He is given no order at all, for it is necessary to know him as he is and not as he should be.

The assistants take duty in turn to see that a child who can find nothing to do is not left alone with his dreams and his sorrows. New children are kept away from the groups of other pupils, who cannot be asked to initiate them at the outset into customs of the institution, and, accordingly, the assistants instruct them in the rules of the place, have talks with them, listen to their confidences and make friends with them.

Meanwhile their dossiers are examined and their antecedents appraised. Moral references are obtained with a view to the organisation of future companionships.

It is during the reception stage that the majority of certified medical deficient, the serious mental deficient and the serious moral deficient who constitute a social danger are traced. In all cases, it is a knowledge of the child *per se* that is aimed at during this period (which does not last more than three days), a knowledge of the child withdrawn from the influence of his habitual environment.

A brief examination in the psycho-pedagogical laboratory completes the initial work of the doctor and of the chief of the reception pavilion, and provides indications for subsequent observation.

The doctor thoroughly examines the child and notes possible contagions and urgent needs. He vaccinates him, decides what treatment should be given, and fills in a card which is completed by the chief of the reception pavilion as regards the points with which he is concerned. This card follows the child throughout his stay at the central station. The child then attends the first classes, during which the first social tests are applied to him.

### SOCIAL OBSERVATION IN THE PAVILION.

The central observation establishment is divided into two sections; in the right wing, the Flemish section and, in the left wing, the Walloon section; in the centre are the technical and general services.

Each section is divided into three pavilions, for youths, adolescents and children respectively.

Each pavilion has at its head a teacher who is solely responsible for the management of his pupils, apart from the rules which it is absolutely essential to apply in common. The chief of the pavilion allocates the work at his discretion between the two teachers who assist him. He is responsible for the premises, material and discipline. He is, as it were, the guardian of the child.

The chiefs of pavilions, the teachers, the doctor and the director himself constantly watch the children as they reveal their true selves in their almost spontaneous social behaviour.

\* \* \*

Although our pavilions are independent, the children meet from time to time in the hall, where they give small entertainments, for which they draw solely upon their own resources. These are staged by the children themselves, who take it in turn to be producer. The censorship committee meets every Sunday morning from September to May.

Our "old boys" come back to these entertainments, and especially our "soldiers", who often walk the thirteen kilometres from Beverloo Camp. The children's families also come, and all this serves to widen our children's horizon.

The same cook serves to all the same bill of fare, which is put up in the morning with the other notices on the notice-board of the pavilion. If our lads are not provided with matter for conversation and for their critical sense the chances are that their conversation will take less desirable channels.

There is also a shop where the children come and make their little purchases under the amused eyes of the visitors. Counters worth a penny or a halfpenny are given to the children each week as a reward for good conduct and for their work, and allow them to buy at outside prices the modest luxuries which bring them into closer touch with the real life of children. The free choice they make provides us with significant indications as to their dispositions: they buy cheap sweets or toys, smoking and toilet requisites, note-cases in which to put letters from their families, picture postcards to send home, etc.

They also meet on our sports ground, which is quite close to the institute. Here they spend hours of complete forgetfulness, playing enthusiastic games of "pelote", skittles, racing, jumping, see-saw and football, especially on days when there is a match with a neighbouring team.



During the observation period, which lasts on an average two months, the chief of the pavilion, with the help of his assistants, is discreetly carrying on his investigations at all times and places. He notes down all the "facts" on the psycho-pedagogical card.

\* \* \*

The Medical Section then systematically carries out a somatic examination by means of gymnastic test exercises. The rhythmic faculties of the children are studied, and also their mimographical responses. The medical service thus gains information as to the segmentary motor defects, while the pedagogic service obtains data for a better appreciation of the mentality expressed by the mimicry.

\* \* \*

Meanwhile, in the various pavilions, all the children's spheres of activities are kept under observation: manual work, domestic work in the pavilions, practical vocational guidance, free work and recreational occupation.

\* \* \*

The time then comes for a systematic verifying examination in the psycho-pedagogical laboratory.

The director, the doctor, the chiefs of the pavilions and the probationers, too, compare notes, discuss judgments and verify each other's assertions. Experiments which utilise all the psycho-sensorial routes of access reveal the inner life of the child.

The laboratory is under the control of the director himself.

The results of the standardised tests confirm, supplement or invalidate the results of the observations in the pavilions.

Our laboratory comprises:

- (1) The bio-psychological department;
- (2) The psycho-sensorial department;
- (3) The psychological department;
- (4) The orthophonic department;
- (5) The vocational guidance department.

We do not measure the standardised reactions until after lengthy study of the child's spontaneous manifestations.

Any instrument that we do not possess we make, and we spend years in standardising its use.

Our tests provide initial indications for observation, means of verifying such observation, material for the written report and material for education and re-education.

We are not obsessed by figures. It is not by the "micron" that men are differentiated; but it is by the "micron" that children progress; and the most accurate

mensuration is used to determine the educability of the child. The other important point is to observe the children in their spontaneous or stimulated activities.

\* \* \*

Once the work of individual psychology is completed the pedagogic task remains to be accomplished. We have then to determine the treatment which is the final aim of the whole work.

The discussions take place in secret; and I have never met a single case where the child knew to what category the treatment to be applied to him belonged.

Proposals are thereupon drawn up by general agreement for submission to the judge: return home, placing in a family, semi-liberty, sending to a technical institution or an establishment for the seriously abnormal, to our special establishment with a farming school and family colony, to the State institution or, in extreme cases, to the school for difficult children at Moll.

#### OUR TRAINING SCHOOL.

Apart from theoretical courses, an active part is taken in all this work by Belgian and foreign probationers of either sex who come to learn the only lessons which can qualify them for their mission in the schools for juvenile offenders—those which they learn (through spending several months here, after learning how to observe) regarding the miseries, the defects, the irresponsibility which they see at our institution. It is only at our institution that all these cases are to be found, and they find in them a daily incentive to pity, charity, justice and work.

This has led to the creation of the supplementary training school, the programme of which has gradually been worked out at our daily pedagogic conferences and at our monthly general meetings.

#### THE OBSERVATION REPORT.

The observation report is a confidential document.

The observation card filled up in the course of the observation and of the laboratory consultations is drafted as a continuous text in the observation report. This relates the characteristic facts and establishes their connection with what we call the child's "line", which differentiates the case from every other. This report is sent in duplicate to the Child Welfare Office, which transmits one copy to the competent judge. It only relates the facts in so far as they can assist the diagnosis and the practical prognosis of the case.

The report lays down the methods appropriate to the case and the personal modes of application which have proved successful at the central station. It is eventually sent to the establishment which subsequently receives the child. The teacher who takes over the guidance of the child has to collect the notes drawn up in the course of the continued observation of his charge.

Once an adult has been measured and analysed he need not be examined again for years; but a child is, by definition, a being in evolution.

The person who educates the child cannot be satisfied with an initial anthropometric and psychometric card. He follows the child and notes his evolution, modifying the initial treatment accordingly. All this must be entered under "subsequent notes" in each individual dossier.

#### THE GROUP OF ESTABLISHMENTS FOR JUVENILE OFFENDERS AT MOLL.

This group comprises nearly 400 children distributed among the following establishments, the first four of which are under my direction:

(1) *The central establishment of medico-pedagogical observation* at Moll-Huttes, which diagnoses responsibility and educability. This establishment acts as a distributing station and assigns the minors coming under its observation to the different establishments.

(2) *The special establishment for psychically abnormal children* opened in 1921.

(3) *Family colony for psychically abnormal children* to be rehabilitated only after their re-education in a family environment under the supervision of those who have observed them.

(4) *Colony of industrial semi-liberty* (outside work in the daytime and return to the home each evening).

(5) The former "welfare school", now the *State Education Establishment*, reserved for youths of a difficult character who are likely to create disturbances in any other establishment but in whom the observation station has detected no serious mental defect.

(Signed) Maurice ROUVROY,

*Director of the Central Observation Station and of the Institutions for Abnormals at Moll-Huttes, Professor of Pedagogic Psychiatry at the Higher Pedagogic Institutes of Brussels.*

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**LEAGUE OF NATIONS**

**CHILD WELFARE COMMITTEE**

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**CHILD WELFARE COUNCILS**

**(Denmark, Norway, Sweden)**

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## PREFACE.

In the course of the discussions which took place at various sessions of the Child Welfare Committee on the question of juvenile courts, their auxiliary services and institutions for young offenders and children in moral danger, several members of the Committee mentioned on various occasions another system — that of Child Welfare Councils — in force in the three Scandinavian countries — Denmark, Norway and Sweden.

In view of the special attention paid by the Committee to this question and the interest it has aroused in various countries, it was decided to undertake in these three Scandinavian countries an exhaustive study of the legal bases, operation, results and all other aspects of Child Welfare Councils likely to be of interest to the Committee. In accordance with this decision, an expert was requested in each of these three countries to carry out the study in question.

The following persons were good enough to agree to compile these reports :

*For Denmark :*

M. Erik LEUNING, Deputy Head of Section in the Social Ministry at Copenhagen.

*For Norway :*

M. Erling BROCH, Judge of the Supreme Court at Oslo.

*For Sweden :*

M. Åke BYLANDER, Director of the Child Welfare Council of the city of Malmö.

These reports contain a brief but full description of the organisations which carry out the duties entrusted to juvenile courts in other countries and which are also responsible for other child welfare measures.

In 1936, the Committee decided that it would be useful to publish these three reports in a single volume.

On being consulted with a view to establishing a certain measure of uniformity in the length of the three reports, their authors considered that, notwithstanding the similarity of the subject, those three reports dealt with work carried out under different conditions. It was therefore thought best not to make any change in the original length and form of each report.

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## CHILD WELFARE COUNCILS IN DENMARK

STUDY BY M. ERIK LEUNING.

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### INTRODUCTION.

#### 1. *Position before 1905.*

For a long time past, the public authority — *i.e.*, the State — has recognised its obligation to supervise and watch over the upbringing of children from a moral and physical point of view, and to take particular care of delinquent and erring and also of neglected children. But the legal provisions which entitled the public authority to interfere in the parents' right to bring up their children were few and far between and were quite inadequate; special organs for exercising supervision and carrying out compulsory education were non-existent.

#### 2. *The "Children's Law" of 1905.*

This law introduced the "Child Welfare Council Institution" in Denmark. This Institution, which in many respects was modelled on the Norwegian Law of June 6th, 1896, regarding the treatment of neglected children, is a public body which decides on its own initiative whether there are grounds for taking action with regard to the upbringing of children, and, if so, what means should be applied.

The Institution was set up with one Child Welfare Council (or more in special cases) for each commune.

The powers of the local Child Welfare Councils were very restricted, however, since practically all important decisions were to be submitted to a supreme body called the "Supreme Child Welfare Council" (*Overværgeraadet*) covering the whole country. *Inter alia*, decisions to remove children from their families and place them in homes were to be submitted to the Supreme Child Welfare Council for approval.

In course of time, as the tendency towards communal self-government became more evident, a desire was expressed in various quarters, both in the Child Welfare Councils and in educational homes, that the Councils should possess greater freedom and that there should consequently be closer co-operation between the Child Welfare Councils placing children in homes and the directors of the educational homes.

At the same time, there was a growing demand for unity in matters of public child welfare. This was to be brought about, on the one hand, by enacting collective child welfare legislation comprising not only the actual work of the Child Welfare Councils, but also supervision of children (supervision of foster-homes), and, on the other hand, by bringing under a single legislation, not only the Child Welfare Council, but also the children who had to be provided for by the public authorities on account of their parents' indigence.

3. *Child Welfare Council Law of June 12th, 1922, and Law of March 28th, 1923, on Supervision of Children.*

After a draft law on these two subjects had been prepared by a special commission, presided over by the Chairman of the Supreme Child Welfare Council at that time, the two laws were adopted in 1922 and 1923 with the approval of all parties in the Rigsdag.

The two laws have now been superseded by Section II of Law No. 181 of May 20th, 1933, on public welfare.

4. *Law No. 181 of May 20th, 1933, on Public Welfare (Section II, Protection of Children).*

This law (hereinafter called the "Welfare Law") contains the existing provisions of Danish law regarding the protection of children, and embodies not only the two above-mentioned laws, but also a third law — i.e., No. 420 of June 30th, 1919, regarding contributions in favour of preventive child welfare.

The Welfare Law, which codifies the innumerable Danish laws and provisions on welfare matters which had previously been applicable, thus also codifies Danish legislation on children, and the only provisions now to be found outside the Welfare Law are the following laws regarding children and young persons :

1. Law No. 63 of April 1st, 1914, regarding facilities for co-operation in the placing of children.
2. Law No. 342 of May 6th, 1921, regarding apprenticeships.
3. Law No. 87 of March 26th, 1923, regarding adoption.
4. Law No. 145 of April 18th, 1925, regarding labour by children and young people.

These four laws, however, are not included in the technical conception of "child welfare" and will therefore not be dealt with in the present report.

## THE ORGANISATION OF CHILD WELFARE.

### 1. *Child Welfare Committees.*

In Copenhagen, the protection of children is in the hands of the Municipality (*Magistral*), but, in the rest of the country, special Child Welfare Councils are appointed directly by the communal administration. A Council is appointed in each commune, and the members may be either members of the communal administration or other citizens believed to possess a special knowledge of child welfare. It is, however, provided in the Law that the majority of the members of the Child Welfare Council must always be members of the communal administration.

The special rules applicable to Copenhagen will be described later, and the following observations refer only to the Councils in the rest of the country (provincial towns and parish communes).

The Law does not expressly state how many members must be appointed to each Council, but it is clear from various provisions in the Welfare Law that there must be at least three members. In accordance with the statistics published by the "State Board for Child Welfare", the position was as follows in 1933 :

In eighty-five provincial towns, the membership varied from 3 to 13. Of a total of 545 members, 186 were elected outside the communal administration

(including 121 women), while the remainder — *i.e.*, 359 — were members of the communal administration.

The corresponding figures for 1,304 rural district Councils were : 6,804 members, of whom 2,412 were elected outside the communal administrations (including 1,779 women), while the remaining 4,392 were members of communal administrations.

The Child Welfare Councils (in Copenhagen, the municipality) deal with all questions relating to children.

Such protection can normally be granted only to persons under 18 years, but paragraph 168 of the Law authorises the prolongation of welfare work carried out before the 18th year until the 21st year.

The question as to which Council must deal with each case is decided by the Law : supervision over children and the establishment of preventive arrangements are normally exercised by the Council of the commune in which the child is resident at the time when the necessity arises for child protection measures, while the decision as to the removal of a child from its home is taken by the Council of the commune in which the persons possessing parental authority reside.

The Law also contains a number of provisions regarding the powers of the Councils. For instance, it is provided that a Council forms a quorum only if at least half the members are present, including the Chairman or Vice-Chairman ; in urgent cases, however, the Chairman (or, in his absence, the Vice-Chairman) may, if the Council does not meet, take provisional measures the omission of which would expose the child to danger, but such measures must always be submitted to the Council for approval as soon as possible.

With regard to decisions to remove children from their homes, however, the Law requires that at least two-thirds of the members of the Council should be present and should vote in favour of the decision.

It is the duty of the Chairman (or Vice-Chairman) to see that the necessary preparatory investigations are made, and exact records must be kept of the Council's proceedings. The proceedings are held in private, and the members and persons taking part in the work of the Council are sworn to secrecy.

In order to investigate cases, the Council must visit the homes of the children in question, or have them visited, and may demand all kinds of certificates from the head of the family, teacher, clergyman or other persons, and also school and medical certificates. The Council may call in and hear any person residing in the commune, and may also cause other persons to be questioned by the Child Welfare Council in the commune in which they live. Lastly, the Council may demand information from any public authority which may be presumed to possess particulars of importance for the case ; it may also request the assistance of the police, if it considers that the necessary information cannot be obtained in any other manner.

It is an invariable rule that the child's parents or the persons taking their place are requested to state their view of the case before the Council, and the parents or other representatives are entitled to obtain legal advisers, who can attend the Council, either with them or in place of them.

Lastly, the Council must provide for the execution of the decisions taken, and for this purpose it may, if necessary, obtain assistance from the Councils of other communes or from the police.

#### *Special Rules for Copenhagen.*

As mentioned above, child welfare in the capital is not organised in the same manner as in the rest of the country ; it is carried out directly by the executive organ

of the communal administration — *i.e.*, the municipality (*Magistrat*). A special "Children's Council" (*Børnenævnet*) is appointed consisting of a Chairman, a Vice-Chairman and three times as many District Guardians as there are child welfare districts in the capital. The number of child welfare districts may not exceed twenty; the exact number is determined by the Minister of Social Affairs on the basis of proposals by the communal administration. As the capital is at present divided into sixteen districts, there are therefore forty-eight District Guardians. Six other members are elected, who, together with the Chairman and Vice-Chairman, form the Executive Committee of the Children's Council.

The members of the Children's Council are elected as follows :

The *Chairman* is, in accordance with the Law, the Mayor of the department of the municipality dealing with child welfare.

The *Vice-Chairman* is appointed by the municipality and is required by law to possess legal qualifications.

The *District Guardians* are elected in a body by the Town Council, on a basis of proportional representation. At the same time, an equal number of substitute members is elected.

The *members of the Executive Committee* are also elected by the Town Council, and the Law provides for the election of persons who may be presumed from their training and previous work to possess special knowledge in child welfare questions. The majority of the members of the Executive Committee must be members of the Town Council.

The members of the Executive Committee receive an annual fee for their work, the amount being fixed by the communal administration and paid by the commune.

The District Guardians are unpaid.

Any person is eligible for the Children's Council who, in accordance with the Constitution, possesses suffrage rights for the Parliament.

Members are elected for four years, and election is a civic duty; the Welfare Law provides that any eligible person under 60 years of age must accept election for two successive periods of office.

The following persons take part in the discussion of each case :

- (1) The Chairman and Vice-Chairman;
- (2) The entire Executive Committee;
- (3) The District Guardians for the child welfare district to which the case refers.

The Committee authorised to deal with each case thus consists of eleven members; a quorum exists, however, if at least three members of the Executive Committee, including the Chairman or Vice-Chairman, and one of the District Guardians are present.

## 2. State Board for Child Welfare ("*Landsnævnet for Børneforsorg*").

Appeals from the decisions of the Child Welfare Councils may, as a rule, be made to the "State Board for Child Welfare", which covers the whole country.

The State Board, which has its seat at Copenhagen, consists of five members, namely :

- (1) A Chairman appointed by the King, who must possess the qualifications of a judge in the district court.



- (2) A member selected by the Minister for Social Affairs.
- (3) Two members elected by the Rigsdag.
- (4) The Chief Inspector for Child Welfare.

While the Chairman and Chief Inspector are State officials who have a *permanent* seat on the State Board, the members mentioned under (2) and (3) are appointed for periods of four years and receive an annual fee fixed by the annual Finance Law and paid out of State funds.

For decisions to be valid, at least three members of the Board must have been present and have voted for the decisions.

#### *The State Board's Duties and Powers.*

The State Board exercises general supervision over the administration of the Child Welfare Councils and, for this purpose, receives reports from the Councils (Municipality) regarding the decisions taken by them.

The State Board must see that the Councils have observed the legal provisions, in particular that the decisions are taken by the proper Council at a meeting at which a quorum is present and by the necessary majority, and that the legal provisions regarding the payment of contributions are fulfilled.

The State Board also acts as a court of appeal in questions relating to child welfare in the following cases :

- (1) Questions as to whether expenditure can rightly be considered as " child welfare expenditure " ;
- (2) Complaints regarding Child Welfare Councils, including decisions to remove children from their homes and decisions regarding the termination of child protection measures already in operation.

In the cases referred to under (2), the decisions of the State Board are final, while decisions under (1) may be referred to the Minister for Social Affairs.

In addition, the Welfare Law entitles the State Board to take up certain questions on its own account if it considers that a Child Welfare Council has not shown sufficient initiative.

Lastly, the State Board must subject the communal expenditure for child welfare measures to critical examination, and a special " audit department " has been appointed for this purpose in connection with the offices of the State Board.

### *3. Chief Inspectorate of Child Welfare.*

This institution is under a Chief Inspector for Child Welfare, appointed by the King. The Chief Inspector, in addition to being a member of the State Board, is entrusted with the general supervision of the execution of child welfare decisions.

The Chief Inspector, with the assistance of the necessary number of inspectors, must inspect the recognised educational homes and institutions at least twice a year, and the private homes and other institutions as often as necessary.

Furthermore, the Chief Inspector must inspect educational homes and institutions which are not recognised by the Welfare Law. Lastly, he must settle certain disputes between the Child Welfare Councils and the educational homes and give his approval to certain decisions taken by the Councils regarding the placing of children.

### *4. District Offices (" Amlerne ").*

As stated above, the decisions of the Child Welfare Councils are as a rule referred to the State Board for Child Welfare, but the Law provides that decisions on certain

points must be referred to the district offices. This applies to decisions under which permits to board-out children are refused or withdrawn, and decisions to take or to cease preventive measures. Lastly, in view of the general rule contained in paragraph 50 of the Welfare Law, complaints regarding decisions taken by the communal authorities under the Law are referred to the magistrate of the district, whose decision may in turn be referred to the Minister for Social Affairs. This fundamental rule, which so far as decisions regarding child welfare are concerned is greatly restricted by the rules regarding appeals to the State Board and Chief Inspector, is nevertheless of importance, especially in cases of assistance to an educational home in collecting money for children in homes, or hastening decisions regarding child welfare.

### 5. Ministry for Social Affairs.

Under paragraph 52 of the Welfare Law, the Minister for Social Affairs is the supreme administrative authority in welfare matters and, consequently, every case which the Law does not expressly place within the competence of some other body may be referred to the Ministry for Social Affairs.

The rules regarding appeals furthermore place Copenhagen in a special position, since appeals which are to be brought before the magistrate of the district in the rest of the country are, in the case of the capital (*i.e.*, Copenhagen and Frederiksberg) to be referred *directly* to the Ministry for Social Affairs.

Lastly, the Minister for Social Affairs grants recognition to educational homes, but lays down the administrative rules for child welfare provided for in the Law.

### SCOPE OF CHILD WELFARE WORK.

#### 1. Supervision of Children.

##### (a) General Provisions.

The Law provides that children *shall* be placed under supervision in the following cases :

(1) Children under 14 years who are placed in a family or in a day institute against payment.

(2) Illegitimate children up to their 7th year.

(3) Children under 18 years who live outside welfare institutes with parents in receipt of communal assistance or poor relief ; in these cases, the supervision may be extended for three months after the last relief has been granted.

(4) Children for whose welfare contributions are paid from public funds.

In addition, the Child Welfare Councils *may*, should it be required for the sake of the *child's* welfare, place the following children under supervision :

(1) Children under 14 years placed in families without payment.

(2) Adopted children under 14 years if the adoptive parents have received, or are at present receiving, payment for the adoption, including contributions for maintenance.

(3) Illegitimate children up to their 14th year.

Lastly, it is provided that the Council may in certain cases exempt the following children from supervision :

(1) Illegitimate children living in good circumstances.

(2) Children for whom support or assistance has been or is granted or allowances paid from the public funds.

(3) Children placed in families or in day institutes when this treatment does not appear justifiable in view of earnings or livelihood, and the treatment given on the whole is found to be good.

(4) Children who are supervised by a child welfare association recognised by the State.

The supervision is exercised either by specially appointed *supervisors* or by a child welfare association recognised by the State to which the Child Welfare Council has entrusted such supervision.

In respect of girls and boys under 7 years, the supervisor must as a rule be a woman and, in respect of children under 1 year, the supervisor must wherever possible be a woman with special knowledge of the treatment of infants.

The work of a supervisor is a civic duty, which means that the person appointed may not refuse the task and is unpaid. In exceptional cases, however, with the approval of the Ministry for Social Affairs, paid supervisors are employed (such permits are granted for large towns where many children are under supervision).

(b) *Permission to take Children.*

To take a child under 14 years in a foster-family or in a day institute against payment, a permit is required. This is granted by the Child Welfare Council at the place of residence of the foster-parents after the foster-home and foster-parents have been examined. As a rule, such permission is granted only to married couples living together who have not more than three children under 14 years at home. As a rule, not more than one child under 1 year of age may be placed in the same home, while more than two children may not as a rule be placed at the same time in the same family unless they are all brothers or sisters. Women living alone may be granted permission to accept girls and in exceptional cases boys, especially infants. A permit may be granted to single men only in very special circumstances and, as a rule, permits are not granted to persons over 55 years of age.

Medical certificates are required both for the foster-parents and for the foster-child; in particular, to the effect that neither the foster-parents nor the child are suffering from infectious tuberculosis or other infectious diseases.

The Law contains very detailed rules regarding the relations between foster-parents and child. It is specially prescribed that the child must have its own bed and that the foster-parents must notify the Child Welfare Council if the child dies or if the relationship is terminated for other reasons, if one of the foster-parents dies or leaves the home, or if the relationship undergoes essential change in other respects and if there is any change of address. If the home is removed to another commune, the Child Welfare Council at the original place of residence must give the necessary information to the Council in the commune to which the family removes and the Council of the latter commune must then decide whether the permit can be renewed.

The placing of the child in a foster-home does not deprive the child's parents of their parental authority; but, in order to protect the child from constant removals, it is provided that the Child Welfare Councils can decide that a child may not be removed from a good foster-home without the Council's approval unless the Council considers that there are reasonable grounds for such removal. An appeal from such a decision may always be made by the persons concerned to the competent district magistrate, whose decision may also be referred to the Minister for Social Affairs.

(c) *Special Rules for Illegitimate Children.*

Special rules regarding illegitimate children are laid down in the chapter of the Welfare Law relating to supervision over children; it is provided that a midwife or a doctor assisting at a birth must notify the birth to the Child Welfare Council, and

it is the Council's duty to keep a detailed list of all notifications which it receives and to arrange for supervision of the children in accordance with the regulations set forth above, including in particular the above-mentioned notifications of removal to another commune.

The Council must transmit each year in the month of January to the Chief Inspector for Child Welfare a report on the supervision of children carried out in the commune.

Such reports are examined at the Chief Inspectorate, which then reports to the Ministry for Social Affairs.

The information which would appear to be of interest regarding supervision in the year 1934 is contained in the following table ; at the side of the 1934 figures are given the figures for 1933.

	Under supervision on December 31st		Ingoing cases		Outgoing cases		Under supervision on December 31st	
	1933	1932	1934	1933	1934	1933	1934	1933
Copenhagen . . . .	11,771	11,070	8,708	7,139	8,764	6,438	11,715	11,771
Provincial towns (Islands) . . . . .	5,260	4,446	2,030	2,582	1,711	1,760	5,579	5,260
Provincial towns (Jutland) . . . . .	9,102	6,940	3,753	4,727	3,387	2,565	9,468	9,102
Rural communes (Islands) . . . . .	10,245	8,675	4,196	4,885]	3,614	3,315	10,827	10,245
Rural communes (Jutland) . . . . .	11,957	7,763	4,831	7,326	3,602	3,131	13,186	11,957
The entire country	48,335	38,894	23,518	26,659	21,078	17,217	50,775	48,335

According to the information available, supervision of children was established in all provincial towns, while there were 136 rural communes in which no children were under supervision. A number of those rural communes, however, are small communes on the Islands or purely rural districts with few inhabitants.

As regards the method of supervision, it may be pointed out that, in 767 communes, it was exercised solely by the members of the Child Welfare Councils, while in the remaining communes it was exercised solely or partly by paid supervisors appointed outside the Councils. Lastly, of the children under supervision on December 31st, 1934, 16,363 were foster-children, while 34,412 children were under supervision in their own homes.

## 2. Preventive Child Welfare.

### (a) General Measures.

Before placing children outside their homes, the Law authorises the Child Welfare Councils to take certain *preventive measures* with a view to affording the child's family support and guidance, so that its removal from home may be avoided. The Law establishes the principle that it is natural for a child to be brought up by and with its parents and that it can be removed from home only if the conditions relating either to the child or to the home make it impossible for the child to stay there.

These so-called preventive measures aim at granting moral and sometimes also economic assistance to the homes, and also at opening institutions for preventive child welfare.

*Support for the homes.* — The Council may decide to apply the measures mentioned below in cases where the removal of a child from its home is warranted, but where it would nevertheless seem to be in the child's interest not to order the removal, and in cases where, for the sake of a child's welfare, preventive measures should be taken

and where it is proved that a person does not take proper care of the children in his charge or where a child requires special support :

(1) The giving of a warning to the child and its parents or other persons responsible for its upbringing ;

(2) The appointment of supervisory guardians for the child ;

(3) The issue of injunctions to the parents or other persons responsible for the child's upbringing with regard to the care of the child, its upbringing, training or work, including injunctions :

That children over school age shall be sent to a continuation school, evening school, technical school or the like ;

That children of school age shall attend a vocational day school, a " free time " home or other similar institution ; and

That children below school age shall attend a children's home, kindergarten, a daily home for infants, or similar institution.

The Council may issue detailed instructions for carrying out the above injunctions and, if the removal from the home can be avoided, it may, if necessary, apply to the Social Committee (*i.e.*, the general welfare organ of the commune) to grant special financial assistance to parents or others responsible for a child's upbringing in order to meet the expenses directly entailed by the injunctions in question, such as the payment of school fees, and reimbursement of the cost of admission to the above-mentioned preventive institutions.

The grant of so-called special assistance means that the assistance is granted without any legal consequences for the parents or other persons responsible for the child's maintenance.

With regard to the appointment of supervisory guardians, the rules set forth above regarding supervisors of foster-children are in general applicable, in particular the rules as to who should preferably be appointed. The supervisory guardians must assist the family with advice and guidance in respect of the care and upbringing of the child and must see that the persons responsible do their duty to the child and that any special injunctions are obeyed.

(b) *Institutions for Preventive Child Welfare.*

These institutions are *crèches*, children's homes, kindergartens, vocational day schools and other institutions admitting children under 14 years of age at fixed hours during the day when the parents or other persons responsible for the children's upbringing are prevented by their work, illness or other causes from taking care of the children.

In order that such an institution may be able to admit children referred to it by the Child Welfare Council, it must receive State recognition, which is granted by the Minister for Social Affairs on the proposal of the Chief Inspector for Child Welfare.

The Minister for Social Affairs also lays down the detailed rules for the equipment, management and administration of these institutions and decides what payment the institutions may demand for children referred to them by the Child Welfare Councils. Recognition has to be renewed whenever the institution changes its management or removes to other premises, and can be withdrawn at any time by the Minister for Social Affairs.

The State rightly attaches the greatest importance to the existence of an adequate number of good preventive institutions, since they not only provide the best conditions for the mental and physical development of children in their earliest and frequently

difficult years, but also enable any mental or physical defects in children to be observed at an early age. The Welfare Law has therefore brought these institutions within the scope of the State grant system.

The amount of such grants may not exceed half the expenditure involved by the working of the institution in the last complete financial year, exclusive of expenditure on premises and on the provision of fixtures.

Such grants were made for the first time under Law No. 420 of June 30th, 1919, regarding grants for the promotion of preventive child welfare, and the provisions of that Law are for the main part reproduced in paragraphs 127-129 of the Welfare Law. The amount annually provided by the State for this purpose was fixed in the 1919 Law at 250,000 crowns; but, as this amount soon proved too small, it was increased in the annual Financial Laws so that at the present time (*i.e.*, for the financial year 1935/36) the sum of 450,000 crowns has been granted. But even this amount is too small; for, although the Law authorised a State grant covering up to 50% of the working expenses, only about 29% is in fact granted. The grant, which is paid once a year, is allocated by the Ministry for Social Affairs in accordance with a proposal by the Chief Inspector for Child Welfare.

In addition to this *grant for working expenditure*, the Welfare Law has opened up, as an innovation, the possibility of State grants for the establishment of preventive institutions (*establishment grant*). In accordance with paragraph 129 of the Welfare Law, such grant may also be made up to half the expenditure entailed by the provision of premises and the purchase of the necessary equipment. In special circumstances, a corresponding grant may be made for improving premises already in use.

This establishment grant, as stated above, is an innovation in the Welfare Law, and hitherto only very small sums have been allotted (*e.g.*, 10,000 crowns for the financial year 1935/36).

In order that an institution for preventive child welfare may be entitled to admit children placed under the public care in accordance with the provisions of the Welfare Law, the institution must be officially recognised, such recognition being allowed by the Minister for Social Affairs; such *recognition* is, however, not required in order to obtain a State grant. Such grants are, however, conditional upon the institution's obtaining official *approval*, which is also granted by the Minister for Social Affairs on the proposal of the Chief Inspector for Child Welfare. In order to obtain such approval for the purpose of a State grant, the Law requires that the institution :

(1) Must be conducted by the commune or have a governing body of at least three members, of whom, if possible, one must be a doctor and another a teacher or a person trained in the care of children;

(2) Must be open for children at least four hours a day on weekdays throughout the year, with the exception of a reasonable summer vacation;

(3) Must exclusively, or at any rate mainly, admit children of indigent parents;

(4) Must make suitable charges for the use of the institution by the children. The Law provides that this payment shall not be less than the value of the food which the institution provides for the children. The governing body of the institution is, however, entitled after investigation in individual cases to grant entirely or partly free places if it finds that a child's parents cannot pay the prescribed amount without depriving the family of necessities.

While the conditions mentioned above under (1), (3) and (4) are invariable, the Minister for Social Affairs may forgo the condition mentioned under (2) in respect of institutions for children over 7 years of age.

There are at present about 280 institutions for preventive child welfare in Denmark, with a total of about 11,300 normal places. About thirty of these institutions have been established by communes and the remaining 280 by private persons. The normal number of places is about 2,800 in the communal institutions and about 8,500 in the private institutions.

### 3. *Boarding-out of Children.*

It will be observed from the above that the fundamental rule of Danish legislation is that children should be brought up by and with their parents and that the community, by means of the rules regarding supervision of children and preventive child welfare, grants its support in order that this natural connection may be maintained as long as possible.

But it must be recognised that such support may, and often does, prove inadequate; and the law therefore provides that, whether interference is necessitated by the conduct of the parents or of the child, the public authorities (Child Welfare Councils) are entitled to decide that, before a child has reached its 18th year, it shall be removed from its home and brought up by other persons than those whose natural right and duty it is to provide for its upbringing.

#### (a) *Decision to remove Children from Their Homes.*

The Law lays down definite limits within which decisions to remove children from their homes may be taken.

When the child's welfare requires it and preventive measures do not appear adequate, the Child Welfare Council, after investigation, shall decide to remove a child under 18 years from its home.

A decision to remove a child from its home can be taken if :

- (1) Such a step is required by the welfare of the child;
- (2) Preventive measures are not considered adequate; and
- (3) A detailed examination of the child's circumstances and its home is carried out in accordance with the rules on the subject.

While the first two conditions do not call for any special remarks, the following observations may be made on the investigation laid down in the Law :

In the case of a child over the minimum age at which criminal proceedings may be taken (under Danish Law, 15 years), the Child Welfare Council must in the first place ascertain whether criminal proceedings have been instituted against the child, since it cannot in that case initiate any child welfare measures on account of the criminal actions committed unless the prosecuting authority has withdrawn the prosecution, or the execution of the penalty pronounced by the court has been stayed, or the penalty has been entirely or partly remitted.

In most cases, however, the prosecuting authorities withdraw the proceedings against young offenders provided they are handed over to the child welfare authorities; but, even after the penalty has been executed, child welfare work may be initiated if the Child Welfare Council considers it desirable and in particular if it is proposed by the prosecuting authorities.

As the decision to remove a child from its home is a very serious step, it is obvious that the formal conditions governing such removal must be very strict.

The Law requires that at least two-thirds of the members of the Council must be present and must vote in favour of a decision to remove a child, and, further, that the examining magistrate for civil cases in the district in question must take part in the examination of the case by the Council. These requirements that a specified majority

of the committee shall be present and that a magistrate must take part form, together with provisions regarding appeals, the legal guarantee that decisions to remove children are taken only in strictly necessary cases.

Should the circumstances be such as to necessitate immediate steps, the Law authorises the Chairman of the Council (or, in his absence, the Vice-Chairman) to take "such provisional measures as cannot be deferred without danger for the child's welfare". But these measures must be submitted as soon as possible to the entire Council for approval.

In order to provide still further safeguards in respect of decisions to remove children, the Law provides that the State Board is obliged to grant guidance and assistance to the Child Welfare Councils and that the Council must, as soon as possible and in any case within one month after the decision to remove the child, send a report on the subject to the State Board. This report, which is made on a form specially provided for the purpose, is considered by the State Board, which must see that the decision is technically in order.

Lastly, the State Board is authorised to take independent action, since the Law provides that, if the Board obtains information regarding conditions which seem to call for action, and the Child Welfare Council competent in the matter has not taken any steps in spite of a reminder by the State Board, the latter is entitled to endeavour to clear up the matter and to submit it to the Council for decision. If the Council refuses to take a decision regarding the boarding-out of a child which the State Board considers necessary for the child's welfare, the Board may take such decision itself. The Council may, however, at any time appeal to the Minister for Social Affairs against such a decision.

The welfare measures regarding children so removed by the State Board are in the hands of the competent Child Welfare Council; but the Minister for Social Affairs has said that, where the State Board allows such action, the Council engaged in welfare work cannot, in view of the general relationship between higher and lower authorities, take decisions contrary to decisions taken by the State Board in connection with orders to remove children from their homes.

(b) *Methods of Boarding-out.*

When a legal decision to remove a child from its home has been taken, parental authority is conferred on the Child Welfare Council and consequently, in connection with the decision, the Council must take a decision regarding the future boarding-out of the child.

This decision must state that the child is to be placed in a foster-home, to be apprenticed or to be otherwise trained, to be placed in service or in an educational home, or given special care.

The Law thus divides the methods of boarding-out into individual boarding (foster-home, service, apprenticeship) and collective boarding (educational homes).

The primary condition, however, enabling a child to receive an upbringing under the child welfare provisions of the Welfare Law is that the child must be physically and mentally normal.

If not so, the child is given special care and is placed in an institution for special care according to the nature of the defect.

If the child is normal, or if its physical or mental defects are not so pronounced as to make special care necessary, the child is boarded out in accordance with the following rules :

(1) *Children under 14 years.* — Children who are not deemed to be of particularly difficult character and whose conduct has not been specially bad are as



a rule placed in a foster-home (*Plekehjem*). But, if this is not considered advisable in special circumstances — e.g., for reasons of health — the child is placed in a children's home (*Børnehjem*).

If the child's mental development is retarded — without special care being necessary — it is placed in a special children's home for children of slow development (*home for backward children* — “*Sinkehjem*”); lastly, children of particularly difficult character or children whose conduct has been specially bad are placed in a school home (*Skolehjem*).

(2) *Children over 14 years.* — Normal children over 14 years who are not of difficult character are placed in apprenticeship or service or given some other form of training, according to their disposition, qualifications and other circumstances. Children of retarded or defective development are placed in homes specially adapted to them: “*peace*” homes (*Fredehjem*). Lastly, there are *youth homes* (*Ungdomshjem*) for the placing of children of particularly difficult character or whose conduct has been specially bad.

These decisions regarding the boarding-out of children in the various kinds of institutes presuppose that the Council is familiar with the child's character and any other important circumstances; in cases where the Council is in doubt as to the proper method of boarding-out, the Law has also provided for boarding-out in *reception or observation homes*; but such boarding-out is, by its nature, of short duration and may therefore not exceed nine months without the approval of the Chief Inspector for Child Welfare. Before the expiry of this period, the head of the reception home makes suggestions to the Council regarding the most suitable method of boarding-out the child.

As a rule, the Child Welfare Councils decide of their own accord to which educational home a child shall be sent, but the Law provides for two exceptions from this rule:

(1) Boarding-out in a youth home, school home, protection home, or home for backward children may take place on the initiative of the Council, but, after this has been done, the *approval of the Chief Inspector for Child Welfare* is required for the final boarding-out.

(2) In the case of educational homes belonging to the State or carried on at the cost of the State, the *approval of the Chief Inspector* is required in advance.

In addition to the above-mentioned kinds of educational homes, there are special homes intended for training and teaching — i.e., *apprentice homes* (homes in which the child obtains board and lodging and training), apprentice foster-homes (in which the child receives board and lodging together with training from a private master), and *household schools* (at which the child obtains board and lodging and training in domestic work).

In order that all the above kinds of educational homes may be able to admit children under the care of the public authorities, they must have obtained *official recognition* granted by the Minister for Social Affairs on the proposal of the Chief Inspector for Child Welfare. This recognition is granted for a particular person as head of the home, and must be renewed in the case of a change of management or removal to other premises. The recognition may be given experimentally for a limited period and may be withdrawn at any time.

The Minister for Social Affairs lays down *general rules* for the equipment, management and administration of recognised educational homes, and determines what payment the homes may accept for the children placed with them by the Child Welfare Councils. Lastly, rules regarding the work of the home and its administration

are to be prepared for each home and approved by the Chief Inspector for Child Welfare.

During their stay in educational homes, children are given *school instruction* either at an elementary school, at a private school or in the home itself, but, in the last two cases, the instruction must be equivalent to that given in the elementary school. The children are also placed under *permanent medical supervision* in accordance with regulations laid down by the Minister for Social Affairs, and the expenditure connected therewith is repaid specially out of State funds, even in the case of educational homes to which the State does not in other respects make or refund payments.

Lastly, the head of the educational home exercises the parental authority granted to the Child Welfare Council, including the right of punishment; but this right is subject to special limits by "domestic discipline regulations" laid down by the Minister for Social Affairs containing detailed rules regarding the method and extent of punishment.

In Denmark, the following educational homes are at present recognised :

	Places
107 reception and observation homes with . . . . .	2,760
(including 93 private homes with 2,200 places)	
188 children's homes with . . . . .	4,201
(including 175 private homes with 3,825 places)	
7 homes for backward children with . . . . .	212
(all private)	
7 protection homes with . . . . .	136
(all private)	
6 youth homes for boys with . . . . .	332
(including 2 private homes with 130 places)	
9 youth homes for girls with . . . . .	302
(including 8 private homes with 277 places)	
4 school homes for boys with . . . . .	360
(all private)	
3 school homes for girls with . . . . .	113
(including 2 private homes with 77 places)	

Of the school and youth homes, four are owned and operated by the State for boys, and two for girls; one of the reception homes for boys is owned by the State.

(c) *Supervision of and Changes in the Placing of Children, etc.*

Educational homes are subject to supervision, which must naturally be carried out in the first place by the administration of the homes, but is also carried out under the Welfare Law by the Child Welfare Councils in the communes where the various homes are situated.

The supervision of school homes and youth homes is carried out by the administration of the home with the addition of a member selected by the Child Welfare Council either from its own members or from outside; for the other kinds of educational homes, the Council appoints one of its members or some other person who is able and willing to carry out the supervision.

Lastly, the supervision of all educational homes is carried out by the Chief Inspector for Child Welfare.

The Child Welfare Councils also supervise children who are receiving individual education (at foster-homes, in apprenticeship, in service, etc.). The Council at the place where the child is boarded appoints a supervisory guardian to provide for the child's requirements in respect of foster-parents, the head of the household, the master or other persons.

The supervisory guardian must report at least twice a year to the Child Welfare Council concerned with the child and, in addition, if any defects or irregularities are found or the boarding-out of the child proves unsuitable for other reasons, he must report to the Committee, which decides whether any change should be made in the method of boarding-out.

When children are discharged from an educational home, they are kept under supervision. This supervision is carried out by the head of the home if the child is boarded out in its vicinity, and in other cases by a supervisory guardian appointed by the Child Welfare Council at the place to which the child is sent.

(d) *Conclusion of Child Welfare Measures.*

As a rule, the child welfare measures cease when the child reaches the age of 18 years, but they may for special reasons cease earlier or be extended beyond the 18th year, but never beyond the 21st year.

Before the 18th year, the measures may cease by decision of the Child Welfare Council concerned, if the object in view appears to have been attained or if circumstances arise through which the object will probably be attainable in other ways.

The measures may also cease before the 18th year if the object aimed at by boarding a child outside its home cannot be expected to be attained because the child appears to be unamenable to education, particularly if it has repeatedly been guilty of serious breaches of law during the period of such education.

A decision to discontinue measures on the ground that the child is not amenable to education must, however, always be taken by the State Board for Child Welfare on the proposal of the Child Welfare Council concerned or of the head of the educational home in which the child is placed.

If the State Board refuses to approve such a proposal, the authority making the proposal can demand that the matter be brought before the Minister for Social Affairs, whose decision is final.

*For the measures to be extended beyond the 18th year*, the main requirement is that the decision must be taken by the Child Welfare Council concerned at a meeting held *before the child reaches its 18th year*, and the decision must subsequently be approved by the State Board. The extension may be made immediately until the 21st year, but in practice is made for one year at a time.

There is one exception to the rules regarding extension : welfare work in respect of children who are or have been placed in a youth home always continues until the age of 21 without any decision for extension being necessary.

At the end of the welfare work, the child is, if necessary, provided with clothing and money for travelling to its future place of residence, where steps are taken if possible to place it in secure circumstances.

(e) *Miscellaneous Provisions.*

In addition to the main provisions of the Welfare Law regarding the protection of children, certain provisions of a more general character have been laid down. In this connection, it may be mentioned that the Law imposes the duty on any public official or any person holding a public position of trust to notify the Child Welfare Council whenever in the course of his duties he is informed of conditions which may give rise to action under the child welfare provisions ; similarly, a corresponding duty of notification in general lies upon any person who learns that a child is subjected by its parents or other persons responsible for its upbringing to improper treatment,

ill-treatment or neglect, or is treated in such a manner that its mental or physical health or development is exposed to serious danger. Such notifications are made to the Child Welfare Council in the commune where the child resides.

The law carries these notification provisions still further by adding that any person is entitled to notify the Child Welfare Council of circumstances which in his opinion call for action on the part of the Committee under the child welfare provisions.

Finally, the Law entitles the Child Welfare Council to attend examinations conducted by the police or judges of juvenile courts and also provides that, at the request of the judge or police, the Committee's representative must examine or investigate the child's personal or home circumstances for the purpose of the judicial proceedings.

These provisions, which are in general of great importance for the welfare of children and young persons, are of particular value in cases where children under the age of responsibility for criminal acts (15 years) are involved in cases relating to offences against morality.

*Penal Provisions.* — The section of the Law relating to the protection of children concludes with various penal provisions fixing penalties for parents or other persons responsible for a child's upbringing, heads of households, mothers or masters who treat their own children or children entrusted to their care in such a manner that their mental or physical health or development is exposed to serious danger.

It is also a punishable offence to omit to carry out the above-mentioned duty of notification.

Lastly, a penalty is imposed on persons impeding child protection measures and on persons who entice children away or help children who have been boarded out under the child welfare regulations to run away or who conceal children who are wanted.

#### 4. *Provision of Funds to meet Expenditure on Child Welfare Measures.*

##### (a) *Expenditure on the Administration of Child Welfare Councils.*

This expenditure is borne by the commune concerned, but, as the work of members of the Councils — apart from the special rules applied to Copenhagen — is a civic duty and is consequently unpaid, expenditure consists as a rule only in office expenses (postage, telephone, telegrams, etc.) and travelling expenses for members of and also for assistants, since the Council the Law permits the employment of permanent or paid officials. The latter are appointed by the communal administration on the proposal of the Child Welfare Council.

Lastly, in special cases, paid assistants may be appointed to exercise public supervision over children, subject to the consent of the Minister for Social Affairs.

##### (b) *Expenditure on the Measures adopted.*

As a general rule, in urgent cases the commune in which the child is resident advances the expenses for child welfare measures and applies for reimbursement; but, as regards the expenses for measures in respect of children removed from their homes, the rule is that a commune taking the decision to remove a child or to adopt measures must, until the conclusion of the measures, advance the expenses and apply for reimbursement, whether the commune is the child's legal place of residence or not, and even though the welfare work may be subsequently transferred to the Child Welfare Council in another commune.

Ultimately, therefore, the commune of residence only bears one-third of the expenses, while the remaining two-thirds, in accordance with the general principles

of Danish welfare legislation, is refunded to the commune of residence under the rules for "inter-communal reimbursement".

There are, however, certain expenses which are refunded in full to the commune of residence by the State — namely, expenses for children who have been finally placed in a recognised school home, youth home or home for backward children and for the boarding-out of children who have previously been placed in one of these educational homes. In the case of both groups, however, the State obligation to pay the costs does not arise until the child is 15 years old.

Lastly, the State makes *direct* payments for a child's residence in the educational homes maintained by the State after the child is 15 years old.

The accounts are settled with the State or the "Reimbursement Union" once a year, but, before the expenditure or the amount due for reimbursement is settled, any sums received through contributions paid by the person or persons responsible for the child are deducted.

This contribution is required from the person responsible for the child (*i.e.*, the parents of a legitimate child or the mother of an illegitimate child) by *the Social Committee in the commune in which the parents reside*; to obtain the contribution, the Child Welfare Council must communicate the decision to the Social Committee in the commune in which the person responsible resides and request it to collect the contribution.

In imposing contributions, account must generally be taken of the economic position and way of life of the person responsible for the care of the child and the cost of the child welfare measures.

The amount by which the cost of the child welfare measures exceeds the contribution paid by the parents is thus paid by the public authority (State, commune of residence and Reimbursement Union) and this public contribution has no legal effects in respect of the parent. If, on the other hand, the parent fails to pay a contribution required from him or her, the unpaid amount is regarded as *communal assistance* to the parent and results in the generally prescribed legal effects; but loss of the right of suffrage and of eligibility for election is suffered only so long as the part of the contribution which the parent is ordered to make good remains unpaid.

#### STATISTICS OF CHILD WELFARE WORK.

The present section contains some remarks on the statistics of child welfare, based on the returns published for the calendar year 1934 by the State Board for Child Welfare, together with particulars in the possession of the Chief Inspectorate of Child Welfare Work.

No statistical material of any value exists regarding protective child welfare work, because such measures consist to a very great extent in assistance and support to parents so as to enable them to retain their children at home.

On the other hand, the following information may be given regarding children placed outside their homes.

In 1934, the total number of cases in which the Danish Child Welfare Councils took decisions regarding the removal of children from their homes was 1,200, of which 735 referred to boys and 465 to girls.

The figures for Copenhagen, the provincial towns and the rural districts respectively are as follows:

	Boys	Girls	Total
Copenhagen . . . . .	273	133	406
Provincial towns . . . . .	175	120	295
Rural districts . . . . .	287	212	499
Total for the whole country . . . . .	735	465	1,200

The 1,200 children who were removed from their homes were boarded out as follows :

	Boys	Girls	Total
Private families . . . . .	66	33	99
Service . . . . .	14	10	24
Apprenticeship, etc. . . . .	6	0	6
Educational homes . . . . .	91	66	157
Children's homes . . . . .	30	25	55
School homes . . . . .	20	6	26
Homes for backward children . . . . .	11	10	21
Protection homes . . . . .	3	10	13
Youth homes . . . . .	20	26	46
Hospitals . . . . .	3	1	4
Under special care . . . . .	14	13	27
In other ways . . . . .	9	12	21
Total for the whole country . . . . .	735	465	1,200

For purposes of comparison, it may be stated that, as against 1,200 children removed from their homes in 1934, the figures in the previous five years were as follows :

1929 . . . . .	1,023	1932 . . . . .	916
1930 . . . . .	1,103	1933 . . . . .	676
1931 . . . . .	961		

The figure for 1933, however, covers only the period January 1st-September 30th, since the Welfare Law came into force on the latter date, thus starting an entirely new period during which the total number of children removed from their homes amounted to 60.

The numbers of children under the care of the Committees were as follows :

At the end of	1929 . . . . .	5,424
	1930 . . . . .	5,614
	1931 . . . . .	5,686
	1932 . . . . .	5,677
	1933 . . . . .	4,721
	1934 . . . . .	5,199

621 children were discharged in 1934, i.e. :

157 children on reaching the age of 18 years ; 171 over 18 years after the treatment had been extended ; 136 over 18 years after residence in a youth home.

38 left because they were not amenable to education, while 87 were returned to their homes ; 12 married, 5 were adopted, 11 died and 4 were sent abroad.

Lastly, appeals from the decisions taken by the Child Welfare Councils were made to the State Board for Child Welfare in 230 cases, 80 of which were in Copenhagen, 60 in the provincial towns and 90 in the rural districts.

Under the provisions of the Law regarding the extension of child welfare work beyond the age of 18, the State Board approved such extension in 1934 in 570 cases. These particulars regarding children removed from their homes refer only to the *actual removal decisions* taken by the Councils.

With regard to the above-mentioned compulsory contributions, it may be stated that the Social Committee imposed contributions in 1934 in 215 cases. The annual amounts of these contributions were as follows :

Under 50 crowns . . . . .	22
Over 50 crowns, but under 100 crowns . . . . .	55
Over 100 crowns, but under 150 crowns . . . . .	45
Over 150 crowns, but under 200 crowns . . . . .	19
Over 200 crowns . . . . .	74

### RESULTS OF CHILD WELFARE WORK.

The results can be set forth objectively in the form of statistics, since, as mentioned above, the State Board gives particulars as to the number of children discharged during the year and the causes.

The children removed from their homes under the Child Welfare Council Law of 1922 numbered in all 10,260, of whom 5,002 had again been discharged on September 30th, 1933. The reasons for the discharge of these children were as follows in the years 1930 to 1934 :

	1930	1931	1932	1933	1934
Attained the age of 18 years . . . . .	204	195	228	262	157
Over 18 years after an extension of the period	134	182	181	173	171
Over 18 years after residence in a youth home	139	141	153	135	136
Treatment abandoned (not amenable to education) . . . . .	21	34	20	36	38
Returned to their homes . . . . .	85	88	113	121	87
Placed under special care . . . . .	53	33	20	10	0
Married . . . . .	3	7	8	6	12
Adopted . . . . .	1	0	3	2	5
Deceased . . . . .	3	7	9	7	11
Other reasons . . . . .	36	25	33	10	4
Total . . . . .	679	712	768	762	621

These figures, however, give no information as to the result of the educational measures and reveal little as to how far this vast work, which is a heavy burden on the public purse, has succeeded in enabling the young people subsequently to start life as good and worthy citizens.

As this particular aspect is of great importance for the welfare work as a whole, the Chief Inspector for Child Welfare, at the request of the Ministry for Social Affairs, has in recent years made investigations regarding the pupils discharged from the educational homes on the basis of enquiries carried out by the directors of the homes.

The educational homes endeavour as far as possible to keep in touch with discharged pupils and, on the basis of the information thus obtained, the homes report to the Chief Inspectorate, which studies the material and informs the Ministry for Social Affairs of the results obtained.

The following information is obtained from this source :

The particulars are drawn up separately for boys and girls and subdivided according to the kinds of educational homes from which the pupils are discharged (youth homes, school homes, reception homes, children's homes and homes for backward children).

In the first place, two separate groups are given for the method of discharge :

A. Discharge to another educational home, for special care, to undergo a penalty, or on account of the death of the pupil or the abandonment of the treatment.

B. Complete discharge (service, apprenticeship, hire, boarding-out or return home).

The information relates to the pupils discharged from recognised educational homes during the year April 1st, 1927—March 31st, 1928.

The investigation comprises a total of 922 pupils, of whom 329 were discharged in the circumstances specified in A, while 593 were finally discharged (B).

It is naturally of special interest to ascertain what happened to these 593 pupils who were finally discharged. The information distinguished between "good development", "less-satisfactory development" and "bad development". Lastly, there is a fourth group relating to pupils who, *after discharge*, were brought back to an educational home, placed under special care or died, or for whom no information is obtainable.

The information available is perhaps best shown in the form of a table as follows :

*Group A.*

	Other educational home	Special care	Undergoing penalty	Unamenable to education	Deceased	Total
Youth homes for boys . . . . .	10	9	1	13	—	33
Youth homes for girls . . . . .	2	9	—	5	—	16
School homes for boys . . . . .	9	3	—	—	—	12
School homes for girls . . . . .	2	3	—	—	—	5
Reception homes for boys . . . . .	100	6	3	2	—	111
Reception homes for girls . . . . .	122	18	—	1	—	141
Children's homes (both sexes)	3	1	—	—	—	4
Homes for backward children (both sexes) . . . . .	2	5	—	—	—	7
<b>Total . . . . .</b>	<b>250</b>	<b>54</b>	<b>4</b>	<b>21</b>	<b>—</b>	<b>329</b>
<b>Percentage . . . . .</b>	<b>27.1</b>	<b>5.9</b>	<b>0.4</b>	<b>2.3</b>	<b>—</b>	<b>35.7</b>

*Group B.*

	Service, apprenticeship, hire	Subsequently employed	Boarded out or sent home	Total
Youth homes for boys . . . . .	64	29	22	115
Youth homes for girls . . . . .	85	2	16	103
School homes for boys . . . . .	54	4	12	70
School homes for girls . . . . .	12	—	5	17
Reception homes for boys . . . . .	89	22	34	145
Reception homes for girls . . . . .	65	—	34	99
Children's homes (both sexes)	35	—	2	37
Homes for backward children (both sexes) . . . . .	7	—	—	7
<b>Total . . . . .</b>	<b>411</b>	<b>57</b>	<b>125</b>	<b>593</b>
<b>Percentage . . . . .</b>	<b>44.5</b>	<b>6.2</b>	<b>13.6</b>	<b>64.3</b>



*Group B.*

	Good develop- ment			Less satis- factory development			Bad development			After discharge			Total	
	Quiet progress	Change in position	Difficulties in work	Defective capacity or poor health	Defective energy	Defective morals	Lack of moral balance	Repeatedly punished	Laziness, frivolousness and immorality	Returned or sent to another home	Special care	Deceased		No information
Youth homes for boys	17	19	15	3	—	22	4	23	1	9	—	1	1	115
Youth homes for girls	36	14	21	—	1	19	5	1	1	1	1	—	3	103
School homes for boys	21	16	6	—	—	10	2	5	—	7	2	1	—	70
School homes for girls	4	2	3	—	—	3	1	—	—	2	1	—	1	17
Reception homes for boys	25	19	16	2	1	9	—	7	1	27	7	1	30	145
Reception homes for girls	14	14	13	4	1	16	1	1	2	13	1	—	19	99
Children's homes (both sexes)	16	6	5	—	—	2	—	—	—	8	—	—	—	37
Homes for backward children (both sexes)	1	—	2	—	—	2	—	—	—	2	—	—	—	
<b>Total</b>	<b>134</b>	<b>90</b>	<b>81</b>	<b>9</b>	<b>3</b>	<b>83</b>	<b>13</b>	<b>37</b>	<b>5</b>	<b>69</b>	<b>12</b>	<b>3</b>	<b>54</b>	<b>593</b>
<b>Percentage</b>	<b>22.7</b>	<b>15.1</b>	<b>13.7</b>	<b>1.5</b>	<b>0.5</b>	<b>14.0</b>	<b>2.2</b>	<b>6.2</b>	<b>0.8</b>	<b>11.7</b>	<b>2.0</b>	<b>0.5</b>	<b>9.1</b>	<b>64.3</b>

The conclusions to be drawn from the above must naturally be taken with all reserve, since the grouping is to a great extent based on an estimate of the information obtained from the educational homes, while the information only gives the results for a single year, and results may vary widely in different years.

## CHILD WELFARE COUNCILS IN NORWAY

STUDY BY M. ERLING BROCH.

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### INTRODUCTION.

The growing recognition of the fact that the child is not a "grown-up in miniature" and that a child that falls into bad ways and comes into conflict with the law of the land cannot be treated like an adult offender — save for the application of a lower scale of penalties — had already set its mark upon Norwegian criminal legislation in the second half of last century.

The position had been reached that courts of justice were empowered to remove children between 10 and 15 years of age to a training institution instead of sending them to prison. Further, the Public Prosecution authorities were authorised to waive proceedings in cases where the child was thus removed to an institution. In the next place, both the local school authorities and the Poor Law authorities were invested with certain powers of intervention, if the circumstances in the child's home were such as to imperil its physical or mental welfare.

Experience showed, however, that these various provisions were not sufficiently effective. The Poor Law authorities, which usually alone possess a full knowledge of the facts, were inclined to be too much concerned about the expenditure of communal money which is the almost inevitable accompaniment of such intervention. The powers of the school authorities were limited as a matter of course to children of school age. Those of the Public Prosecution Department and of the courts did not include the possibility of removing children who were below the age limit within the meaning of the criminal law (in those days 10 years) on account of the misbehaviour of their parents. Finally, there were various obstacles in the way of any effective utilisation of the means provided by law, in that the right to decide upon intervention was not always accompanied by a corresponding right to authorise the necessary expenditure. That this circumstance entails a serious hindrance to effective action will be obvious.

During the last decades of the nineteenth century, Norway was gradually proceeding to a complete overhauling of its criminal legislation. In 1887, new rules of procedure in criminal proceedings were adopted, which laid down the principle of trial by jury for serious offences, and of trial by mixed courts<sup>1</sup> for lesser offences. In 1902, a new general Criminal Code was passed. Essentially, this Criminal Code is based throughout upon a draft code prepared by the celebrated criminologist, Professor, later Attorney-General, Bernhard Getz.

One of the main problems which engaged his attention in his work on criminology was the growing criminality among children at that time. Getz had been struck

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<sup>1</sup> *Translator's Note:* Meddomsrettsdomstoler — i.e., courts with one judge of the Bench of Judges and two lay assessors.

by, and had become a convinced believer in, the new idea of that time of "educating, not punishing". It was clear to him that a complete overhaul of the legislation and systematisation of the administration, as well as the setting-up of new machinery to carry this idea into effect, would be necessary. It is characteristic of him that he saw no difficulty in removing the question of the treatment of children, even those who had been guilty of criminal acts, from the scope of criminal legislation. This applied, moreover, not merely to the question of punitive retribution. He proposed that the whole of the procedure in trying these cases should be brought under a special institution, quite different from a court of law and invested with extensive powers. This institution, which, when the Government authorities took the matter further, emerged with the title of Child Protection Council (*Vergeråd*), forms the pivot of the whole new plan of organisation, and represents an innovation of a revolutionary kind.

Getz's scheme soon found general support, and underlies the reorganisation which took place, not alone in Norway, but later also in Denmark, Sweden and Finland.

The guiding ideas of Getz's proposal have been clearly and consistently set forth in his own statement of the reasons in support of it (written in 1892). An extract is appended, which is of great importance because it also gives clear expression to the ideas which continue to govern child welfare work in this field, even to this day :

" In advancing my proposal for public control, including, where necessary, provision for the education of the child, as set forth in this draft Law, I proceed from the idea that action in accordance with the said proposal is not only a duty devolving upon the community for the child's sake, but a rule of conduct of especial importance to the community itself and its future welfare and sound development. If this is so, the community should not shirk the expenditure — great or small — which the vigorous and systematic prosecution of this scheme will entail, but should bear in mind that this will be more than offset by economies effected in other directions — namely, reduced expenditure on the prosecution and punishment of offenders and the gain which will accrue from higher standards of honour and efficiency among the population. . . .

" When we approach the question where the decision should rest, the answer given in most cases is that it should be left to the Government officials, more particularly the courts of law, who could deal with these cases in accordance with the ordinary forms of judicial procedure.

" In Germany, however, this system has been modernised in many ways, since most of the States have handed over these questions to the Child Welfare Councils, which investigate and decide them by less rigid methods than are involved in the usual court procedure.

" In my opinion, it will not be satisfactory to assign these matters to the courts of law, whether they be courts of first instance alone or mixed courts. Neither of these arrangements would have much to commend it in questions that involve, not so much the proving and judging of specific acts, as the consideration of living conditions and of the whole character of parents and child alike. Very often such matters lend themselves but ill to the procedure of adducing proof in court, and require a personal knowledge which the magistrate and two chance lay assessors cannot be expected to possess. In these matters of sheer discernment, moreover, decisions by courts of the first instance or mixed courts might easily be uncertain and mutually inconsistent, and fail to offer those guarantees of soundness that should never be absent in such serious questions as the separation of the child from its parents against the will of the latter and the assuming of responsibility for it. To attempt to overcome this difficulty by

giving a right of appeal to a higher court is scarcely to be thought of. Both the Court of Assizes and the Supreme Court would, in such cases, be unsuitable as instances of appeal.

“ On the other hand, it is equally inadvisable to hand these matters over to the exclusive care of the communal authorities, whether they be the school or the Poor Law authorities or both together. In my opinion, it is objectionable *in se* to hand over to such authorities matters involving so essentially the exercise of the true functions of the State as decisions as to whether parents and children shall be compulsorily separated. In all such cases, particularly complete facilities for appeal to the really responsible State authority should be provided, but this is in fact scarcely practicable. The circumstance that cases can be pointed to in which legislation has overridden these considerations is no proof of their unsoundness. These communal authorities, whose composition may be altered completely from one year to the next and whose members may frequently be unfamiliar with the whole system, cannot be expected to satisfy all the conditions which are requisite for a sound decision.

“ The scheme which is proposed on the basis of all these considerations is the setting-up of a body representative of both local personal knowledge and expert knowledge, the narrower and the wider community, the lay element and the Government, the representatives in both cases being persons whose occupation brings them into close touch with the broad masses of the population.

“ There should, in my opinion, be no question of organising such a body as a real court before which proceedings should be conducted according to the customary rules of criminal or civil law. On the other hand, the present state of affairs, in which such decisions can be taken with a complete disregard of form, is without a doubt equally objectionable, it being an almost unique Norwegian characteristic to throw overboard those safeguards which, even in the most important matters, all reside in prescribed forms as soon as the decision rests with an administrative rather than a judicial authority. The scheme therefore provides for the convening of a meeting before which the parties concerned are summoned and by which they are entitled to be heard, whilst it is similarly laid down as obligatory that the circumstances of the child and of the home shall be investigated. True to its conception of the nature of such decisions, the scheme further provides that parents shall have a right of appeal to the supreme executive authorities, even though it is anticipated that, under the arrangements here contemplated, such a right will only be claimed in a few exceptional cases. . . .”

#### LAW FOR THE CARE OF NEGLECTED CHILDREN OF JUNE 6TH, 1896.

As already mentioned, Getz's ideas found general support; and the result was the passing of the Law of June 6th, 1896, for the Care of Neglected Children which, with a few amendments, some only of minor importance, is still in force to-day. The Law came into force on September 1st, 1900.

Its leading principles may be summed up as follows :

(1) As will appear from the title of the Law itself, it proceeds from the fundamental idea that the misbehaviour of children who call attention to themselves by breaking the law, or by otherwise getting seriously out of hand, should be considered under the heading of neglect — an indication that they are not criminals. Education, therefore, rather than punishment, is what is required, in one form or another. What these means of education are is specified in detail in the Law.

(2) The power to take a decision concerning the child is vested in a body of representative composition, the Child Welfare Council. This name again emphasises the fact that the idea of protection is the predominating consideration : the child is not to be punished, but to be watched over. Another cardinal point is that the decision shall not assume a judicial character. Decisions, except for those directing the child to the school-home — of which more anon — are open to revision at any time, at the instance either of the Child Welfare Council itself or of others. Judicial forms are not prescribed for the proceedings, but a certain elementary form must be observed.

(3) Except for the cases in which the child is removed to the school-home, the Child Welfare Council continues to supervise, and remains responsible for, the child whom it has decided to remove from its home. The child "remains in the safe-keeping of the Child Welfare Council" — within the age-limits specified in the Law — until the said Council otherwise decides.

### 1. *The Composition of the Child Welfare Council.*

Under the terms of the Law, a Child Welfare Council is to be set up in each commune and is to consist of the local magistrate, the priest and five members elected by the commune. Of these, one is to be a doctor practising in the locality. Previously, the Law was so worded that at least one and at most two of the members were to be women. It is significant of the present trend of development that this provision was completely deleted by the amendment of 1934, which owed its origin to the feeling that there was no reason to limit the number of women on the Council to two. Experience has shown that the work of the Child Welfare Council is carried out most efficiently by competent women.

The Law provides that the Council shall appoint its own chairman. Originally, it was the idea that the magistrate should *ipso facto* be the chairman, but this did not go through. The circumstance is not without interest. From the first, there was a consciousness of the fact that these are not matters in which the magistrate's point of view should predominate. Moreover, we shall probably be somewhere near the truth if we regard the final arrangements as reflecting a tendency to promote the claims of local self-government, which may assuredly be regarded as an outstanding historical and political characteristic in Norway.

The Law makes one exception to the Council's right to choose its own chairman. Where a permanent chairman is held to be desirable on account of the large amount of work involved, the Government appoints a person with the qualifications of a judge to fill the post. In that case, the local magistrate ceases to be a member of the Council. There are in all five such permanent chairmen : that is, in each of the four largest towns, and in one particularly densely-populated rural district. In this connection, it may be mentioned that, owing to the amount of work to be done at Oslo, four Child Welfare Councils have been appointed, but each of them with the ordinary chairman.

It is obvious that the Council's right to choose its own chairman lends great elasticity to the system. The current administrative work in intervals between full meetings falls upon the chairman — assisted, if need be, by a permanent secretary. If the Council has a capable chairman who takes a special interest in these matters, this will greatly increase the efficiency of its work. In practice, the right to choose a chairman other than the local magistrate is extensively exercised. Frequently, the priest is selected. Teachers who are elected to the Council are also not infrequently appointed chairmen. In the small communes where a whole year may elapse between questions for consideration by the Council — many of the Norwegian rural districts

are very sparsely populated — the choice of the magistrate as *ipso facto* chairman of the Council may seem obviously indicated.

As a critical appraisal based on the experience gained during the thirty-five years that the Law has been in force, it might be said that the institution has, on the whole, achieved the object in view and worked satisfactorily. Broadly speaking, there seems to be but little opposition to it, and there are hardly any prospects of any far-reaching modifications. Essentially, there are two objections which have been brought forward.

The first is that the machinery is too cumbersome, especially for rural communes covering a very large area, for whom the calling together of so numerous a body is both troublesome and costly. This objection may be said to have considerable force. On the other hand, it may be well to exercise some caution before abandoning those safeguards against mistakes that can only be afforded by such a very representative body.

The other objection is raised by people who take a keen interest in child welfare, some of them experts in social work. It is urged that the Council is too closely associated with the criminalistic outlook and is unable to divest itself of the tendency to regard children brought before it in consequence of some offence as delinquents. It is contended that one of the factors which contribute to this result is that the magistrate is *ipso facto* a member of the Council and unconsciously exercises a dominant influence. It is claimed that experience to some extent discloses this tendency. Without going further into the question at this point, we would stress the fact that this criticism is only applicable to a limited extent to the Child Welfare Councils of the great communes. That some uncertainty may prevail among Councils whose experience remains limited owing to the paucity of cases considered stands to reason. On the other hand, there are places in which the practical experience gained is extensive, and here there can be no doubt that the modern more humane point of view has, on the whole, gained the ascendancy.

The progress which the institution of Child Welfare Councils has brought in its train can be easily appreciated. The fact that most of the members are appointed by the commune is in accordance with Norwegian traditions, for the idea of local self-government is deep rooted in Norwegian thought and feeling. This comparatively numerous body makes it possible to bring interested persons with local knowledge drawn from every class and occupation into direct contact with important aspects of child welfare work. The system of free choice also serves another important purpose — namely, that of allaying that mistrust in the institution which is so apt to occur because the man in the street is unaware of what is really going on. The proceedings of the Child Welfare Council are conducted in private, for it has been found that public proceedings in judicial form are undesirable where children are concerned. It is with the object of counterbalancing this drawback that the Council has been made so numerous and representative. It is not uncommon for confidence in the Child Welfare Council to be strengthened by the fact that political opposition parties in the communes have secured the election to the Council of persons representing their views. On the other hand, there can be no question but that the popularly elected Child Welfare Council has done a great deal to gain support for the view that unruly and neglected children are not criminals. Again, there can be no doubt that a body composed as explained will find it easier to free itself from the criminalistic juridical outlook than a single judge with legal training.

As stated above, this institution has special drawbacks for small communes covering large areas. The machinery is heavy, and experience and practice limited. This, however, is not a major objection to the whole system. It is in the towns and in the densely populated rural areas that the urgent need for effective child welfare work makes itself felt.

## 2. *Competence of the Child Welfare Council.*

The Law empowers the Child Welfare Council to intervene in the following cases :

(1) When a child has been guilty of some specific punishable offence which is indicative of moral depravation or neglect.

(2) When a child has been guilty of such misbehaviour that neither the parents nor the school are able to control him, or where conditions are so precarious as to call for intervention by the Child Welfare Council.

(3) Whenever, on account of the parents' depravity or remissness, a child is found to be neglected, ill-treated or morally corrupted, or where there is danger of such moral corruption.

As will be observed, the cases really fall under two headings : points (1) and (2) cover cases in which the child has itself shown evidence of depravity ; point (3) covers the cases in which the intervention of the Child Welfare Council is based upon the behaviour of the parents or the conditions of the home. As regards points (1) and (2), it should be observed that, strictly speaking, these go together, since point (2) in its widest sense also covers point (1). Point (1) should, however, be viewed from the historical standpoint. There was a system of punishing children with which a break had to be made. According to the Criminal Law, a child over 14 may be punished, and it is for the Public Prosecutions Department to decide whether proceedings shall be taken. The Law of 1896, however, made it possible to waive proceedings and hand the child over to the Child Welfare Council — assuming that the child was within the age-limit set to the action of that body. As will be shown later, the age-limit was previously 16, but has now been raised to 18.

Subsequently, it became the practice to waive proceedings against children under 16 who had been guilty of some punishable offence, and this practice has been followed, so far as is known, without exception.

The protective power of the Child Welfare Council will be most obvious from point (3) of the above enumeration — viz., the power to intervene against parents who neglect their children. Here there is no question of any misbehaviour by the child. Moreover, the parents' actions need not include a deliberate offence. It is immaterial whether their neglect of their child has been due to indifference or vice, or to inability to keep order in the home, whether it be through weakness or incompetence. In either case, the Child Welfare Council is entitled to intervene for the protection of the child. Thus, the Child Welfare Council will frequently act as the necessary supplementary machinery to the Poor Law and public health services.

The Law does not make it incumbent upon the Child Welfare Council to take the initiative itself in bringing up a case. On the other hand, the Law also contains no provision to the effect that cases must be brought before the Council in some particular way. The setting in motion of the Council machinery may therefore be effected in a variety of different ways. Usually, there is a report from the police, authorities accompanied by a notification that proceedings will not be taken. Further to this, a whole series of reports comes in from the schools, the health committees and the Poor Law authorities. Private information from relatives or friends, especially regarding unsatisfactory conditions in the home, are not infrequent. Generally speaking, the Child Welfare Council regards itself as entitled, and in duty bound, to take up cases irrespective of the source from which the information may happen to come. Finally, applications from parents for help in dealing with unruly children who share a tendency to fall into bad ways are of general occurrence. This is of the greatest value.

If the Child Welfare Council can succeed in gaining confidence from the start, so that the public looks upon it rather as a helping than as an awe-inspiring and punitive institution, this will greatly conduce to effective work. And it may indeed be said that the development so far has taken place on the right lines. Despite the difficulty of the type of work involved — there are few questions in which feelings play so great a part as in that of the relations between parents and children — the work may be said to have proceeded smoothly so far. This circumstance is regarded as attributable in no little degree to the representative character of the Child Welfare Council.

It has, however, recently been urged from various quarters that provision should be made for a more effective procedure of revision of the Child Welfare Council's decisions before a higher authority. As the law now stands, there is a right of appeal to the Government department to which the child welfare institution is attached (Church or Educational Department). The material on which this Department can work is bound in all cases to be very incomplete. The considerations based on sheer judgment, which underlie the Child Welfare Council's decisions, are always derived from oral proceedings at which the parents and mostly the child itself are present, and therefore escape all criticism. Experience shows that the Department is led regularly to confirm the Council's decisions. The principal safeguard against excessive measures resides therefore, as repeatedly stressed, in the representative character of the Child Welfare Council, and in the fact that most of its decisions can be modified by the Council itself.

### 3. *The Powers of Decision of the Child Welfare Council.*

The decisions which the Child Welfare Council is lawfully entitled to make are the following :

(1) The Child Welfare Council may summon the parents or child to appear before it, and give them a general warning or admonition. This right is very frequently exercised. Before contemplating the very serious step of separating the parents and children, it is natural, as a matter of mere humanity, to follow, so far as possible, a tentative line of action.

Such a warning by the Council in session may be of some value, mostly perhaps as an inducement to the parents to give their attention to their child.

On the other hand, the law gives no power to place children who have not been removed from their homes under the special supervision of the Child Welfare Council, or to place the less satisfactory homes under control. It is not infrequent, however, for parents to place themselves voluntarily under such supervision in order to avert more serious measures.

(2) The Child Welfare Council may decide to remove a child from his home and to place him in a respectable and reliable family, or in a reputable children's home. The child may, on the other hand, be apprenticed to some trade or commercial occupation, or signed on as a ship's boy.

By far the greater number of children whom the Child Welfare Council removes from their homes are provided for in this manner. — This is particularly true, naturally, of those cases in which the Child Welfare Council acts because of the unsatisfactory nature of the home or of the parents. Experience shows, however, that a change of surroundings may also prove extraordinarily beneficial to children who are showing tendency to go definitely wrong. For instance, a couple of years with a family in the country, among good, sound folk, will often do wonders for town children who are accustomed to street life. Whether the child should be placed in a family or



in a children's home is a question which the Child Welfare Council has full freedom to decide itself. As for the guiding principles so far followed, there is no reason to discuss them at length here. It should merely be mentioned that both methods of dealing with the child have their convinced advocates. Each case is, however, carefully examined on its merits. It may be added that the number of children's homes in Norway is too small compared with total requirements. The scattered building in Norway, where the system of country villages is unknown, also provides specially good conditions for the boarding-out of difficult children, who require restful and, to some extent isolated surroundings in order that their ship may sail back into peaceful waters.

The child thus boarded-out remains under the Child Welfare Council until that body otherwise decides. The Council is, moreover, obliged to satisfy itself that the child is being properly treated. The supervision can be conducted by the Council itself through the agency of its own members, through permanent officials, or through specially appointed supervisors from among the neighbours.

(3) A child over 9 years of age which is found to be so "morally depraved" that there would be some risk of his having a corrupting influence upon others in a general school may be sent to a school-home by decision of the Council. School-homes are boarding institutions in the country specially designed for boys and girls, which take their children exclusively from the Child Welfare Council. The State is obliged to provide school-home accommodation sufficient to meet demands. The length of stay in the school-home (within the legal age-limits, of which more anon) depends essentially upon the decision of the headmaster. The time varies considerably according to the nature of the case, running from one or two years up to six or eight years. The average period of stay is two and a half years. The child may be discharged on probation, provided the school-home retains the power and right to bring him back again. This is the general practice.

It should be observed that, when a child is handed over to the school-home, the Child Welfare Council ceases to have any power over him. Removal to a school-home is therefore, an exceptional measure since the school-home has exclusive control of the child.

On the question whether the treatment in the school-homes is in accordance with the views advanced by specialists in this field, it should be observed that, at the beginning of the century, the objective aimed at was more the direct disciplinary treatment of children than it is now. Some stipulations were made, it is true, with regard to the development and comfort of the children, but not so strongly or consistently as now. The desire to draw out and develop the better side of the child is now certainly the dominant factor.

The original intention of the law was presumably that removal into the school-home should entail, so far as possible, a real separation from the child's home. Experience has shown, however, that this is possible only in rare cases at the ages here contemplated, and that a real severance of home ties — even if it were possible — is a very doubtful blessing. Such a child, after being discharged, will, indeed, no longer fit into any class of society. The school-home should not, as the children's home constantly does, replace the child's own home. It should seek co-operation with the latter. Experience indicates that, whilst some home conditions are no doubt bad, others are merely the result of weakness and lack of comprehension, whilst some again are good.

All the school-homes now have the necessary resources to provide effectively for the development and well-being of their charges. In this way, satisfactory conditions are created for the real work of education, moral influence and development

of good habits. A great deal can be done with many a difficult child, given an abundant and fairly efficient staff, a properly-ordered daily routine with healthy occupations, and open-air life under control, school and workshop occupation, gardening, domestic crafts, housework, etc.

For really perverse or corrupted children, two of the school-homes have equipped special, more or less closed, departments.

(4) The Child Welfare Council may decide to remove the child to a "compulsory school" either finally or temporarily under observation. These "compulsory schools", which have been given a particularly unprepossessing name in the Law, are a very important feature of the welfare work of the Child Welfare Council. They are boarding institutions that are established by the various large communes, with the main object of providing facilities for a careful and systematic observation of children. Such observation is of the greatest importance. The object in view is, so far as possible, to gain a clear idea of what is wrong with the child, what its mental peculiarities are and, in some instance, how deep-rooted its perversity is. The answer cannot often be obtained without lengthy observation. It is, on the other hand, frequently found that a shorter stay in these schools is sufficient to restore the child's balance, and thus to render any more extreme measures unnecessary. It is difficult, or impossible, to judge the mentality of an adult merely from his or her misdeeds. So far as children are concerned, however, it is infinitely more difficult. The reasons — ethical, rational and even economic — frequently lie on quite a different plane from those of adults. To use the illustration of one of our first school-home experts, thieving among children is in the same category as that phenomenon of sickness, fever. It is a symptom showing that something is wrong. But, just as fever may be the outward sign either of a mild or of a serious disease, so it is impossible to judge of the depravity of a child exclusively by the objective contemplation of the kind and the degree of heinousness of the theft.

If the Child Welfare Council removes a child to the compulsory school for exclusively disciplinary purposes, the Law limits the length of stay to one year. The record of these schools has been excellent. They play a very important part in making the Child Welfare Council's work effective.

(5) When a child is taken from its family and placed elsewhere, the Child Welfare Council may at the same time divest the parents of their powers as such and so deprive them of any connection with the child in the future.

No doubt, when the Law was drafted, it was imagined that this provision would be applied comparatively often. This, however, has not been the case. There are, in fact, objections to any attempt to sever all family connections. Experience seems to show, indeed, that the material means available for separating the parents from the child are sufficient. But attempts to break asunder the strong bonds of affection between parents and children by binding *judicial* decree frequently prove futile. It is difficult, nay impossible, to overlook the psychological consequences both to the parents and to the child. Only in one instance is the withdrawal of parental power regularly necessary. It is a feature of the campaign against habitual vagrancy that the child should be taken away from the parents and placed in a children's home as quickly as possible. In the case of such children, it is held to be necessary that the parents should be deprived of their power.

#### 4. *Age-Limits.*

Under the Law of 1896, the Child Welfare Council's power of intervention was limited to children under 16. Any child brought under the protection of the Council below that age remained in its care until it completed its 18th year, unless previously

discharged. Children in the school-homes might, in some cases, remain under the authority of those homes until they had completed their 21st year (as already explained, this does not mean that a child necessarily remains in the school-home until the time-limit is reached, discharge on probation at an earlier date being the usual practice). Again, a child under 9 cannot be sent to the school-home, nor can children over 15 be removed to the compulsory school.

Under the Law of June 6th, 1930, which was brought into force in 1934, there was a considerable extension of the Child Welfare Council's sphere of authority, it being empowered to deal with children between 16 and 18 years of age. In connection with this, it was decided that the children would or could remain under the authority of the Child Welfare Council (or school-home) until completion of their 21st year.

It is self-evident that this development entails, both quantitatively and qualitatively, an important extension of the Child Welfare Council's work.

It was the general view that the age-limit of 16 was unsatisfactory, especially in the case of girls. The period between 16 and 18 years of age is perhaps the most dangerous of all, in respect of sexual and moral depravation. Now as regards the girls who are brought under the care of the Child Welfare Council on account of dangerous tendencies or weakness of character, experience showed that it was quite unreasonable for the power of the Council to cease at the 18th year.

In the case of boys, it was also unanimously held that an extension would be necessary. In the large towns in particular there is grave danger that boys will fall into bad ways, and unemployment plays no little part in this. Idleness and the free tempting life of the streets frequently have fateful consequences. The trouble is that this difficulty is not to be overcome by a mere extension of the authority of the Child Welfare Council. Such an extension also presupposes facilities for conducting educational activities. For this reason, the school-homes have been reorganised in such a way as to introduce a differentiation by age groups among the children taken in. The homes which take the older children are, moreover, equipped with the necessary facilities for the commercial training of children who are fitted for it.

In this connection, it is important to mention that the legislation on Child Welfare Councils is supplemented by a Law of June 1st, 1928, concerning the educational treatment of young offenders. This Law makes it possible for the criminal courts, in appropriate cases, to order offenders between 18 and 23 years of age to be sent to a work-school for training in lieu of punishment. This is a further development of the educational principle underlying the legislation on Child Welfare Councils. The Law has not yet come into force, but it is hoped that this will occur in the near future.

It should be stressed that the raising of the Child Welfare Council age-limit from 16 to 18 years is expected to produce far-reaching effects by the mere fact that the possibility of intervention exists. Experience has shown that in the past, delinquent children proved fully capable of taking advantage of the fact that, once the 16th year had been safely passed, the Child Welfare Council was powerless to deal with vagrancy or misbehaviour in the home. This was specially true of girls. The Council was completely helpless in the face of many difficult cases in which parents applied to it for assistance to deal with girls in their 16th year who were tending to go wrong.

##### *5. Details of the Child Welfare Council's Field of Work.*

The Law lays down that, before a decision is taken, the parents or persons acting in their stead must, so far as possible, be given an opportunity of stating their position verbally or in writing, and that thorough enquiries must be made regarding the

person and attitude of the child and the conditions of the home. Where danger is imminent, however, the Child Welfare Council, or if need be its chairman, may take a preliminary decision to remove the child from its home in order to secure a hold over it or protect it against the neglect and ill-treatment of the parents.

One exceedingly important feature of the work is the investigation which is undertaken at the Council's own initiative prior to proceedings before the Council in session. The Council is entitled to seek the assistance of the police in this investigation; similarly, reports are called for from the school and from the Poor Law and other authorities. The tendency is observable, however, especially among the larger and more experienced councils, to limit the active assistance of the police to a minimum. The Council endeavours so far as possible to conduct its own enquiries, and this is particularly true of the investigations into home conditions. As a regular rule, these are carried out in one of two ways. The chairman calls upon one or two of the Council members to visit the home in person and, as a first step, to get a general idea of the position by conversations with the parents and child; if necessary, the result is checked by enquiries from the neighbours or from other persons who are acquainted with the facts. Alternatively, the preliminary investigation may be entrusted to the Council's permanent secretary where such an official exists. Only experienced persons, teachers, communal officials and the like, are appointed secretaries.

These confidential preliminary conversations are often of the greatest value. Not infrequently, they are sufficient to bring about a complete mutual understanding.

So far as the meeting itself is concerned, it is conducted behind closed doors. The Law makes it possible to conduct the proceedings in the full judicial form, and invests the Council with the necessary powers for the purpose, providing for the production of evidence, the swearing-in of witnesses, the keeping of records, etc. In practice, however, such forms have been rejected and no doubt rightly so. The production of evidence occurs but little and the proceedings take the form rather of informal conversations, at all events in the more experienced and practised councils. Here, again, the tendency is to eliminate so far as possible every suggestion of criminal law. This form, or rather formlessness, has the great advantage that it makes it much easier for the Council to get to grips with these difficult, and often psychologically complicated, cases. It removes the danger of a mechanical appraisal of guilt based upon consideration of the mere externals, thereby obviating a more or less punitive reaction. Frequently, unanimity is reached as to the line to be taken and the parents have the feeling that they are co-operating in the measures ordered. The advantage of this cannot be over-estimated. Nevertheless, some of the less-experienced Councils are at times somewhat apt to lose sight of the difference between a court session and a Council meeting. This, however, may be regarded as exceptional.

In carrying its decisions into effect, the Child Welfare Council is entitled to call for the assistance of all public servants. The co-operation between the Child Welfare Council and the Poor Law authorities, in particular, is very extensive.

The law requires that the Child Welfare Council shall exercise regular supervision over the children whom it has removed to institutions or homes (except for school-home children). In so far as the supervision is not exercised by the members of the Council themselves, it can be entrusted to other suitable men or women. This last practice is appropriate, in particular, where the child has been sent to another commune. The Child Welfare Councils of the large communes usually organise tours of inspection by permanent officials, since experience has shown that the other form of supervision does not always work quite satisfactorily. The problem of effective supervision is, on the whole, one of the most difficult that the Child Welfare Council

has to solve. That is why the greatest importance is attached to the careful selection of the home in which the child is to be boarded, for, in the long run, the suitability of the foster-home will be the decisive factor in the results achieved.

#### 6. *Financial Position.*

The main rule under the Law is that expenses in connection with children boarded out in families or children's homes shall be defrayed by the commune, whilst payments to the school-home are met by the Government, a grant for a limited amount per child being made by the commune concerned. The expenditure of the compulsory schools is borne by the communes under the heading of general school expenditure, with, however, a limited Government grant for each child. It should be observed that the expenditure entailed by the decisions of the Child Welfare Council is not subject to revision, the commune or the Government being unconditionally liable. Another thing is that the arrangements naturally contemplate a certain co-operation between the Child Welfare Council and the paying authorities. This is especially true of the relations between the Child Welfare Council and the commune.

Expenditure connected with the administration of the Child Welfare Council, office expenses, secretarial assistance, journeys of investigation or inspection, etc., were borne by the Government in accordance with the Law of 1896 ; the same applying to the salary of the permanent chairman. Under the Law of May 20th, 1927, these arrangements were changed in such a way that, except for the salary of the permanent chairman and the expenses of members travelling to Council meetings, the administrative expenses, were passed over to the commune. This change, which was made with a view to effecting economies, is open to very serious objections and can scarcely be regarded otherwise than as a retrograde step. Especially in the smaller communes, there is the risk that the effective work of the Child Welfare Council will be hampered by short-sighted enthusiasm for economies.

#### 7. *Suggestions for Reform and Criticisms.*

(1) In accordance with the unanimous view of criminologists, members of the Child Welfare Council, staff of the school-homes and other persons connected with social work for children, the scope of the Council's work was extended to include young people between 16 and 18 years of age. This reform is of such recent date that it is impossible to judge as yet whether the machinery is adequate to cope with the consequent extension of the Council's activities. That is a matter for future experience.

(2) A serious gap in the work of the Child Welfare Councils is caused by the dearth of special homes for such psychopathic or mentally deficient children, as cannot be regarded as completely mentally diseased or completely abnormal, but are yet defective to such an extent that they cannot be trained to manage their own affairs. A large number of these children are cared for in the school-homes, where they act as a dead weight, hampering the efforts of the staff to train the children who are capable of development. When they come out they cannot look after themselves, and help moreover to lower the reputation of the school-homes among the general uninformed public. That the defects attaching to such institutions are injurious to effective work by the Child Welfare Councils is obvious. This question has latterly received much attention in discussions among specialists, and it may therefore be hoped that the problem will ultimately be solved. It is, however, a question which must be solved by the initiative of the Government and with Government money. The communes cannot be expected to bear this increased expenditure.

(3) As already mentioned, voices have been raised at various periods suggesting that the magistrate should not be a member of the Child Welfare Council, so that the Council may be freed from every suggestion of a court of justice. How far this tendency will prevail in the course of time is a question on which an opinion can scarcely be expressed as yet. It might perhaps be contended that the time has not come, especially at present, seeing that the functions of the Child Welfare Council have been extended to include young people between 16 and 18. It might also be asked whether the presence of the magistrate does not, in many cases, strengthen the authority of the institution, which is a matter of some importance in relation both to the general public and communal authorities, and to the Public Prosecutor's Department and police. It should be specially remembered that the Public Prosecutor's Department is not obliged to hand over to the Child Welfare Council all young people under 18 years of age who have been guilty of criminal acts, but can lodge a charge. It is, moreover, not inconceivable that a completely independent magistrate may serve a useful purpose as a specialist and a corrective influence against decisions based on insufficient grounds and influenced by local opinion and feeling.

There may, however, be some substance in the criticism which is raised now and again by experts in social work, that not all judges or representatives of the Public Prosecutor's Department lend a sufficiently ready ear to modern ideas for dealing with juvenile crime. A little educational work in this direction by the central authorities and the Government might be appropriate.

(4) As already explained, the institution of Child Welfare Councils is somewhat cumbersome for the small communes covering large areas, but these are also the places in which it is least needed.

(5) There is a very strong body of opinion which stresses the advantage of bringing all public work in favour of children under the administration of the Child Welfare Council. It is urged that this centralisation should in particular bring the work of the Poor Law Department and of the health authorities in this field under the Child Welfare Council. In some quarters, on the other hand, the view is taken that the Child Welfare Council should be fitted, as a subordinate branch, into the general setting of social welfare work for children. Again, it is said that all such work for children should be centralised under a special department at the Ministry. Two commissions set up by the State have worked on these questions without the Government authorities having so far found it necessary to define their position. The general characteristics of the country, the great variety of local and economic conditions render this problem difficult, and there is no unanimity on the subject even among the specialists. In any case, the question is not yet ripe for a final decision and, generally speaking, there is no really serious movement in favour of reducing the independence of the Child Welfare Council. On the other hand, several of the larger communes have made arrangements to organise co-operation between various institutions, this being specially true of relations between the Child Welfare Council and the social welfare organisations. With regard to this last-named co-operation, the view is sometimes taken that it may involve some danger of the communal economic interests exerting undue influence in the question of financing effective work by the Child Welfare Council.

Finally, the tendency towards order and organised co-operation in child welfare work has found expression in the creation of a voluntary council of associations and institutions engaged in this field. This council bears the name of the "Norwegian Child Welfare Council" and is in receipt of a State subsidy.

### 8. *General Experience and Results.*

It would obviously be very difficult to adduce definite figures to show the results achieved by the institution of Child Welfare Councils. There are so many factors which influence juvenile criminality at various times and there are fluctuations which are difficult to explain. Moreover, we are precluded from bringing any counter-evidence or enquiring what the position would be if this new system had not been introduced. It may, however, be worth while to quote a statement on page 18 of the Norwegian Criminal Statistics for 1923 and 1924, which reads as follows:

“ It is curious to note that it is precisely the turn of the century — that is to say, the time when the care of neglected children by Child Welfare Councils was first instituted — which seems to have brought a change for the better in criminality among young men.”

Various investigations have been made of late years in connection with the subsequent fate of the Child Welfare Council child. The late Dr. Sigurd Dahlstrøm, together with Mlle. Signy Arctander, in 1932, published a work entitled “ What is the position regarding Child Welfare Council children ? ” In addition, Mlle. Arctander, in 1936, published the results of further comprehensive studies in an extensive work entitled : “ Child Welfare Council Upbringing and Its Results : Comparative Statement of Foundation, Staff and Development ”. The essential object of both works, which deal with conditions in Oslo, is to provide material with a view to determining the line to be followed in dealing with these children.

In any case, it may be stated with some confidence that, in view of the experience gained during the last thirty-five years, none will be found among responsible and well-informed people to suggest that the institution of Child Welfare Councils should be abolished *in toto*. Modifications and minor alterations are conceivable. But it can be asserted that any suggestion of complete abolition or drastic alteration would not be a matter of practical discussion at the present time.

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## CHILD WELFARE COUNCILS IN SWEDEN

STUDY BY M. AKE BYLANDER.

### INTRODUCTION.

Swedish mediæval laws did not distinguish between civil majority and the age of criminal responsibility, as with few exceptions a man came of age in both respects at 15. In 1721, legislation was introduced raising the majority under civil law to 21. The age of criminal responsibility remained unchanged, though it was provided in 1721 and in a subsequent law of 1734 that penalties could be inflicted before the age of 15. As a rule, however, the age of the offender was taken into consideration in fixing the penalty.

In 1832, a Committee of the Riksdag, in submitting a draft Criminal Code, laid down the principle that legislation should not only provide penalties as a warning to the criminal, but should also aim at his improvement. The Criminal Code, which was finally adopted in 1864, fixed the age of criminal responsibility at 15. Children of 14 years but under 15 years who had committed crimes liable to the death penalty or to hard labour for a term of over two years might, however, be sentenced to hard labour for four years in lieu of the death sentence or hard labour for at most two years in lieu of a longer period. Otherwise, children under 15 years were not liable to punishment, though, according to Chapter 5, § 1, the Court could, if it thought fit, order a child to be chastised in its own home by its parents or guardians or placed in an educational institute (*Uppfostringsanstalt*).

This is the first reference to educational institutes for children in Swedish legislation, though it had been provided in Royal Decrees of 1619 and 1624 that vagrant children should be placed in children's homes until they could be provided with work, and such a home was opened at Stockholm in 1625. From about 1723, workhouses or so-called "spinning-houses" for older children were also opened in various towns.

The above institutions were considered unsatisfactory even at the time, as little distinction was made between inmates of different ages and sexes.

A Royal Decree of 1798 provided that persons guilty of serious crimes should not be brought together with persons guilty of minor offences. In succeeding years, however, complaints continued to be made regarding the unsatisfactory conditions in prisons, especially in respect of juvenile offenders.

These complaints eventually led to the above-mentioned reform of criminal legislation in 1864, under which juvenile offenders were no longer to be sent to prison but to a general educational institute. It was not, however, until 1876 that the first institutions of this kind were opened. But experience soon showed that these institutions were inadequate to cope with the decline in morals which was observable in the rising generation of that period.

The important changes in the legislation which took place in 1902 may be said to originate in two motions, submitted by private members of the Riksdag of 1896, recommending the adoption of "measures for affording suitable education to juvenile offenders and erring or morally neglected children". In support of this recommendation, the statistics contained in Annexes 1 and 2 regarding young offenders were put



forward (for purposes of comparison statistics regarding the population of Sweden from 1890 to 1934 are given in Annexes 3 and 4). In view of these and similar statistics of other European countries, which showed practically the same result, it was proposed that the State should take preventive measures. It was shown that, in England, for instance, criminality among minors was on the decline as a result of legislation for the opening of various kinds of reformatories. The motion was adopted and a Committee was formed which subsequently split up into two groups, one to investigate the question of juvenile offenders and the other to deal with erring and morally neglected children.

### 1. *Committee on Juvenile Offenders.*

The Committee, from the outset, expressed the principle adopted in the Criminal Code of 1864 (Chapter 5, § 1) that a criminal act committed by a child should not *prima facie* be regarded as an expression of conscious criminal desire, but rather as a proof that the child was not receiving proper upbringing. In such cases, a penalty should not be imposed, but suitable chastisement should be applied and the child should be removed from its home and brought up by other persons. The experts were in favour of keeping the age of criminal responsibility at 15 years, so that a penalty should not be imposed on any person under that age. On the other hand, it was thought that absolute criminal responsibility should not invariably begin at that age. The Committee considered that the educational means applied to persons under 15 years might also be usefully applied to persons over 15 years who were still undeveloped on account of neglected education or other unfavourable circumstances. The Committee therefore proposed a transitional period from the age of 15 to 18 during which a judge could substitute educational measures for a penalty in view of the inferior development of the minor. The Committee also considered it extremely useful that the Court should be entitled to apply corporal punishment instead of a fine in the case of certain persons over the age of criminal responsibility, if they had not passed the age when corporal punishment might be effective. It was also proposed that particular importance should be attached to the minor's development and that he should only be placed in an educational institute if such a measure could be expected to bring about the desired result.

On June 27th, 1902, a Law amending the Criminal Code was adopted and came into force on January 1st, 1905. Two further laws were issued on June 27th, 1905, regarding (1) the execution of the Court's Order regarding compulsory education and (2) certain provisions regarding the procedure in criminal cases concerning minors.

The Hall Institute, opened in 1876 at Södertälje, was then converted into a home for erring children in order to comply with the provisions of the new legislation relating to erring and morally neglected children, and the State undertook to establish a general educational institute.

Two general educational institutes were then opened, one for boys at Bona and one for girls at Viebäck.

The amendments made in the Criminal Code were briefly as follows: the age of *complete* criminal responsibility was raised to 15 years, whereas formerly children over 14 years but under 15 years might be sentenced to death or to hard labour if they were proved to possess sufficient discretion to understand the criminality of the act. Thus the provisions of the Criminal Code were brought into complete agreement with the Law regarding the education of erring and morally neglected children; under this law the Child Welfare Council is entitled with certain exceptions to take action until the age of 15 years.

The Criminal Code provided for exceptions in the sense that juvenile offenders from 15 to 18 years, instead of being sentenced to punishment, might be placed in a general educational institute, provided the Court considered such a step advisable in view of the character and environment of the minor and the degree of his development.

In 1896, Sweden had nine private institutes for juvenile offenders and erring children, with 414 places, of which 351 were occupied.

## 2. *Committee on Erring and Morally Neglected Children.*

This Committee, in referring to the statistics provided by the Committee on Juvenile Offenders, pointed out that, if the State were to be in a position successfully to combat criminality among the rising generation, it was not sufficient to take action merely against youthful offenders. In order to bring about a substantial and permanent improvement, the measures taken by the State should relate not only to children already convicted of offences, but also to children whose depravity and refractory character gave reason to fear that they would become dangerous to the community, or who had grown up under the influence of criminal or vicious parents or under other corrupt influences. The experts considered that, in dealing with juvenile offenders and erring children, suitable educational measures should as far as possible be taken. They pointed out that measures for improving and rescuing erring and morally neglected children had hitherto not been lacking and that there were many associations for the purpose. Frequently, however, there was a lack of uniformity in this social work and, in the absence of direct legal provisions, the result was not as good as might have been expected. It was therefore considered desirable that the State should take action, not only by enacting legislation which would make for uniformity, but also by endeavouring to organise more effectively the social activity carried out by the State or by private charitable organisations.

The Committee naturally also considered the increase in criminality and moral depravity. In order to form an opinion of the extent to which morals had declined, the Committee requested all the School Councils to supply information regarding the number of children born from 1882 to 1889 and in the year 1896 within the various districts who could be considered as erring or morally neglected (see Annex 1). According to this information, there were 884 erring boys and 154 erring girls, and 2,632 morally neglected boys and 1,426 girls, making together 3,516 boys and 1,580 girls requiring education specially adapted to their case. These figures cannot naturally be considered as giving an exact picture of the actual position, since depravity and moral neglect depend to a great extent on subjective views, while an exhaustive reply naturally demands such extensive and thorough individual knowledge that this requirement could not be considered as fulfilled. It may be assumed that the information supplied represented a minimum, since there was reason to believe that the persons furnishing the particulars had only recorded cases of conspicuous depravity or moral neglect. Information was also obtained from magistrates, police stations and district officers relating to the number of children between 14 and 15 years who were guilty of serious depravity without having been brought before the courts (see Annex 2).

In 1896, private associations possessed four homes for erring and morally neglected boys, containing together 200 places (of which 172 were occupied), and two homes for girls, with 60 places (of which 52 were occupied).

At the beginning of the twentieth century, there were also a large number of societies which, though they did not themselves possess special institutions for erring or morally neglected children, endeavoured to provide care and education for such children by boarding them out in families.

It may be of interest to summarise the material and legal position in respect of juvenile offenders and erring or morally neglected children at the beginning of the twentieth century.

The great change in economic and social conditions brought about by industrialism had far-reaching and harmful effects in Sweden, and resulted in extensive criminality and moral decline among young people. The fact that this evil made itself felt principally in large towns, especially among industrial workers, gave a clear indication as to its causes. A memorandum on social questions written at the time contains the following remarks :

“ Industrial work carried on continuously at high pressure night and day and employing large numbers of women cannot fail in many cases to have a disastrous effect upon the family conditions of industrial workers. There are also many attractions for the workmen outside their homes, especially in the towns. The temptation to indulge in drink becomes irresistible for many, and the result is a decline in working capacity which makes it more difficult for the parents to take care of their family. It is obvious that the children's development must suffer from such conditions.”

The memorandum goes on to refer to the bad effect of unsuitable dwellings, as a result of which several families live together in small apartments and the children come into contact with people of questionable morals. The memorandum deals finally with the removal of the children from parental authority and the problem of the employment of minors in industry.

In view of the above remarks on social and economic conditions and of the figures relating to the number of juvenile offenders, etc., it was obvious that the time had come to endeavour to bring about a more healthy development by direct State measures.

On June 13th, 1902, the second of the important laws on the welfare of children and young people was passed — namely, the Law referring to the education of erring and morally neglected children, which came into force on January 1st, 1903.

§ 1 of this Law provided that proper education should be given to children under 15 years, who, on account of the viciousness, neglect or incapacity of their parents or guardians, were morally so neglected that special measures were regarded as necessary, or who were so depraved that the educational means provided by the home and the school were found insufficient. Under certain circumstances, children could also be dealt with after the age of 15 years. Under § 12, a child who showed particular depravity shortly before its 15th year could be admitted to a so-called protection home (*skyddshem*), even after it had reached the age of 15, but not after 16.

In each school district there was to be a Child Welfare Council (*barnvårdsnämnd*), which was, if necessary, to take charge of the children in accordance with the provisions of the Law. It was at this time (1902) that the foundation was laid for the social organ which at present deals with public child and youth welfare work in Sweden. Though the work of the original organ was considerably increased up to the year 1935, its theoretical form has not undergone any considerable change.

This State organisation, which has for a long time set its mark on Sweden, is characterised by an extensive measure of self-government; the people participate directly in certain administrative tasks not only of a purely communal, but also of a State, character. Long before the beginning of the twentieth century, for instance, the administration of poor relief had been transferred to the primary administrative units known as communes, and it was therefore quite natural that the administration of child welfare — although incontestably a State matter — should be transferred

to a communal organ. The communal organ — the Child Welfare Council — was thus introduced on the model of corresponding organs which had been created at that time by the neighbouring countries, Denmark and Norway. It was not, however, made an absolute rule that the Child Welfare Council should comprise only one commune. In places where there was no special Child Welfare Council, the work was carried out by the school council or the authority which otherwise constituted the school administration in the commune. In communes where special Child Welfare Councils were found to be necessary, the vicar or his substitute acted as chairman, while at least four members of the Council known for their zeal in respect of child welfare were appointed by the church council for a period of four years. Women appointed as members of the Council were entitled to resign at any time. It will be seen from the above that the Child Welfare Council was appointed by and belonged to the church commune; this is no longer the case.

The Council's discussions regarding children were to be attended, not only by the so-called district representative, but also by the elementary-school inspector of the district and the teacher from whom the child last received instruction.

The preventive measures which the Council had to take, if necessary, were: (1) an admonition to the parents to fulfil their educational duties better; (2) a warning to the child; (3) corporal punishment carried out in the presence of an unobjectionable witness; and (4) supervision over the child.

Should such preventive measures prove useless, the Council had the right to remove the child from its home, so that it might be cared for and brought up by others. If the parents did not give their consent in writing to the Council's decision, the latter must within 14 days submit the matter for the decision of the provincial administration. An appeal against the decision of the provincial administration must be made to the King, but the Child Welfare Council had no right of appeal.

Children taken in charge by the Council could be transferred to a private home, a children's home or a protection home.

The 1902 legislation on erring and morally neglected children involved a complete change in public social work in respect of children and young people, but the hopes attached to the legislation were for certain reasons not entirely fulfilled. Very little advantage was taken of the possibility granted to the communes to appoint special Child Welfare Councils. Of the school districts amounting to 2,298, it was found that only 114, or 5%, had appointed such boards; in addition, the need for uniform child welfare legislation made itself felt, and it was also found desirable to make action possible in a greater number of cases and at a higher age than was provided in the 1902 legislation. The statistical data for the activity of the Child Welfare Councils from 1908 to 1915 in respect of erring and morally neglected children are contained in Annexes 5 and 6.

By a Royal Decree of June 21st, 1907, the so-called Poor Relief Legislation Committee was requested to prepare a draft amendment to the Law on Poor Relief. After the Committee had done so in 1915, it was authorised, in connection with work relating to the revision of the 1902 Law on the Care of Foster-children, also to consider whether and to what extent the Law of June 13th, 1902, regarding the upbringing of erring and morally neglected children required to be revised and to prepare a draft on this subject. In 1921, after the Committee had put forward a draft in 1915 regarding juvenile offenders, a memorandum was submitted containing a draft Law on Public Child Welfare. After a large number of authorities had had an opportunity of expressing their opinion, certain experts were requested to study the memorandum, and the draft Law was finally submitted to the Riksdag in 1924; it was adopted by the Riksdag, and the Law on Public Child Welfare was issued on June 6th, 1924, together with the executory regulations.

### LEGISLATION.

Before a detailed account is given of the present organisation and work of the Swedish Child Welfare Councils and of the existing legislation on the subject, it may be advisable to report on Swedish penal legislation in so far as it relates to juvenile offenders.

#### 1. *Penal Legislation regarding Juvenile Offenders.*

The fundamental provision regarding the criminal responsibility of minors under Swedish law is to be found in the *Criminal Code, Chapter 5, § 1*, which reads: " Acts which are otherwise punishable shall not be punished if they are committed by children under 15 years ". The present wording of the provision was adopted by a Law of June 27th, 1902.

In view of the difficulty of formulating a uniform conception of responsibility, Swedish experts on criminal law have defined irresponsibility, which they have made to include a number of conditions giving rise to illegal actions by irresponsible persons which are exempt from punishment. Under Swedish law, these conditions are: (1) lack of development (*a*) in the case of minors and (*b*) in the case of persons whose development has been arrested by non-pathological causes; and (2) insanity. Swedish legislation has in the past been based on the principle that, in order to be liable, persons must have sufficient discretion to realise the criminality of their acts. In recent years, there has been a tendency to raise the age of responsibility, and this movement has been assisted by the modern view that, in the case of juvenile offenders, punishment should be replaced by educational measures. In practice, three different systems have on the whole been followed. The first is the French system in its original form, under which a relatively high age-limit was fixed, above which the person was always considered responsible and below which an investigation was to be made in each case as to whether he possessed sufficient discretion to realise the criminality of an act. French legislation would now appear to have gone over to the second system, under which the law fixes a maximum limit above which persons are always considered responsible and a minimum limit below which they are never punishable. The question of responsibility between these ages is a matter for the judge's discretion in each case. This system was applied in Sweden before the 1902 legislation. The third system fixes merely an age-limit above which the person is always considered responsible. Sweden has now adopted this system, so that in principle the age of responsibility begins at 15 years. The law, however, provides that in certain cases delinquent minors from 15 to 18 years may be subject to educational measures instead of punishment.

As the right of the Child Welfare Council to take action under the 1902 legislation was, with one exception, restricted to erring children under 15 years, there could be no overlapping between the court and the Council in respect of delinquent children. The age-limit below which the Council may take action was, however, raised to 18 years in 1924 and 21 years in 1934, so that such overlapping is now possible.

*The Criminal Code, Chapter 5, § 2*, according to the latest text, adopted on May 10th, 1935, reads as follows:

" If a person who has attained the age of 15 but not of 18 years commits an offence, the penalty may, according to the circumstances, be reduced below that to which the act is liable. In such cases, a sentence of penal servitude for life may not be passed.

" If the offence is liable to a penalty mentioned in Chapter 2, § 19, the court shall decide, according to the circumstances, whether such penalty should be imposed."

This text is in harmony with the above-mentioned principle that the age of 15 represents the absolute limit between criminal responsibility and irresponsibility on account of youth. The fact that, in certain circumstances, under Chapter 5, § 3, of the Criminal Code the judge may, in the case of youthful offenders between 15 and 18 years, replace the penalty by educational measures is not incompatible with the above general rule, since such measures may in principle only take the place of fairly mild penalties.

The *general penalties* laid down in Chapter 2, § 1, of the Criminal Code are, in order of severity, penal servitude, imprisonment and fines. An amendment in Chapter 2, § 2, introduced in 1935, provided for "juvenile imprisonment in certain cases".

*Penal servitude* may be imposed for life or for a definite period of not less than two months or more than ten years, with certain exceptions.

*Imprisonment* may be imposed either direct or in lieu of a fine, and in the former case for not less than one month or more than two years, with certain exceptions.

*Fines* vary from 1 to 300 kronor.

*Juvenile imprisonment*, which was provided for by a Law of June 15th, 1935 (see Annex 8) has not yet (November 13th, 1935) come into force, since the necessary prisons for the purpose are not yet ready.

The legislation on juvenile imprisonment undoubtedly forms an important link in the action taken in Sweden in recent years with a view to the reform of prisons and the treatment of juvenile offenders.

The Law of June 15th, 1935, provides for special treatment of persons committing offences between the ages of 18 and 20 years — *i.e.*, before they have completed their 21st year. The new form of punishment is not applicable to offences not liable to severer penalties than fines. As regards offences which are liable to severer penalties, juvenile imprisonment is reserved for offenders who require treatment in a special institute in order that they may be trained to work and to observe the law, and who are amenable to the aims of the institute. In order to ensure that persons requiring educational treatment are sentenced to juvenile imprisonment instead of ordinary imprisonment and that persons for whom juvenile imprisonment is meaningless or inadvisable on other grounds are not sentenced to it, § 6 provides for the appointment of a special Council to deal with these questions, and provision is made for co-operation between the court and the Council. If the Council considers that a sentence of juvenile imprisonment should not be passed, the court is prevented by law from applying this penalty. But, on the other hand, if the Council considers this sentence should be applied, the court is free to act accordingly or not. Under § 12, persons sentenced to juvenile imprisonment may not be detained in the institute for more than four years; it has therefore been found necessary to empower the Council to deal with questions relating to discharge from the institute and the return of offenders committing a breach of the discharge conditions. The court does not pass a sentence for a definite term, but the length of stay in the institute is determined by the Council in each case. Since the training cannot be expected to give durable results under one year, it is provided that inmates may not be discharged before one year except for special reasons. As a rule, the discharge is at first provisional, and in the meantime the Council decides whether the person should be placed under supervision.

To return to the *provisions of Chapter 5 of the Criminal Code*, this legislation entitles the court to consider whether the sentence should be replaced by educational measures, but this examination only takes place after the question of guilt has been settled and the sentence has been pronounced.

The first of the circumstances which the court has to consider is "the offender's state of mind" — *i.e.*, his sentiments and desires, or in other words his character.

Since it is clear from the scientific point of view of criminal law that the measures are to be regarded, not as penalties in the technical sense, but as purely preventive measures, it would appear just to make them dependent on the circumstances found in the course of the examination.

Account must also be taken of " the offender's environment ". In this connection, attention should be paid to the environment from which he has come and the surroundings to which he will probably return after serving the sentence.

He is also to be examined in respect of " development of intelligence ".

According to the Law of April 22nd, 1927, regarding the detention of offenders with a low sense of responsibility, the court may under certain circumstances order admission to a special institution instead of the penalty.

According to *Chapter 5, § 4*, of the Criminal Code, an offence committed before a person has attained the age of 18 years may not be taken into account for the purpose of increasing the penalty for a second offence in cases where such increase is provided for in the law.

Under the Law of June 6th, 1924, regarding procedure in cases relating to certain minors, if any person under 18 years is arrested for an offence liable to punishment under the general Criminal Code, the president of the court may order a special preliminary enquiry into the prisoner's personality and determine what measures are most suitable for his improvement. Such a preliminary enquiry may, if necessary, be made before the arrest. In this case, the court must appoint a suitable person to make the preliminary enquiry and he must be paid out of State funds. Under § 3 of the same Law, the Child Welfare Council, at the request of the court or Public Prosecutor, must communicate any available information regarding the conditions under which a defendant of less than 18 years has been brought up and must state whether he has previously been guilty of misbehaviour; it must also give any further information which may be of importance in deciding on the most suitable measures for the improvement of the offender.

The principle of publicity, under which proceedings in the Swedish courts are open to the public, is strictly maintained, but the court may decide that cases relating to juvenile offenders shall be heard *in camera*; this also implies that the proceedings may not be communicated to the Press.

Under the Law of June 27th, 1902, regarding the execution of the court's orders for compulsory education, which came into force on January 1st, 1905, general educational institutes provided for in the Criminal Code are to be opened by the State. There is at present an educational institute at Bona in the province of Östergötland with accommodation for 250 boys. The Stockholm Deaconesses' Institute has a protection house (*skyddshem*) at Viebäck in the province of Jönköping, with accommodation for 56 girls; since 1906, this home has been recognised as a general educational institute, the costs of which are defrayed by the State (see Annexes 7 and 12). As will be shown below, pupils may, under certain circumstances, be removed from protection homes to general educational institutes and *vice versa*.

Some particulars of the provisional penalties introduced in Sweden in 1906 are given below, since this legislation is, in practice, widely used in the case of delinquent minors.

The existing legislation regarding provisional penalties is contained in a Law of June 28th, 1918, which annulled the Law of June 22nd, 1906. In accordance with the development of this institution in modern civilised countries, Swedish legislation is also based on the principle that, under certain circumstances, the court must be granted a possibility of deferring the execution of the penalty. A provisional penalty may, however, be imposed only in the case of a sentence of penal servitude for a term not exceeding six months or imprisonment for a term not exceeding one year; it

may also be applied in certain cases in respect of imprisonment in lieu of fines which the accused is unable to pay. A provisional penalty may not be imposed if the offender has in the previous ten years been sentenced to penal servitude or imprisonment or has served such a sentence previously passed upon him. A provisional penalty may also not be imposed when, in addition to the main penalty, the accused is sentenced to the penalty laid down in Chapter 2, § 19, of the Criminal Code or in cases of infringement of the Ordinance regarding liberty of the Press or war-time laws.

Provisional penalties may be imposed only if, in view of the character and other personal conditions of the accused, there is reason to suppose that he can be improved without serving his sentence. The probationary period during which the behaviour of the accused must be observed is laid down in the Law as not more than three and not less than one year from the date on which the sentence becomes valid, but the decision regarding supervision need not be announced. The supervisor, who is appointed by the court, must exercise supervision over the conduct of a person sentenced to a provisional penalty and must endeavour to promote any action for his improvement.

According to § 5 of the Law on Provisional Penalties, the accused must lead an orderly and irreproachable life, avoid bad company and endeavour to earn his living in a proper manner, and if he is sentenced to make good the damage caused by his offence, he must do everything in his power to fulfil his obligation in this respect. If the accused is under 21 years when the prosecution takes place, the sentence may impose on him the obligation in certain respects or in general to comply with such instructions as the supervisor may find necessary for his improvement. In exercising supervision, every possible care must be taken to ensure that the accused is not exposed to public notice and is not disturbed in his work and that he does not incur expense in addition to what is absolutely necessary (§ 8). If a person subject to a provisional penalty has, after the penalty has been announced but before the end of the trial period, committed an offence for which he is sentenced to penal servitude or imprisonment, the court pronouncing the new sentence must also declare that the postponement of the former sentence is forfeit, and should the person be sentenced to any other penalty than penal servitude or imprisonment, the court must examine in each special case whether the postponement shall be declared forfeit (§ 11). But the postponement may be forfeited for other reasons than a further offence during the trial period. According to the provisions of § 13, if the accused obviously neglects the duties and obligations imposed on him (for instance, to lead an orderly life or to report to the supervisor), he may be warned by the court or may be declared to have forfeited the privilege of the provisional postponement of the penalty. In cases where the postponement is not declared forfeit, the penalty is regarded as having lapsed after the end of the trial period (§ 14). Persons who, by order of the court, carry on the so-called preliminary investigation or act as supervisors, are entitled in accordance with special provisions to receive payment from the State.

The legal institution of provisional penalties has undoubtedly been of the greatest importance in Sweden for the administration of justice and has been widely applied, as mentioned above, not least in the case of delinquent minors, in spite of the fact that the institution does not solely refer to this category of offenders.

## *2. Legislation on Child Welfare and the Protection of Young People.*

The Law of 1924 on Public Child Welfare, or, as it was called after the amendments made by the Riksdag in 1934, the Law on Public Child Welfare and the Protection of Young People (hereinafter called the Child Welfare Law) introduced extensive



modern child welfare legislation in Sweden for the first time. The work of the Child Welfare Councils created by the 1902 legislation was very considerably increased. The Child Welfare Councils must not only deal with erring children and with children in moral danger; but, in addition to regulations to this effect in the Child Welfare Law, their activity is governed by a great number of laws on civil matters, in particular, on family relationships, while the Child Welfare Law also contains provisions regarding foster-children and children whose cases, as a result of certain conditions, require action on the part of the community (certain cases of indigence, ill-treatment, neglect, etc.).

Chapters 1 and 2 of the Child Welfare Law contain provisions regarding organisation and inspection. Chapters 3-7 contain the rules of a material character — *i.e.*, those regarding the cases and conditions under which the community may take steps to secure the welfare of children and young people; while Chapters 8-12 contain provisions regarding expenditure on child welfare, penal provisions, general regulations, etc.

(a) *The Child Welfare Council.*

(i) *Sphere of Activity and Duties.*

§ 1. Under § 1, each commune must provide for child welfare and must, as a rule, possess a Child Welfare Council. Under the Swedish Poor Law of 1918, § 6, two or more communes are entitled to unite to form a joint Poor Relief community and, in this case, such communes must also provide for child welfare in common. Small communes may, if this is found suitable, be exempted by the King, for a certain period or until further notice, from the obligation of possessing a separate Child Welfare Council, in which case the Council consists of the Poor Relief Administration with certain additions. According to the official statistics for 1931, the last year for which such returns are available, there were 2,523 communes in Sweden, of which 2,355 had appointed Child Welfare Councils (Annex 8). Before the passing of the 1924 Law, a part of the communal child welfare work, in particular that relating to erring and morally neglected children, generally came under the church commune, but the entire work has now been transferred to the civil commune.

The Child Welfare Council must now observe the general regulations laid down in § 2 of the Child Welfare Law, together with the special rules contained in §§ 22 and 29, and the provisions in the seventh and subsequent chapters and “arrange its child welfare work and take measures for the protection of young people in the commune”. When dealing with questions relating to the protection of young people, the Council is entitled to call itself a “Youth Council”, a change which was made in connection with the amendments introduced in the Child Welfare Law in 1934, with the object of giving the Child Welfare Council a more suitable name when dealing with special questions relating to young people from 18 to 21 years.

§ 2. The Child Welfare Council must carefully follow conditions in the commune in respect of the care and upbringing of children and young people, and must see that action is taken in respect of any children or young people living in the commune under conditions which call for such action.

In the first place, it should be pointed out that the Council's activity comprises all children residing in the commune, whether they have their domicile there or are registered there with the church or civil authorities. Purely temporary residence in the commune thus entitles the Council in principle to take action, although exceptions are made in view of practical circumstances. According to Swedish penal legislation, an offender is as a rule tried in the place where the offence is committed. The Child Welfare Law thus makes an exception to this provision as

regards the treatment of children or young people guilty of a criminal offence for which they are not prosecuted.

The Child Welfare Council, like every other communal authority, must provide for all matters relating to administration and execution; for instance, keep a list of children in respect of whom the Council must take action, submit statistical data on its work, represent the commune either directly or through an agent in matters relating to child welfare, and defend the rights of the commune; and, finally, it must make representations to the commune regarding such measures relating to its decisions as the Council thinks should be taken for the proper arrangement of child welfare.

§ 2, paragraph 3, provides that the Child Welfare Council must also deal with a number of other matters in accordance with the laws on legitimate births, legitimate children, adoption, illegitimate children and guardianship. In order to make clear the Council's social position in the communal administration, some mention should be made of the law which, from the Council's point of view, is the most important and provides the most work — namely, the Law of 1917 regarding illegitimate children. Under this Law, for every illegitimate child born in Sweden a so-called "child welfare man" (*barnavårdsman*) is appointed by the Child Welfare Council with the duty, *inter alia*, of assisting the mother with advice and information and seeing that the child duly receives its rights. In this respect, he must see that steps are taken without delay for establishing paternity and providing for the child's maintenance; he must assist in the collection and payment of maintenance funds and, if necessary, recommend the appointment of a guardian for the child. This communal official, appointed by and in some cases paid by the Child Welfare Council, is entitled either personally or through an agent to represent the child in the court in respect of paternity, maintenance and guardianship and the legitimation of the child, and may, if necessary, call in the police to take certain action devolving upon him, such as the search for persons under obligation to provide maintenance and the service of documents. The duties of a "child welfare man" cease when the child reaches the age of 18 years, or earlier if the "child welfare man" is no longer considered necessary. His work is supervised by the Child Welfare Council, which can, if necessary, transfer the supervision over certain cases to the Council of some other commune; the Council must also provide funds for the payment of "child welfare men" in accordance with the provisions relating to the grant of funds for the Council's work.

(ii) Constitution and Period of Service.

§ 3. The Child Welfare Council consists of :

- (1) A member of the Poor Relief Administration of the commune;
- (2) A regular clergyman appointed for congregational duty in the commune;
- (3) A man or woman teacher appointed at the elementary schools or continuation schools of the commune or a special elementary-school inspector appointed for the commune;
- (4) At least two other men or women known for their zeal and interest in the welfare of children and young people; and
- (5) In towns or rural communes where a provincial, extra-provincial, municipal medical officer is resident, such medical officer.

The members mentioned in Nos. (1)-(4), are elected by the commune in the manner and for the period stated in § 6, but, in communes where only one of the clergymen mentioned in No. (2), and only one of the school representatives mentioned in No. (3), are available for the duty, they or their substitutes are appointed members of the Council without election.

At least one of the members must be a woman, who, in accordance with the provisions of § 6, shall not enjoy the special right of refusing the duty (in the case of married women) granted to her formerly under communal laws. Whenever possible, there must be a member of the Council with legal qualifications.

A comparison of the general courts of justice and the Child Welfare Councils reveals a striking fundamental difference in this respect. The courts are State organs set up in order to exercise jurisdiction — *i.e.*, to settle legal disputes and to impose penalties for offences under the special legal provisions laid down in accordance with the fundamental rules governing State activity. The Child Welfare Councils, on the other hand, are communal administrative organs which, on the basis of the principle of self-government peculiar to Sweden, must to some extent co-operate in performing certain administrative duties devolving in principle upon the State as such; it is not the Child Welfare Council's duty to "judge" in accordance with the existing legislation but rather — and especially as an administrative organ — to apply measures in accordance with what may prove to be expedient and suitable in the particular case. In accordance with modern Swedish administrative terminology, the exercise of the State power by jurisdiction — from a formal point of view — is similar to the work of the ordinary courts when exercising their judicial functions with existing law as their sole guide. On the other hand, the work of the Child Welfare Councils — regarded as a manifestation of administration in the formal sense — aims primarily at fulfilling the purpose of the State within the limits of the law, and on the basis of the authority granted to them. Both jurisdiction and administration are undoubtedly subject to law, but in different manners. The sole duty of the judging authority is to apply the law, whereas the administrative authority must use all lawful means to promote the purpose of the State and the general good. This distinction, however, refers rather to the fundamental State nature of the various activities, since, just as the administrative organ has the duty of merely applying the law, the juridical organ must in practice deal with purely administrative matters.

By the provision in § 3 of the Child Welfare Law regarding the conditions governing the election of members, the framers of the Law were obviously endeavouring to meet the demand for the best possible representation in dealing with child welfare. There must be at least five members of a Child Welfare Council or, in certain communes with a resident medical officer, at least six. In the larger communes, the number of ordinary members is greater (8 to 12). The reason why it was thought desirable to have a representative of the Poor Relief Administration on the Child Welfare Council is — apart from the general desire that these authorities should work in close co-operation — to take action. In order to avoid disputes on such questions, the Child Welfare Law provides (§ 16) that such disputes must be referred to a special arbitration board consisting of the joint member of the Child Welfare Council and the Poor Relief Administration, together with a further member of the Child Welfare Council elected by the Council for one year at a time, and a member of the Poor Relief Administration elected for the same period.

§ 4. Even if the medical officers (provincial and extra-provincial medical officers) are not members of the Child Welfare Council, they are entitled to be present at meetings of the Council in the district and to take part in discussions.

§ 5. As substitutes for the members, mentioned under Nos. 1-3, in § 3, the commune appoints a member or substitute member of the Poor Relief Administration, and if possible a clergyman and a school representative. As regards the freely elected members, the commune appoints two substitutes, if there are two such members, and otherwise at least half the number of the members, or, if there is an

odd number of members, at least the number next above half, one of whom must be a woman. There are no provisions regarding the appointment of a substitute for the municipal medical officer appointed a member of the Council, since the framers of the Law considered that, when the municipal medical officer was on leave, his substitute must take his place on the Council.

§ 6. This section provides in the first paragraph that the members and substitutes elected must be Swedish men or women, resident in the commune, who have attained the age of 25 years. No persons may be appointed members or substitutes if they have been deprived of the right to dispose of their own property (*i.e.*, if they are declared incapable or in bankruptcy), if they have been declared unworthy of further service for the country, or are not allowed to exercise a public office because a penalty has been imposed upon them, or if they have been sentenced to such penalty under a decision which has not yet acquired force of law, or if the sentence is in suspense; or, lastly, if they have been declared unworthy to represent others in the law courts.

Certain officials and employees are precluded by their official position (*i.e.*, persons who in this capacity may have to deal with matters relating to the decisions of the Child Welfare Council) from being members or substitute members of the Board.

As regards the right of elected members and substitutes to decline election, the provisions of the communal laws shall apply. No persons are entitled to decline election except: (1) officials or employees who are prevented by their office from fulfilling their duties; (2) persons who have attained the age of 60 years; (3) persons claiming special objections which can to some extent be admitted; and (4) persons who have served for the last four years, including the year in which the election takes place. In so far as these communal laws refer to the Child Welfare Council, the Child Welfare Law provides that clergymen and representatives of the schools who are appointed members may decline office only on grounds approved by the commune.

The members of the Child Welfare Council appointed by the commune, together with their substitutes, are elected for a period of four years from January 1st inclusive of the year following that in which the election takes place; but the member appointed by the Poor Relief Administration of the commune may not be appointed for a longer period than to the end of his term of service in the Poor Relief Administration, and the substitute for such member is subject to the same conditions. A special election of freely elected members or substitutes for a shorter period than four years may take place in certain circumstances. Lastly, if an ordinary member elected by the commune leaves during the period of service, a new member must be elected for the remaining period.

§ 7. The legislation provides that, if circumstances warrant it, small communes may be exempted from the obligation to set up a special Child Welfare Council. If such application, which must be considered by the King, is approved, the Poor Relief Administration of the commune, with certain additional members, must act as the Child Welfare Council.

§ 8. The chairman and vice-chairman of the Child Welfare Council are appointed, not by the Council itself, but by the commune, and serve for the period for which they are appointed members, or, in the case of persons who are members without election, for a period of four years.

In addition, the Child Welfare Council may appoint a treasurer from among its members.

(iii) Times of Meetings, Quorums, etc.

§ 9. Ordinary meetings of the Child Welfare Council must be held whenever required and at regular intervals, and the time and place of meeting must be

published by means of an announcement in the local newspapers, as a rule at the beginning of each year. In large communes, ordinary meetings are held two to four times a month, and in the smaller communes once a month or once every other month.

Extraordinary meetings must be held when required, either if the chairman considers it necessary or if at least half the members of the Council have asked for a meeting. Extraordinary meetings must also be held at the request of the medical officer.

As regards the question of quorums, decisions may not be taken unless more than half the total number of members are present. As a Child Welfare Council may consist of not less than five members, this provision implies that the Council does not in any case form a quorum unless at least three members are present. In certain cases however, a qualified majority is required, especially to deal with so-called protective education. As these cases relate to the removal of a child or young person from the parents or guardians and his admission to another home (private home, children's home, protection home or other institute) the framers of the Law considered that such questions were sufficiently important to require special care.

Voting on decisions is, in normal cases, open, and each member has one vote. If the votes are equally divided, the chairman has a casting vote. At the request of any member, the voting takes place by secret ballot and, if the votes cast are equal in number, a decision is reached by drawing lots. The same procedure is adopted in voting for the appointment of officials.

In accordance with corresponding provisions in the communal laws, there is a further provision in the Child Welfare Law to the effect that members absenting themselves from meetings of the Child Welfare Council without good reason are liable to a fine.

§ 10. At each meeting of the Child Welfare Council, Minutes are kept recording the Council's decisions and the reasons for such decisions. If the Child Welfare Council, when dealing with questions relating to older morally corrupt persons (from 18 to 21 years), has decided to assume the name "Youth Council", special Minutes must be kept for such meetings.

(iv) Duties of the Chairman, etc.

§ 11. The duties of the chairman of a Child Welfare Council are, *inter alia*, to carry out the Council's decisions and to enter into agreements for this purpose, to keep Minutes or have Minutes kept at the meetings, to keep the Council's documents and to be responsible for the proper keeping of accounts, to receive, as prescribed by law, summonses and other communications made to the Council, to carry out all correspondence for the Council and either personally or through a deputy to represent the Council and speak on its behalf in the courts and before other authorities.

In the larger communities, where it would be impossible for the chairman to perform all the duties imposed on him, special officials have been appointed to carry out the chairman's duties or to assist in the work in other respects.

§ 12. By an amendment made in 1924 in the existing communal laws, the commune was enabled to decide to remunerate members of communal bodies for their duties, and this provision has been embodied in the present communal laws. Such remuneration may vary from 1 to 5 kronor per day for meetings and, under certain circumstances (for instance, if the distance between the place of meeting and the members is greater than 5 kilometres and communications are difficult), special travelling expenses. But such decisions on the part of the commune, to be valid, require the approval of the provincial administration. As far as Child Welfare

Councils are concerned, this right to decide on the payment of remunerations to the chairman and members would appear to have been very little used. In small communes, however, where there are no specially appointed officials, the chairman is refunded the cost directly connected with the work (clerical assistance, writing material, postage, etc.), but in other respects the work is considered a civic duty.

(v) Audit of Accounts, etc.

§ 13. The auditing of the accounts of the Child Welfare Council is governed by corresponding regulations in the communal laws.

A member of a Child Welfare Council may, under certain circumstances, be made financially responsible for the funds administered by the Council or for securities, if he has not caused an entry to be made in the Minutes to the effect that they are not acceptable. Each member therefore is jointly responsible with other members for any deficit caused by such circumstances. After the commune has granted discharge from responsibility, or, in the event of the matter being brought before the court, if the latter has approved the administration, the responsibility usually ceases.

(vi) The Carrying-on of the Work.

§ 14. With a view to facilitating the work, the Law has provided a possibility of dividing the commune into districts under the direct supervision of a district representative, who may be a member of the Council or some other suitable person. Very little advantage has, however, been taken of this possibility of dividing up the commune into districts (in 1931, 673 rural communes had special districts; the corresponding figure for the towns was 29; there were in all 2,410 communes in the rural districts and 113 in the towns).

§ 15. This article provides that the commune can, if necessary, appoint special officials to assist in the work. This had been done in all the large communes, and the former general practice of appointing unpaid persons is disappearing in these communes. In the smaller communes, on the other hand, the chairman bears the main burden of the work, although there is an increasing tendency in the medium-sized communes to appoint communal secretaries for carrying out work in respect of poor relief, child welfare, etc.

§ 16. This article specially emphasises the desirability of co-operation between the Child Welfare Council and authorities, institutions, associations, etc., connected with child welfare and it also specially provides that Child Welfare Councils in different communes should assist each other.

(vii) Notification and Investigation.

§ 17. Notification of abuses of any kind may be made direct to the Child Welfare Council, to its chairman, to a member of the Council or to the person appointed by the Council to receive such notifications. When the legislation was passed, it was stipulated that the members of the commune should be encouraged in every way to notify abuses which had come to their knowledge and which might be presumed to call for action by the Council.

§ 18. If the Council has been notified regarding the danger of abuse or has otherwise received information regarding abuse, the Council or its chairman must immediately try to obtain full particulars of circumstances affecting the decision in the matter.

If any action is contemplated regarding children under 18 years who attend or have attended school, information should be obtained as to their conduct at school, and the teacher from whom the child has last received instruction should be requested to

take part in the Council's discussions regarding the child. Should the teacher be prevented from attending in person, as is required by the law, he or she must give a written statement on the question. The rector or head of the school in which the child receives or has received instruction, together with the elementary school inspector or head teacher specially appointed in the commune, should, if not a member of the Council, be given an opportunity of taking part in the Council's discussions.

Under the amendments made in 1934, by which the Council's sphere of action was extended to the age-group 18-21 years, provisions were included in this article to the effect that the above-mentioned regulations regarding the hearing of teachers, and other persons should apply as far as was desirable, and that the police authorities should be given an opportunity of taking part in the Council's discussions in cases where enquiries were made by the police.

If there is reason to believe that the misbehaviour or other abuse depends on or is connected with illness or mental or physical weakness, the opinion of a doctor must be obtained.

Lastly, it is provided that, if the person against whom the measures are taken belongs to a congregation of dissenters, the head of the congregation shall be granted an opportunity of stating his opinion if he is resident in the commune.

(viii) Exceptions from the Provisions of this Chapter.

§ 19. Under certain circumstances, large communes may be exempted from the provisions of this chapter (regarding organisation). Such an exception was made in 1925 in respect of the Child Welfare Council of the city of Stockholm.

(b) *Supervision over Public Child Welfare Work.*

§ 20. The provincial administrations (twenty-four in number) must see that the child welfare work referred to in this Law is carried out in a proper manner and so arranged that the measures called for in the circumstances are applied to persons in need of them. The provincial administrations have special Poor Relief and child welfare advisers to assist them, and may, if necessary, request the medical officer to investigate certain cases.

In addition, the central State administration (the Ministry of Social Affairs) has a State Inspector for Poor Relief and Child Welfare, who is instructed to assist in the proper arrangement of child welfare work and promote its development; it has also a State Inspector of Protection Homes.

(c) *Care of Children and Young People and the Work of the Child Welfare Council in connection therewith.*

Measures for Protective Education and Preventive Work.

§ 22. The Child Welfare Council set up by the child welfare legislation of 1902 had to take action in respect of erring children and children in moral danger up to the age of 15 years. The legislation of 1924 not only extended the application of the Law to further cases (ill-treatment, serious neglect or other danger to the life or health of the child), but also raised the age-limit to 18 years, while the amendments of the 1924 legislation introduced in 1934 enabled action to be taken under certain circumstances up to the age of 21 years. In this connection, the Law of 1885 regarding vagrancy, as amended in 1924, exempted persons up to the age of 18 years (previously 15 years) from its application, while the 1934 amendment exempted persons up to 21 years.

As regards erring children (or young people) and children in moral danger, § 22 provides that the Child Welfare Council must take measures in respect of :

- (a) Children under 16 years who, in view of the parents' depravity, neglect or incapacity to bring up children, are in moral danger ;
- (b) Children under 18 years who are so corrupt that special educational measures are required for their improvement ; and
- (c) Persons between 18 and 21 years who have fallen into a disorderly, idle or vicious life and in respect of whom special measures require to be taken by the community for their improvement.

In order that the provisions under (a) may be applied, the child must be in moral danger on account of the parents' depravity, neglect or incapacity to bring him up. The interpretation of depravity, neglect and incapacity to bring up the child admittedly involves serious difficulties in each special case, but the legal practice applied since 1926 (when the legislation of 1924 came into force) serves as a guide in this respect. Since, in accordance with modern psychological views, the effect of evil surroundings at an early age may have a decisive effect on the entire future development of the child, the provision should not be interpreted in too restrictive a manner. The conception of " incapacity to bring up the child " lays emphasis on the fact that the causes may be not only lack of time to look after the child but also lack of general capacity or desire to carry out this task satisfactorily. Should this position be due to purely financial reasons, there are grounds for the interventions of the Poor Relief Administration.

Under the legislation of 1902, the Child Welfare Council was entitled to take steps against children under 15 years who were so corrupt that " the educational means provided by the home and the school were insufficient for their improvement ". It may obviously be difficult to draw the boundary line between moral corruption and moral danger. According to an expert opinion on this subject, this group may include children who have committed acts which, if they had been committed by persons of 15 years or more — that is to say, persons who have attained the age of criminal responsibility — would be punishable. But there are a number of actions liable to punishment, especially so-called police offences (minor offences), which need not in themselves be regarded as a sign of corruption. Children who beg or live a life of vagrancy are also to be regarded as morally corrupt ; there is all the more justification for this assumption since, after the Child Welfare Law had been passed in 1924, the Vagrancy Law no longer applied to the age-group under 18 years. The above cases do not, however, exhaust the conception of moral corruption. It naturally includes also serious forms of bad behaviour in children, and primarily a vicious and disorderly life, thus the idea of moral corruption becomes fairly wide, but there would appear to be no serious objection to this, in view of the great interest of the community in the improvement of young people, especially as the conception of moral corruption has been made clearer by legal practice.

It is advisable to deal specially with the question of absence from school because, in addition to the provisions of the Child Welfare Law, the existing school legislation contains a number of provisions of importance for forming an opinion as to the means at the disposal of the State for taking action against " anti-social " influences. The Royal Decree of September 26th, 1921, regarding elementary education contains the provisions : " relative to the moral and decent conduct of school-children both in and outside school . . . " It also subjects school-children who do not fulfil their duties to punishment by the teacher in accordance with the nature of the offence. In respect of school-children who are not improved by the punishment inflicted by



the teacher and of school-children who, on account of serious moral corruption, exercise a harmful influence on the other children, the school council may take steps to ensure that such school-children receive a special education suited to their case.

The Royal Decree of September 16th, 1918, regarding continuation schools contains similar provisions with the exception, however, that corporal punishment may not be inflicted. The Decree on continuation schools also provides the possibility, in cases of serious moral corruption, of separating children from their parents. The Royal Decrees of June 7th, 1934, for higher elementary schools and of June 2nd, 1933, for communal intermediate schools also contain provisions regarding disciplinary means of education (admonition, warning, expulsion for a certain period or permanently).

In the event of serious moral corruptions, the above-mentioned provisions are naturally of small importance, since, in such cases, the Child Welfare Council is entitled to intervene more effectively than the school authorities. Formally, however, the school authorities are still entitled to intervene in these cases, but, in practice, this would not appear to be advisable. The position is quite different in the case of absence from school. If the truancy is due to the child, the Child Welfare Council may have occasion to deal with the matter. If the truancy depends on the parents' incapacity to bring up the child, the Council has undoubtedly an opportunity of taking action in accordance. If, however, neither of these cases which would enable the Child Welfare Council to take action applies, the legislators have found it advisable not to deprive the school authorities of the specific means in their possession. Only after the educational means at the disposal of the school have proved inadequate, should action be taken by the Child Welfare Council.

Lastly, it is proposed to deal with the question of the distinction between the courts of justice and the Child Welfare Council in respect of offences committed by children who have attained the age of 15 years — *i.e.*, the age of criminal responsibility. With the increase of the limit to 18 years, and subsequently to 21 years, the problem has become of present interest, especially in respect of the Child Welfare Council's relationship to the court.

The experts' report on which the child welfare legislation of 1924 was based dealt in particular with the question of the relationship of the Child Welfare Law to the Criminal Code. Even at that time (1921) there was a strong feeling in favour of removing criminals under 18 years of age from the authority of the court and placing them under the Child Welfare Council, and the report in question gave a short account of foreign legislation on this subject. The Committee did not feel, however, that it could propose such an arrangement, principally for the following reasons. There were objections to the communal Child Welfare Council's acting as a juvenile court, not only on account of its composition, but in particular on account of the difficulty of creating suitable spheres of jurisdiction, since it was in practice impossible for each commune to have its own juvenile court. For such work to be properly carried out, the juvenile courts would have to have considerably larger jurisdictional areas, corresponding approximately with those of the district courts (*Underrätter*); but it was felt that duties relating to neglected and erring children under 15 years could not be entrusted to purely communal authorities appointed for such large areas. Such an arrangement would, it was said, imply that, as regards this part of the work, an important factor in the care of young people — namely, the knowledge of local and personal conditions — would be sacrificed. There was, however, a further circumstance which affected the experts' view of this problem. In its motion of June 7th, 1918, the Riksdag had requested an enquiry as to whether and under what conditions the age of criminal responsibility laid down in Chapter 5, § 1, of the Criminal Code could be raised from 15 years to 16 years, and the child

welfare experts considered that, on this basis, it was impossible for them to adopt a definite attitude towards the problem. Their final attitude, which is in harmony with the present legal position, is that a criminal act committed by a young person over 15 years should, in principle, be judged by the court. In view, however, of the wording of the Swedish regulations regarding prosecutions, the position in practice is somewhat different.

According to the general theory of procedure, offences are divided up in respect of the law of prosecution into various groups according to whether proceedings may be taken by the Public Prosecutor or private plaintiffs.

The Criminal Code, or other law imposing punishment for offences, decides to which group an offence belongs. If the offence does not necessarily come within the sphere of the Public Prosecutor, it is specially provided that action may be taken by the Public Prosecutor only after the charge has been brought, or that the action may be brought only by the plaintiff.

This distinction between offences in respect of the right to bring action may be of importance from the point of view of the Child Welfare Council. In practice, action is never brought in respect of certain offences; and in many cases offences within the Public Prosecutor's sphere are not the subject of prosecution because they have not come to his notice. If no legal action is taken in such cases, it would in some cases be unfortunate — as was pointed out by the competent head of section in the preliminary work for the Child Welfare Law — if the matter could not be dealt with by the Child Welfare Council, provided the latter obtained the necessary information and found that protective education was the proper method of treatment. Thus, if the moral corruption finds expression in a criminal action regarding which no prosecution has been brought by the Public Prosecutor or the plaintiff, the Child Welfare Council can intervene in accordance with the child welfare legislation, provided there are grounds for such action; otherwise, if the offence comes within the sphere of the Public Prosecutor, the Council can report the matter to him for action. It has also been proposed that the Public Prosecutor should be entitled to choose whether he will bring an action in the courts or report the matter to the Child Welfare Council (this right having been granted to the Public Prosecutor in Denmark and Norway); but, in view of the existing organisation of the prosecuting authority, the time has not yet been found ripe for carrying out such a proposal.

It is obvious that a decision regarding protective education must never be allowed to prevent the execution of a court decision regarding a penalty or compulsory education.

The Law regarding vagrancy, which is still in force, has been generally recognised as somewhat out of date in certain respects, especially with regard to the treatment of young vagrants. When the difficulty of reaching a solution for the legislation as a whole was realised, efforts were made to exempt young people from the application of the Law.

Young vagrants who, in accordance with the previous law, come under the police authorities are now under the Child Welfare Council, whose duties have thus been further extended.

In order that action may be taken against a young vagrant, the Law now for the first time states that he must have "fallen into" a disorderly, idle or vicious life. The paragraph further demands that this mode of life must be such as to call for *special measures on the part of the community for the improvement* of the minor. The wording somewhat narrows down the scope of intervention by the Child Welfare Council. The demand that there should be a possibility of "improvement" implies the exclusion of cases of mental abnormality beyond improvement.

§ 23. Like all modern social legislation, the Child Welfare Law of 1924 attaches great importance to preventive measures. The application of protective education is provided as the last resort, after preventive measures have proved ineffective or may be assumed from the outset to be ineffective.

If the Child Welfare Council finds moral corruption or moral danger, it may take one or more of the following measures according to circumstances :

(a) It may give the parents, either in the presence of the Council or by a special messenger, a serious admonition to fulfil their duties to the child better and remind them of the consequences which may occur under the law of no improvement takes place ;

(b) It may give an erring child a serious warning and, if thought fit, remind it of the consequences ;

(c) In the case of an erring boy under 15 years or an erring girl under 12 years, when the other measures mentioned in this paragraph cannot be assumed to have the necessary effect and, if it appears desirable in view of the information received regarding the child, the Council may provide that the child shall receive corporal punishment from one of the members of the Council or some suitable person appointed by the Council ;

(d) The Council may have recourse to a suitable institute to supplement the home training, or the child may be kept to a suitable occupation prescribed by the Council.

The above-mentioned preventive measures relate to children under 18 years ; the consequences referred to in the Law are, first, the placing of a child under protective education and, secondly, the parents' financial liability for the costs involved.

With regard to young persons from 18 to 21 years, the Law provides (§ 23, paragraph 1) for the following procedure. The Council must urge such a person to lead an orderly life and seriously remind him of the consequences which may otherwise result. If this is found to lead to his improvement, the Council must also assist him to find work or take other suitable measures. Should circumstances require it, the Council may also urge his parents to see that he leads an orderly life.

The Royal Decree of November 30th, 1934, containing certain provisions regarding the Child Welfare Law has, *inter alia*, laid down detailed regulations for such supervision. The number of preventive measures taken by the Child Welfare Council in 1928, 1931 and 1934 is shown by Annexes 5, 9, 10 and 11.

§ 24. If the preventive measures prove to be useless, or if they result in no improvement, the Child Welfare Council takes charge of the person in question in order to apply treatment suited to his characteristics and development (protective education).

As formal conditions for the decision regarding protective education, the Law now requires that the parents, if their address in Sweden is known, and the minor himself if he has attained the age of 15 years, shall be given an opportunity of expressing their opinion, either verbally or in writing, before the Council takes a decision. The possibility of requesting parents and children to appear in person would seem to be used to a very wide extent by our Child Welfare Councils. It is considered of importance that the Council as such should be given an opportunity, as far as possible, of forming a personal opinion of the case. The person or persons who look after the child are placed on the same footing as the parents.

The administrative procedure applied in a Child Welfare Council differs on a number of important points from the penal procedure employed by the courts of justice. This is naturally due, primarily, to the different structure of the two organs, but also the aim of the procedure. In the first place, the Child Welfare Council has no public prosecutor with the duty of taking proceedings on behalf of the State against persons guilty of offences of the kind liable to public prosecution. The State supervision of the proper working of the Council, in accordance with the existing provisions, is exercised by the provincial administration. The investigation which precedes criminal proceedings with the object of examining the circumstances of the case and ascertaining whether an offence has been committed or not (which investigation is carried out by the competent police authority) has its counterpart in child welfare work in the investigation made either by the police authority or by the competent official of the Child Welfare Council. The particular form used depends as a rule upon whether the matter has been reported to the police authorities or not. There is, however, nothing to prevent a Child Welfare Council, if it has obtained information regarding a certain case, from leaving it to the police authorities to make a more detailed investigation, after which the Council may deal with the matter.

Reference was made above to the difference between the judicial organ (*i.e.*, the court), and the administrative organ (*i.e.* the Child Welfare Council) and this essential difference also appears in the actual procedure. In courts for minor offences and in police stations dealing with cases in which they exercise judicial rights, the proceedings are public, whether they refer to civil or to criminal offences, provided there are no reasons for holding the hearing *in camera*. The chairman of the court may, if necessary, refuse admission to persons who are known or believed to be under 18 years of age. The principle of publicity in the sense mentioned above is not admitted in the administrative procedure. This implies that the public are not admitted to the meetings of the Child Welfare Council.

On further comparing the courts and the Child Welfare Councils in respect of actual procedure, it may be pointed out that both verbal and written procedure is used by both authorities.

An important difference between them relates to the question of evidence and is due to the essentially different character of the two organs. The difference is best shown in the case of an offence which has been committed, when the Child Welfare Council does not need to prove the existence of the offence so much as the existence of circumstances entitling the authority to take action as a communal administrative organ in accordance with the Child Welfare Law.

§ 25. Any decisions reached by the Child Welfare Council regarding protective education must be immediately communicated in writing to the parents and, in the case of young vagrants, also to these persons. If the Council's decision relates to children under 18 years, the parents must also be requested to state in writing whether they approve of the decision.

If the parents do not give their approval, if it has been impossible to communicate with them, or if the person in question is between 18 and 21 years of age, the Council must report the proceedings as soon as possible, but not later than two weeks after the decision has been taken, to the Provincial Administration for examination.

Should the Child Welfare Council find that the execution of a decision regarding protective education cannot be delayed without danger, it is entitled to order the immediate execution of the decision.

The Council must therefore refer the matter to a higher authority if the parents cannot be persuaded to give their written approval of the execution of the order or

if it has been impossible to communicate with them, and in all cases of young people from 18 to 21 years, whether the parents agree or not.

§ 26. If the decision regarding protective education has been referred for examination to the Provincial Administration, parents have the right to express their opinion or to be heard. The Child Welfare Council must also be requested to attend any hearing arranged by the Provincial Administration, and the Council may also be given an opportunity of expressing its objections. Similarly, an opinion on the matter must be obtained from the State Child Welfare Adviser.

At the request of the Child Welfare Council or the party, witnesses may be heard by the Court if the Provincial Administration does not consider such a hearing to be obviously unnecessary.

Should the Provincial Administration consider that for material or formal reasons it cannot confirm the Council's decision, the Administration is allowed, in spite of the cancellation of the decision, to prescribe that the Child Welfare Council must take one of the preventive measures laid down in § 23, if the Provincial Administration thinks fit. The Provincial Administration's decision must immediately be communicated in writing to the parents against a receipt, to the Child Welfare Council and, in the case of young persons between 18 and 21 years, to those persons.

§ 27. Such a decision cannot be put into execution in respect of children in moral danger after they have reached the age of 16 years, in the case of erring children after they have reached the age of 18 years, and in the case of young vagrants after they have reached the age of 21 years.

§ 28. It was pointed out already that the obligation to take action in case of need rested upon the Child Welfare Council of the place of residence. The present paragraph contains an exception on practical grounds to this general rule. This special provision entitles communes, if any person provisionally residing there is caught begging or found to be morally corrupt, to intervene, not by taking charge of the person, but by handing him over to his own commune. The first-mentioned commune is, however, not deprived of the right of taking charge of the person if it thinks fit.

§ 29. This deals with certain cases of distress in which the Child Welfare Council can render assistance, these cases being very similar to the grant of poor relief.

§ 30. In cases where children are in moral danger, for instance on account of the depravity of their parents, the abuse can often be removed by reference to another authority; thus, instead of taking charge of the child and removing it from its parents, measures may be taken by such an authority as the Temperance Council, which is ultimately entitled to take charge of persons who have abused alcohol. Reference can of course also be made to other authorities, such as the police, the court, the medical officer or the Health Board.

§ 31. There may naturally be cases where protective education is so urgently needed that the child must be taken charge of before the Child Welfare Council can be convened and come to a decision, and in such cases the chairman has been granted the right to take charge of the child pending the Council's decision. If the approval of the parents has not been obtained in such cases, or if the decision relates to persons between the ages of 18 and 21 years, the chairman must convene the Council immediately.

If persons between 18 and 21 years are found to be leading a disorderly or vicious life involving danger " to public order or safety ", and if this danger is found to be so

imminent that it is impossible to wait for the decision of the Child Welfare Council or its chairman, the police authorities must temporarily take charge of the person in a suitable manner. The same provision applies in cases where the name, age or address of a person cannot be ascertained. In both cases, the police authorities must immediately report the case to the Child Welfare Council.

(d) *Treatment of Children under Care.*

§ 32. The first article of this chapter contains the general rule for the treatment of all children under care that they must receive the necessary care and an education calculated to make them worthy members of the community. The subsequent articles deal with various kinds of treatment for children, a distinction being made between erring and non-erring children.

§§ 33 and 34. As in some cases no immediate decision can be taken as to the most suitable form of treatment for children, § 33 provides that, wherever, possible, they should be placed temporarily in so-called reception homes or Poor Relief institutes. In the last-mentioned case, if the child has reached the age of two years, measures must be taken immediately for some other form of upbringing.

According to § 34, a non-erring child (including children in moral danger) is to be placed in a suitable private home, or in a children's home or hospital, if this is considered advisable.

§ 35. An erring child taken in charge for protective education must be admitted to a protection home. Persons from 18 to 21 years must be admitted to general educational institutes or to special protection homes provided for them. Under certain circumstances, children taken in charge for protective education may be admitted to children's homes, work-homes or other equivalent institutes, or may be transferred to a private home.

Under certain circumstances, the police authorities, pending the final decision as to the form of boarding-out, may take charge of vagrants between 18 and 21 years, especially when they may be considered to constitute a danger to public order or safety.

§ 36. Should it be found that a child requires special care on account of physical or mental disease, lameness or other physical or mental defect or weakness, the Child Welfare Council must arrange for such care to be given.

§ 37. With regard to children under care who have not reached the age of 21 years and have not been admitted to a protection home, the Child Welfare Council, or the person appointed by the Council for the purpose, is entitled to exercise supervision over the child and to punish him — duties which otherwise belong to the parents. The Council is entitled to decide whether and under what circumstances parents of children under care may be allowed to associate with the children. The legal care of the child, which is incumbent on the parents in accordance with the legislation regarding family relationships, is consequently latent during the period when the child is under care, and is exercised entirely by the Child Welfare Council, even if the parents are still formally under obligation to exercise such care.

(e) *Children's Homes (Barnhem) and Protection Homes (Skyddshem).*

§ 39. The expression *children's homes* is understood to mean, in the first place, institutes intended for permanent care and education which cannot be regarded as protection homes or general educational institutes and, in the second place, institutes for temporary care and for the observation of children or the care of infants and their mothers (reception homes).

§§ 43 and 44. The Child Welfare Law imposes on the Provincial Assembly and on towns which do not take part in the Provincial Assembly the duty of establishing so-called *protection homes* for the care of erring children; or a number of Provincial Assemblies, or Provincial Assemblies and towns, may combine to establish such homes. There is no objection to private societies or the like establishing protection homes, but in such cases the approval of the King is required.

Under certain circumstances, inmates may be removed from protection homes to general educational institutes and *vice versa*. A so-called protection home inspector, appointed by the King and under the orders of the Ministry for Social Affairs, exercises supervision over the work of the protection homes.

(f) *Discharge, etc.*

§ 45. On the discharge of a minor undergoing protective education before he has reached the age at which he must be discharged, so-called provisional discharge, or discharge on probation, may first be applied; this is naturally a matter of importance, since it encourages good conduct in the person in question and also involves a sort of transitional period before complete freedom is obtained. The decision to discharge an inmate is taken by the management of the protection home, in the case of a pupil of the home, but in other cases by the Child Welfare Council. Upon discharge, the authorities concerned may lay down conditions with regard to the discharged persons's dwelling and occupation, and may also order supervision.

§ 46. The final discharge by which the protective education is declared to be concluded must taken place when — as the Law expresses it — “there is no further need for such education”. Obviously, however, the final discharge must take place by a specified age — namely, in the case of ordinary protective education, at the age of 18 years; in the case of protection-home pupils, discharge must take place at latest when they reach the age of 21, and in the case of persons placed under care between the age of 18 and 21, at latest when they have reached the age of 24. In the case of persons finally discharged, the discharging authority may order a certain supervision, which is carried out under the rules on supervision mentioned above.

§ 48. The Child Welfare Council's decision regarding protective education may be cancelled in certain circumstances — *i.e.*, when the decision of a court is to be put into execution, whereby

(a) The person under care is sentenced to a fine, imprisonment or penal servitude and an order is issued for him to be placed in a general educational institute;

(b) The person under care is otherwise sentenced to imprisonment or penal servitude without application of the Law regarding provisional penalties; or

(c) The respite granted in the execution of a penalty of imprisonment or penal servitude is declared forfeit.

(g) *Expenditure on Communal Child Welfare Work.*

§ 61. With the removal of the Child Welfare Council from the church commune to the civil commune, it was necessary to give the Council a place in the communal administration in the same manner as any other communal organ. This implies, *inter alia*, that the costs of the work are paid by the commune and raised by taxation. The commune is, however, entitled to obtain reimbursements or contributions from the State, the Landsting (Provincial Assembly), other communes or private persons under obligation to provide for minors.

The *State* refunds the costs for the nationals of foreign countries; for persons who have lived for a long time outside their own commune; for persons whose legal domicile cannot be determined; certain small amounts (80 kronor per person per year on admission to a children's home and 50 kronor a year on admission to a private home) for children taken in charge for protective education; the total costs for young vagrants taken in charge under § 22, paragraph (d) of the Child Welfare Law; and a certain amount (200 kronor per year per pupil) for the cost of children admitted to protection homes.

The *Landsting* (Provincial Assembly), which is a higher administrative unit comprising a number of primary communes within a province (*län*), refunds or contributes to the costs for certain sick and abnormal persons and for care in protection homes.

*Other communes* must refund the costs of children domiciled in the commune.

*Private persons under obligation to provide for minors.* The community, on taking charge of a child, should naturally be entitled to compensation or contributions for the costs involved, not only from any property belonging to the child, but also from the child's parents. The Child Welfare Law contains provisions on this subject. These rules are shortly as follows: If there is good reason to suppose that the action will be permanent, the Child Welfare Council — if it sees no reason to make concessions — is entitled to take charge of property which belongs to the child or comes into its possession while it is under care, and to obtain reimbursement of costs from this source.

The obligation of the parents to make reimbursements varies to some extent according to the age of the child. In the case of costs for children under 16 years the Council is entitled to reimbursement so long as the payment of the costs or part thereof does not deprive the person concerned of the necessary means for maintaining himself and his family. The costs of children over 16 years are repayable by the parents "according to their capacity". The difference between these two cases of the obligation to refund expenses is connected with the civil legislation regarding families, which in this respect distinguishes between "unconditional" and "conditional" maintenance obligations. The costs incurred for the child include the costs incurred not only by the commune but also by the State and the Landsting. If a voluntary arrangement cannot be made with the persons under obligation to maintain the child, the Child Welfare Council may apply to the Provincial Administration for a refund. The obligation to make a refund is, however, limited to 1,000 kronor per year.

After the maintenance obligation has been established in one way or another, the Council is enabled, if necessary, to apply certain executive means for compelling payment of the maintenance amounts, such as deduction from salaries, distraint, bankruptcy, etc., and, in the last resource, compulsory measures. A Child Welfare Council may, under certain circumstances (when failure to fulfil the maintenance obligation in respect of a child may be regarded as due to depravity, neglect, idleness or indifference on the part of the person responsible for the child), request him to appear and to perform certain work in the Poor Relief Institution or otherwise (as a rule in the so-called workhouse).

#### (i) Penal Provisions and General Regulations.

§ 74. Under the former child welfare legislation, it was impossible to take steps against persons deliberately obstructing the execution of a decision by a Child Welfare Council. The Child Welfare Law of 1924, however, introduced penal provisions in this respect.



§ 75. With reference to § 24, an account was given of the right of the Child Welfare Council to order parents to appear in person before the Council or before a specially appointed representative. § 75 contains provisions regarding sanctions, any person failing to appear without good reason being subject to a fine (5 kronor), while the Council is entitled to order the person in question under penalty of a fine to appear or, if necessary, to request assistance for the purpose from the police authorities.

§ 76. For infringements of the kind mentioned above, proceedings may not be taken by the Public Prosecutor unless the plaintiff or the Child Welfare Council in question applies for a prosecution, which must in that case be brought before an ordinary court. Fines and penalties are paid into the funds of the commune. If the fines or penalties are unobtainable, they are to be converted in accordance with the general Criminal Code.

§ 78. The provisions of the Child Welfare Law regarding parents also applies to adoptive parents.

(ii) Appeals on Matters relating to the Child Welfare Law.

§ 81. As already mentioned, certain matters relating to child welfare are automatically examined by the higher authorities.

The existence of the system of referring questions to the higher authority implies that complaints regarding the Council's decision in respect of the placing of children under protective education are not allowed. If, therefore, the parents have given their written approval of the execution of the Council's decisions regarding protective education and the time allowed for reference to a higher authority (two weeks after the taking of the decision) has lapsed without the approval being withdrawn, the decision acquires force of law. If approval has been given but has been withdrawn before the end of the time allowed for reference to a higher authority, the Council must refer the matter to the higher authority. But, even if the decision has acquired force of law, the question as such may be referred for examination to the higher authority, since an appeal is permitted when the Child Welfare Council or the management of a protection home has refused an application for the final discharge of a person undergoing protective education.

However, the person affected by the decision may appeal against the Council's decisions " on other matters under the present Law not forming part of the questions mentioned in Chapters 3, 4 or 6 and not constituting administrative questions for the treatment of which the Council is responsible to the commune in accordance with the provisions laid down in the present Law or in communal laws ". This provision is applicable to a number of decisions on formal questions and to complaints regarding fines imposed for failure to attend meetings. The Child Welfare Council itself is also empowered to appeal to the Provincial Administration in certain cases — namely, in respect of decisions by the management of a protection home relating to admission to the home.

Appeals must be made to the Provincial Administration within thirty days from the date on which the decision was notified to the person concerned.

The last paragraph of § 81 (paragraph 6) provides that an extract from the Minutes of the Child Welfare Council or administration of the institute shall be supplied free of charge to persons requiring them for the purpose of making complaints regarding the decisions of the Council or administration.

The meetings of the Child Welfare Council are not public, and therefore the Press is unable to obtain material for publication. The question arises as to whether

other persons than those affected by the decision have the right to take cognisance of the Minutes and to publish them.

An expert opinion given in 1912 regarding a draft law on freedom of the Press contains the following passage : " One of the cornerstones of our freedom of the Press is the rule that any person has the right of access to and the right to publish public documents ". This rule regarding the publicity of public documents is closely connected with the peculiar development of the Swedish Constitution. This possibility of control by the public over the general administration is connected — in the words of an expert in this sphere — " with the conception, deeply rooted in the Swedish attitude towards law and State, that the work of the administration should be carried out as far as possible in the full light of publicity ".

It has not been satisfactorily established by legal practice whether the Minutes of the Child Welfare Council form a public document of the kind mentioned in the Ordinance on Freedom of the Press, and whether therefore the principle of publicity applies to them. There are, however, reasons for considering that the documents of the Child Welfare Council are, in principle, of such a nature that the publicity rule applies to them ; and this would imply that, for instance, the Press could have access to and publish these documents. If this interpretation is correct, it must be considered that Swedish legislation is defective on this point and does not satisfactorily protect the personal interests of individual citizens. The only reason why this defect has not already been removed is that the occasions when anyone has desired to exercise this actual right appear to have been very rare.

The question of a general revision of Swedish legislation on freedom of the Press is at present of particular interest, and there is no doubt that definite proposals will shortly be made. In 1927, an expert was appointed on this subject, and submitted the following proposal for amending the existing provisions regarding the publicity of public documents : Documents relating, *inter alia*, to Poor Relief and child welfare, in the possession of a communal authority, in so far as they concern the personal circumstances of individuals, may not be published for five years after the date of the document without the permission of the person or persons concerned, except in cases where the law provides to the contrary. This provision would apply to the Minutes or decisions of the authorities only in cases where special provisions are contained in a law issued by the King and approved by the Riksdag. Such a law might, however, provide that the above-mentioned documents should remain confidential for a lengthy period, at most fifty years from the date of the document, or after the death of the person concerned. The proposal also implies that a document might be published if, in view of the circumstances, it would appear certain that it would not be used to the prejudice of the person referred to therein, and any necessary reservations might be made in order to obtain such a guarantee.

§ 84. Appeals against the decisions of the Provincial Administration are to be made in certain cases to the Exchequer Court (*Kammarrätt*), and in other cases to the Supreme Court or to the Royal Government Court.

§ 85, paragraph 2, finally contains the following provision : " As regards appeals against decisions of the Provincial Administration in questions other than those mentioned above in the present chapter, the provisions of communal or other laws regarding appeals against decisions of the Provincial Administration shall be applicable according to the nature of each case".

§ 86. This article implies not only that a decision taken by a Child Welfare Council may be put into execution immediately, but also that a contrary decision by the Provincial Administration can be executed without delay.

### EXISTING RELIEF ORGANISATIONS, ETC.

Voluntary work for assisting persons under sentence in unsocial elements, etc., has existed for a long time in Sweden, but was not really organised until the middle of the nineteenth century. The permanent central organisation in this sphere especially for assisting discharged prisoners, etc., is now the Swedish Protection Union ("Svenska skyddsförbundet"), whose duties include the administration and distribution of State grants paid to the various associations affiliated to the Union. It is under the guidance of the Social Department of the Royal Prisons Administration. On the initiative of the Prisons Administration, the Central Association for Assistance to Released Prisoners was founded in 1879 and is still in existence. The distribution of work between the three above-mentioned central organisations is shortly as follows :

The Prisons Administration, which has at its disposal an annual amount of about 50,000 kronor for work among released prisoners, transfers the greater part of this amount to the Central Association for its relief work. Request for relief brought before the Central Association are examined by the Social Department of the Prisons Administration, and a report on the subject is made to the Central Association by an official of the Prisons Administration. The Social Department of the Prisons Administration is thus in fact the Bureau of the Central Association. It is true that the Central Association is a private body (it is actually a union of officials of the Prisons Administration and of the Central Prison at Långholmen), but it is really the Prisons Administration in a more elastic form. The Central Association has no special office, but utilises other relief associations as investigating and executory organs. The Swedish Protection Union has become, under the control of the Prisons Administration, the leading organ of private relief work, and a great number (33) of protection associations and prison societies in various parts of the country are affiliated to it. The Protection Union is granted 80,000 kronor a year in the State estimates for distribution and for its overhead costs. A number of these organisations have, in addition, opened various kinds of homes for assisting and relieving discharged prisoners, persons subject to conditional sentences, unprotected persons, persons in distress, etc. (seven homes for men and nine for women, with places for 128 and 172 persons respectively). In addition, there are many voluntary organisations of various kinds throughout the country, especially in the large towns, for the purpose of carrying out preventive social work (e.g., youth associations, belonging to the Church or otherwise, Boy Scout organisations, etc.), and for after-care of released prisoners, persons subject to conditional sentences or unprotected persons. For instance, in Stockholm, the association called "Unga kvinnors värn" (Protection of Young Women), in conjunction with the Children Protection Council, exercises extensive inspection over girls in the capital. The Swedish Salvation Army carries out extensive social work of various kinds.

There are many institutions in Sweden for rendering direct assistance to education in the home.

The *Child Welfare Central Offices*, by means of propaganda and assistance from midwives, nurses, etc., aim at inducing mothers with infants — as a rule under 1 year — to apply to the institute for advice and information regarding the care of the child. The care of the child in the home is also supervised by special nurses in accordance with provisions and under the control of doctors (the number of children registered with the Child Welfare Central Offices in the three largest towns — i.e., Stockholm, Gothenburg and Malmö — amounted in 1932 to 4,000, 1,800 and 800 respectively, and in the rest of the country to about 3,500).

The *crèches* render assistance to indigent and poor mothers who are prevented by their work, by illness or the like from looking after their children. The institutes receive infants and small children up to 6 years during the day for supervision and treatment. There are many of these institutes distributed throughout the country (the number of places in the *crèches* amounted in 1934 to about 3,100, of which Stockholm, Gothenburg and Malmö had about 1,300, 340 and 310 respectively).

*Kindergartens* are intended as homes for assisting the upbringing of children from the ages of 3 to 7 years. As a rule, they receive the children only for a short time each day — *i.e.*, from three to four hours — but in some places the children can be given the necessary care throughout the day. The children are engaged in domestic occupations, the care of plants and animals, singing, gymnastic exercises, games, etc. (the number of places in the kindergartens in Sweden amounted in 1934 to about 2,100, of which Stockholm, Gothenburg and Malmö had about 430, 650 and 100 respectively).

*Work Homes.* — During the time when the elementary schools are closed, these homes admit and provide suitable occupation for children from homes where the parents work outside the home or where the mother cannot properly look after the children on account of poverty or the size of the family. The object of the work homes is stated to be “to prevent idleness, loafing in the street and begging” and to give the children a desire for work. The children are taught brush-making, basket-making, cardboard work, carving, carpentry, metal-work, knitting, weaving, sewing, cobbling, etc. The work homes are as a rule open to children from 7 to 14 years, but in recent times clubs for former inmates of work homes have been formed in some places, and the young people are given an opportunity of taking part in gymnastics, sport, language courses, etc. The number of places in the work homes in Sweden in 1934 amounted to nearly 6,000 (Stockholm about 2,700, Gothenburg 650 and Malmö 50).

*Summer colonies* for children aim in the first place at providing sick and poor children, especially from the larger communities, with an opportunity of living for three or four weeks in the summer in a healthy district where they obtain abundant food, sun-baths and water-baths and become accustomed to cleanliness, order and good morals. In 1934, about 12,000 children were enabled to stay in the country in this manner, while about 6,000 more were boarded-out in the summer by the so-called dispensary bureaux (which protect children coming from families in danger of tuberculosis).

In addition, there is the *feeding of children*. This is arranged on a large scale in Sweden for delicate and undernourished, indigent or poor children of school age. Such feeding is now arranged, not only in the large and medium-sized towns and municipal communities, but also to a considerable extent in the schools in country districts. In Stockholm, about 17% of the elementary school children received such food in 1934. The corresponding figures for Gothenburg and Malmö were 17% and 15%.

Since 1919 there has also been a *Northern Association for Child Welfare and the Protection of Young People* with the object of promoting co-operation between the Scandinavian countries (Sweden, Denmark, Norway, Finland and Iceland) in respect of measures for child welfare and the protection of young people relating to legislation, organisation, research, etc. The Swedish section consists of the Child Welfare Department of the Swedish Poor Relief and Child Welfare Union (see below), which has the same management as the section.

Since 1921, Sweden has been affiliated to the *International Child Welfare Association*.<sup>1</sup> As the League of Nations decided in 1924 to include a part of this

<sup>1</sup> Association internationale pour la protection de l'enfance. —

work in its programme, the Union has been to some extent reorganised, since it now deals only with child welfare questions. Sweden is also affiliated to the *Save the Children International Union* and a Swedish section called *Svenska Rådta Barnen* was formed in 1919.

In addition, there are a number of associations in Sweden whose duties include child welfare and the protection of young people — for instance, the *Swedish Poor Relief and Child Welfare Union*, with a special department for child welfare; the *Swedish Municipal Union*, which promotes the common interests of the large and small towns, the municipal communities and the communes, arranging co-operation between them and disseminating information on communal matters; the *Swedish Provincial Assembly Union*, which promotes co-operation between the Provincial Assemblies and protects their interests, and disseminates knowledge of provincial questions; the *Swedish Union of Rural Communes*, which protects the joint interests of rural communes, promotes co-operation between them and disseminates information on communal matters, especially those directly related to communal questions in rural districts. The *Swedish Church Administration of Deaconesses*, appointed by the Church Congress, works for the better development of parish life and Christian endeavour within the Swedish Church. The *General Children's Home* (founded in 1624 and reorganised in 1930) is a special institute which provides care and training for children who are unprotected or who otherwise require attention, and also supports and promotes measures for the care and training of children and young people. The Children's Home grants assistance to (a) homes for temporary care and observation of children and (b) homes for mothers with infants, and also (c) acts as an intermediary for foster-homes (*i.e.*, allocates places in children's homes of various kinds or in good private homes). The last-mentioned duty is carried out directly by the so-called child welfare representatives, who are, as it were, officials affiliated to the Child Welfare Unions and are paid by the General Children's Home. To a less extent, the Children's Home receives children for permanent care. The *Central Union for Social Work* is an association for promoting social progress and social work by investigation and initiative, and forms a union of certain other organisations engaged in social work. The *Union of Swedish Poor Relief and Child Welfare Officials* aims, *inter alia*, at arranging classes, study tours, meetings and congresses in order to increase the members' interest in social assistance and to supply them with suitable training.

Lastly, some details are given of the *General Inheritance Fund* and the *Child Welfare Unions*.

In Sweden, unlike a number of other countries, State contributions for child welfare only consist of small amounts for children taken in charge for protective education. In recent years, however, this has been compensated by the above-mentioned General Children's Home and the *General Inheritance Fund*. In 1928, a new inheritance law was passed by the Riksdag, introducing certain restrictions in the right of succession; and it was proposed that the property of deceased persons, which could not be confiscated by the State for budgetary purposes, should be paid into a special fund called the General Inheritance Fund, which should be applied to "the promotion of the care and education of children and young people". The Fund, which at the beginning of the financial year 1933/34 amounted to 919,263 kronor, paid out from the years 1931 to 1934 a total amount of 1,390,749 kronor in accordance with the following principles. Of the amounts received during a financial year, one-third is paid into the Fund at the end of the year; while the remainder, together with the interest on the Fund, is available as from the following year for distribution for the purpose of erecting or improving children's homes or kindergartens, or for supporting organisations engaged in social work. Formerly, assistance was also granted to large families, but this work has now ceased. In addition, assistance

has been granted to persons following courses of various kinds at educational institutes.

As mentioned above, Sweden also has institutions known as Child Welfare Unions. The object of these unions is to encourage the creation of institutes required for supporting public work in connection with child welfare and the protection of young people, and in other respects to take steps for the sound and suitable development of this work. Such unions at present exist in all the Swedish provinces (twenty-four in number) with especially appointed child welfare representatives, whose salaries, travelling expenses, etc., are paid by the General Children's Home. The child welfare representatives must endeavour to bring about co-operation between the Child Welfare Councils of the provinces and the Children's Homes within the unions' sphere of action, and find good homes within the province suitable for taking children. After children have been placed in private homes by the representative, he must visit the homes and, in case of need, arrange for removal; if he receives information of abuses in any private home he must immediately inform the competent Child Welfare Council, so that it may take the necessary steps. The Child Welfare Unions have taken an active part in the creation of children's homes of various kinds.

#### STATISTICAL INFORMATION.

The Royal Decree of July 1st, 1927, provided that statistical returns for child welfare work should be prepared for the year 1928, and subsequently for every third year.

The statistical returns given below relate solely to the work of the Child Welfare Councils in the years 1928 and 1931, and in certain cases in 1934. A certain overlapping in the official statistics was unavoidable, however, and this is naturally reproduced in the present report.

#### 1. *Preventive Measures under § 23 of the Child Welfare Law* (Annexes 9, 10 and 11).

Preventive measures are to be regarded as a milder form of intervention by the Child Welfare Council, and aim at improving the child if possible without placing it under care.

In 1928, *admonitions* were given to parents in 741 cases in all (in 1931 498 cases and in 1934 430 cases), while *warnings* were given to children in 920 cases (in 1931 805 cases and in 1934 824 cases). Decisions to administer *corporal punishment* were given in 44 cases (in 1931 18 and in 1934 13 cases). Decisions to send children to *institutions to supplement the home training* were taken in 39 cases (in 1931 35 cases and in 1934 32 cases). *Supervision* was decided upon in 797 cases (1931 1,400 and 1934 1,063). As several of these measures could obviously be taken at the same time in respect of the same children (this would normally be the case in respect of supervision), information is also given as to the net number of children subject to preventive measures). This figure was 2,061 in 1928 (2,455 in 1931 and 2,100 in 1934).

A comparison of the figures for 1928 and 1931 (no comparison can be made with 1934 as the figures are merely preliminary), shows, in the first place, that the preventive measures were taken to an increasing extent in the towns, while such measures decreased in the case of the Child Welfare Councils of rural districts; and, in the second place, that admonitions to parents, corporal punishment and warnings to children are on the decline. On the other hand, supervision is being increasingly applied (an increase of 75.7% since the year 1928), and this increase refers principally to the towns.

Boys are in a decided majority as objects of preventive measures; for every 10 girls in 1928 there were 24 boys, and in 1931 21 boys. The number of boys subject to these measures is greatest approximately at the school age.

Information regarding the number of cases where it was decided to take "no steps" cannot be given for erring children and children in moral danger as a separate category, on account of the manner in which the official statistics are drawn up. It is true that the statistics state that, in 1928, it was decided to take no steps in 822 cases (595 in 1931), but this information relates not only to cases of ill-treatment and serious neglect but also to communal care (*i.e.*, certain financial assistance). The number of cases relating to communal care would appear, however, according to competent statisticians, to be quite insignificant. If these cases are counted as representing 5%, the remaining cases in which it was decided to take no steps would amount to 781 in 1928 and 565 in 1931; but it is difficult to say how many of these decisions relate to cases of neglect, etc., and should on that account not be included in these statistics. For certain reasons, however, it may be assumed that these cases do not amount to more than 20%. This would therefore imply that, in the years 1928-1931, decisions to take no steps were given in 625 and 452 cases respectively with reference to erring children and children in moral danger.

No particulars can be given of the number of cases in which parents, children or other persons have been *called* before the Board or its representative, since the statistics available do not provide such information.

## 2. *Protective Education* (Annexes 13 and 14).

In this connection, figures are given in the first place for the number of children to whom it has been decided to give protective education, and in the second place the number of children who have received protective education in the year in question, whether the decision was given in that year or previously. On account of the manner in which the official statistics are prepared, it cannot be definitely stated in figures in how many cases these decisions related in particular to erring children and children in moral danger.

For instance, in 1928, 1,016 children in all were taken in charge for protective education, and in 1931 this figure had fallen to 988. If from the figures given below relating to the total number of children taken in charge for protective education are deducted the cases of neglect, etc., which are placed at about 20% (in 1928 17%, in 1931 22% and in 1934 23%), the number of children given protective education on account of moral corruption or danger would be 812 in 1928 and 790 in 1931.

The total number of children taken in charge for protective education amounted in 1928 to 4,866 and in 1931 to 5,659. Of these, 4,043 and 4,414 respectively were taken in charge on account of moral corruption or danger. The preliminary figures for 1934 are 6,280 and 4,893 respectively. As compared with the population, the frequency in 1931 was 7 per 10,000 inhabitants in country districts and 13.3 in towns, making an average for the entire country of 9.1. This figure was 7.8 in 1928.

According to the returns for 1928 and 1931, the children taken in charge for protective education were placed as follows :

	Private homes %	Children's homes %	Protection homes %	Other institutes %
1928 . . . . .	47.9	17.2	29.2	5.7
1931 . . . . .	48.5	17.8	28.2	5.5

### 3. *Communal Expenditure* (Annexes 18 and 19).

The gross expenditure of the Child Welfare Council on children taken in charge for protective education amounted in 1928 to 1,856,793 kronor, which also included expenditure on children taken in charge on account of neglect (§ 22 (a)). It has not been possible to obtain from the official statistics a figure for the expenditure relating solely to children taken in charge on account of moral corruption or danger, but it may be assumed that the amount was not less than 1,400,000 kronor. The corresponding amounts for 1931 are 2,262,669 and 1,800,000 kronor respectively.

The above figures, however, do not give anything like a complete account of the expenditure of the Child Welfare Councils, since they refer solely to the direct gross costs. Consequently, they do not include expenses for officials, journeys of inspection, stationery, postage, etc. In this respect, the official statistics give no information. In order, however, to give some idea of the amount of these costs, some figures will be given for 1934 in respect of three towns in Sweden — namely, Stockholm (520,000 inhabitants), Malmö (130,000 inhabitants) and Gävle (39,000 inhabitants). In the case of most of the Child Welfare Councils in Sweden (about 2,300 in number), the costs for officials would not appear to be considerable, since the chairmen and members frequently perform free of charge duties which would otherwise be carried out by the officials of the large Child Welfare Councils.

The costs in 1934 in the case of the Stockholm Child Welfare Councils amounted to about 475,000 kronor (wages, remuneration, heating and cleaning of offices, printing, pensions and miscellaneous). The corresponding amounts for Gävle and Malmö were 95,000 and 30,000 kronor respectively. These figures, however, also include expenditure on other work than that relating to children receiving protective education (for instance, expenditure for "child welfare men" and for work relating to foster-children, etc.).

As regards the preparation of the budget of a Child Welfare Council and a protection home in so far as such budget can be regarded as in accordance with modern principles, see Annexes 20 and 21.

### RESULTS OF PENAL AND SOCIAL LEGISLATION.

In endeavouring to describe the practical results of the relevant legislation, in the first place considerable doubts must be expressed as to the possibility of giving an approximately reliable picture. As regards the legislation for child welfare and the protection of young people, it must be remembered that the Law of 1924 regarding public child welfare has been in force for the relatively short period of ten years, although the protection homes as such have been in operation of a considerably longer time. This obviously affects the possibility of estimating the practical effects of the legislation. In addition, the official statistics on this subject are not drawn up in such a manner as to enable the necessary study to be made.

In dealing either with penal legislation in respect of youthful criminals or legislation on child welfare and the protection of young people, there is a further question which must be considered in this connection in order to emphasise the difficulties involved by this investigation. In order to estimate the results, for instance, of the work of educational institutes or protection homes, information must be obtainable regarding the conduct of the pupils after their discharge and the manner in which they adapt themselves to the life of the community. The easiest way to obtain figures on this subject is of course to ascertain to what extent the persons in question have come into conflict with the law, but it is obvious that a bare statement



of such figures gives a very incomplete idea of the actual lack of social qualities. It is, moreover, open to question what crimes or offences indicate unsocial qualities. Naturally, too, a person may have unsocial qualities without being guilty of a criminal act within the meaning of the law. The above remarks will be sufficient to indicate the difficulty of entirely solving the problem in question.

With a view to obtaining the necessary material the two general educational institutes (Bona for boys and Viebäck for girls), and a large number of our protection homes and all Child Welfare Councils in towns with more than 30,000 inhabitants have been consulted. The results of this investigation are divided into the following groups : (a) general educational institutes, (b) protection homes, and (c) Child Welfare Councils, according to whether the persons in question have been sentenced by a court for an offence (a), taken in charge for protective education by a Child Welfare Council and placed in a protection home (b), or taken in charge by a Child Welfare Council on account of moral corruption or danger and placed in some other manner than in a protection home (c).

Lastly, some information will be given regarding the result of the preventive measures taken by the Child Welfare Councils.

### 1. General Educational Institutes.

#### (a) For Boys (250 places).

The total number of pupils discharged from the Bona Institute in the period January 1st, 1905-December 31st, 1933, whose cases were investigated with reference to the results of the education, was 1,861.

The following categories have been deducted from this figure :

(1) Persons in respect of whom the order lapsed before they were provisionally discharged from the Institute . . . . .	47
(2) Persons in respect of whom the order lapsed after they were provisionally discharged . . . . .	60
(3) Persons in respect of whom the order lapsed because they had reached the age of 18 years . . . . .	4
(4) Persons in respect of whom the order has been cancelled by higher authority . . . . .	24
(5) Escaped from the Institute or from a home in which they were provisionally placed and not discovered at the age of 20 or 21 years . . . . .	22
(6) Finally discharged for care in a hospital or asylum . . . . .	3
(7) Died before they were finally discharged . . . . .	27
	<hr/> 187

Consequently, these 187 pupils have been deducted from the original figure of 1,861, so that 1,674 remained for the purpose of the investigation.

Of these 1,674 pupils, 408 were sentenced after discharge from the Institute to imprisonment or fines for one or more offences.

The various offences are distributed as follows :

Theft . . . . .	271	Causing of damage or injury . . . . .	1
Offences against morality . . . . .	8	Murder . . . . .	1
Assault, ill-treatment, illicit trade in alcohol . . . . .	97	Illegal use of motor vehicles . . . . .	4
Embezzlement and fraud . . . . .	53	Opening other persons' letters . . . . .	1
Petty larceny . . . . .	43	Illegal use of the property of others . . . . .	2
Offences against the military laws . . . . .	44	Trespassing on railways . . . . .	1
Incendiarism . . . . .	1		
Arson . . . . .	1	Total . . . . .	<hr/> 528

This shows that, of the 408 pupils who committed offences after discharge from the Institute, a number were punished for several offences.

The total number of persons who relapsed once is 217, so that the percentage of discharged pupils who committed repeated offences or different kinds of offences, and who may therefore be regarded as more or less unamenable to the education of the Institute, amounts to 12.96% of the total number of discharged pupils (53.19% of the relapse figure).

On examining the police notices, it was found that the number of pupils who had been

Warned for vagrancy and sentenced to hard labour but who had not committed offences was . . . . .	51
Driving-licences withdrawn (for driving motor-cars) . . . . .	7
Prohibited from removal (on account of maintenance obligation). . . . .	2
	<hr/>
	60

These are defined as doubtful.

Of the 1,674 pupils up to December 31st, 1933, therefore, 1,206 were, as far as could be ascertained, satisfactory.

The result of the education may therefore be summarised as follows :

Unsuccessful . . . . .	24.37%
Doubtful . . . . .	3.59%
Satisfactory . . . . .	72.04%

(b) *For Girls (56 places).*

During the period October 1st, 1906-December 31st, 1934, 313 pupils in all were finally discharged from the Institute (*Vieböck*) and the result is described as follows :

Good . . . . .	236
Unsatisfactory or uncertain . . . . .	47
Unknown . . . . .	30
	<hr/>
	313

If the cases for which the result is unknown are included in the total, the percentage of satisfactory pupils is 75.4. If, however, the 30 marked as unknown are deducted from the total of 313, the percentage of the satisfactory pupils is 83.4.

According to the above results of the educational work carried on at the general educational institutes, it appears in the first place that these results must be regarded as good, and in the second place that the percentage of satisfactory pupils is higher in the institutes for girls. These results should, however, be compared with great caution, since the method of investigation regarding relapses, etc., would not appear to be the same in the two cases.

2. *Protection Homes.*

*Råby Protection Home for Boys (50 places).*

During the period 1840-1928, the Protection Home received a total of 498 pupils.

It will be seen from Annex 24 that 73.9% of the pupils finally discharged were able to return to a respectable life.

*Gräskärr Protection Home for Boys (37 places).*

In the period 1919-1932, 88 pupils were finally discharged from the home. According to information received from the Institute based on an investigation carried out by the head of the Institute, the percentage of satisfactory cases was 87.

*Lingalan Protection Home for Girls (34 places).*

In the years 1926-1933, 33 pupils were discharged from the Home, and the results of the educational work are described as follows :

Very good . . . . .	23
Less good . . . . .	9
Unknown . . . . .	1
Total . . . . .	<u>33</u>

On the basis of the above methods of calculating, the percentage of satisfactory cases is 71.9.

*Engesberg Protection Home for Boys (20 places).*

According to the particulars received, 31 pupils were discharged from this Home in the period August 1st, 1925-October 1st, 1935. After deduction of three pupils who were transferred to an institute for the feeble-minded, the percentage of satisfactory cases resulting from the educational work is 89.3. The investigation was, however, also extended to the period 1895-1935, and the percentage of satisfactory cases for the entire period is 70.7.

*Sundbo Protection Home for Boys (36 places).*

According to the investigation made, the satisfactory cases (relating to the pupils discharged in the period 1921-1934) amount to about 77%.

To judge from other information received, the satisfactory cases in the boys' homes would appear to be about 70%-75%, and in the girls' homes about 80%.

To sum up, the results of the education in protection homes — so far as there may be any justification for drawing objective conclusions from such highly heterogeneous material — they would appear to be good and (as in the general educational institutes) more favourable in the case of girls.

The State has recently provided for a statistical investigation regarding pupils discharged from protection homes in respect of their conduct after discharge.

**3. Child Welfare Councils.**

In studying the particulars received, a distinction should be drawn between cases of moral corruption, involving placing in other than protection homes, and cases of moral danger.

**(a) Cases of Moral Corruption.**

All the information received would appear to show that the percentage of satisfactory cases of children taken in charge for protective education on account of moral corruption and placed in private homes, children's homes or similar institutions, is extremely favourable. The average percentage would appear to be about 75. The relatively large number of these satisfactory cases is naturally due to the fact that they refer, as a rule, to fairly mild cases of moral corruption.

**(b) Cases of Moral Danger.**

Here also, the information received shows a favourable result, and the percentage of satisfactory cases is on an average about 80.

**(c) Preventive Measures.**

The results of the preventive work of the Child Welfare Councils (warning, corporal punishment, supervision) would appear to have been good. In the case

of children who have received warnings, the number of relapses would appear to be between 30% and 40%. When the warning has been combined with supervision, the number of relapses appears to have declined.

The above remarks regarding the difficulty of drawing definite conclusions from the material received would appear to apply to a still greater degree to the information received from various Child Welfare Councils. As an illustration of this, it may be mentioned that the improvement in the percentage of cases of erring children varied as widely as from 52 to 88.

To sum up, the above remarks regarding the results of penal legislation in respect of youthful offenders and the legislation on child welfare and the protection of young people, it may be said that the legislation in question has had a beneficial effect on the morality and legal security of the community, though I have not been able to base my conclusions on more detailed statistical information than the above.

In addition, according to information I have received, criminality in general in Sweden at present shows a decline in respect of persons of more than 20 years of age.

With regard to persons admitted to the State compulsory labour institutes at the end of the years 1921-1934 for vagrancy, see Annex 25.

#### NEED FOR REFORM.

Apart from demands for the amendment of certain detailed provisions, on which it is unnecessary to report, a number of desires have recently been expressed by the criminal police, and efforts have been made to reorganise the work of the protection homes, etc.

In a motion submitted to the Riksdag in 1934, it was recommended that the Riksdag should decide to request the King to institute an enquiry into the revision of the existing regulations regarding the treatment of youthful criminals, with special reference to the age of criminal responsibility, prosecution, arrest and the method of reforming the offender. The question which is of special interest in this connection refers to the proposed increase in the age of criminal responsibility from 15 to 16 years.

A number of years ago, the Riksdag proposed an enquiry into the question whether the age of criminal responsibility could be raised. The main reason for an increase was said to be that many persons of 15 or 16 years still took a child's view of life, and that penalties of imprisonment and hard labour, even with the adjustments admitted by the law, must as a rule be considered unsuitable for young persons, not least on account of the disgrace to which persons undergoing such penalties were subject in the view of the public. In addition to this reason, it was stated that the prosecution of persons of 15 years in the courts involved inconveniences which could be avoided if these persons were referred for treatment to the Child Welfare Council, and that, from the educational point of view, it would be more suitable for persons of 15 years to be admitted to the protection of homes intended for children than to the general educational institutes arranged for older youths. A special Committee had on one occasion pointed out the undoubted truth in the statement that a person of 15 years generally still has the views of a child, since he is in the midst of the development of puberty, which has a profound physical and mental

effect. This development, which generally begins in Sweden at the age of 13 or 14, is by no means concluded at the age of 16, at any rate in the case of boys. As a rule, it continues until the age of 17 or 18. If, therefore, the conclusion of puberty were to be taken as a limit in deciding criminal responsibility, this would imply that the age of criminal responsibility would have to be raised to 17 or 18 years; but, for obvious reasons, there can be no question of such an increase in the age. If the principle of the existing regulations regarding a division of the powers of the court and the Child Welfare Council is applied, such an increase in the age of criminal responsibility will imply that further age-groups of young offenders would have their actions judged by the Child Welfare Council instead of by the court. From some points of view, it was considered that such a division would be an advantage. It was argued that the Child Welfare Council treats cases in a freer and less public manner, and has, moreover, greater possibilities of obtaining exact information regarding the offender and the conditions which may be assumed to have brought about the offence. It was rightly pointed out, however, that there might be considerable doubt as to whether the Child Welfare Councils, especially in country districts, are capable of taking charge of persons over 15 years who have committed criminal offences. In addition, it was stated that the court procedure alone offers guarantees for the complete and impartial examination of offences, and that the court, by applying the system of preliminary examinations, can obtain satisfactory information regarding the personal circumstances of the accused. The inconvenience of a fixed age-limit of criminal responsibility from the point of view of the degree of development of the person concerned is encountered in practically all penal systems, and, as pointed out above, there are considerable disadvantages in granting the court the right, which it formerly possessed under Swedish law, to decide whether a punishable offence has been committed or not. Although the criminal police in Sweden has suggested that the age of criminal responsibility should be raised, the prospects of such a change would appear to be very small at the present time, in view particularly of the introduction of so-called "youth imprisonment" and the amendment of the Criminal Code, Chapter 5, § 2, which took place in 1935.

Another question which requires investigation, and is particularly urgent at the present time, is the problem of the organisation of treatment in protection homes.

The defects in the present organisation, to which special attention has been called, relate to the differentiation in the various protection homes and to the vocational training in them.

Regarding the question of differentiation between the pupils of protection homes, an investigation has shown that there is often a great difference in age between pupils in the same protection home. In the so-called ordinary protection homes — *i.e.*, those opened by the Provincial Assembly or by towns in which there is no Provincial Assembly, there are pupils from the age of 8 up to 20 or 21 years. According to the same investigation, these protection homes have also a fairly large group of mentally-abnormal pupils.

The question of vocational training of pupils admitted to protection homes has been regarded as of special importance for many years.

In an expert opinion given on July 30th, 1935, together with a proposal regarding the work of protection homes, it was suggested, *inter alia*, that the responsibility for the work of the homes should in principle be assumed by the State; that in the case of children taken in charge before the age of 18, special homes (school-homes) should be opened for children of school age, special vocational homes for older boys and special home schools for older girls; that children who are physically or mentally abnormal and cannot benefit by the instruction and training at other homes should be brought together in special institutes; and that the vocational training should be

better organised, especially by the above-mentioned division into homes for younger and homes for older children.

No other demands for extensive reforms in respect of the legislation on child welfare and the protection of young people have been made, presumably on account of the fact that the legislation in question is of comparatively recent date.

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**Annex 1.**

**PARTICULARS OF ERRING AND MORALLY NEGLECTED CHILDREN,  
COMMUNICATED BY THE CHAIRMEN OF SCHOOL COUNCILS,  
IN RESPECT OF CHILDREN BORN FROM 1882 TO 1889.**

The particulars relate to the year 1896.

	Erring		Morally neglected	
	Boys	Girls	Boys	Girls
A. Towns . . . . .	440	88	1,139	778
B. Country districts . . . . .	444	66	1,493	648
<b>Total for the Kingdom . . . . .</b>	<b>884</b>	<b>154</b>	<b>2,632</b>	<b>1,426</b>

making in all 3,516 boys and 1,580 girls in special need of education suited to their case.

Of this number, the majority were born in the period 1884-1889 — that is to say, were not yet twelve years old at the end of 1896; the numbers born during these years were :

	Errings		Morally neglected	
	Boys	Girls	Boys	Girls
A. Towns . . . . .	224	53	834	605
B. Country districts . . . . .	253	45	1,044	489
<b>Total for the Kingdom . . . . .</b>	<b>477</b>	<b>98</b>	<b>1,878</b>	<b>1,094</b>

The number of children born in 1882 and 1883 who were thus between 12 and 15 years old when the particulars were given, were as follows :

	Errings		Morally neglected	
	Boys	Girls	Boys	Girls
A. Towns . . . . .	216	35	294	172
B. Country districts . . . . .	191	18	406	153
<b>Total for the Kingdom . . . . .</b>	<b>407</b>	<b>53</b>	<b>700</b>	<b>325</b>

The erring children who were given education in the *towns* come under the following categories :

	Boys	Girls	Total
(a) Children who failed to attend school for a lengthy period without valid reason (truants) . . . . .	123	13	136
(b) Children who were vagrants or professional beggars . . . . .	43	23	66
(c) Children whose conduct showed depravity or serious corruption but who had not been prosecuted in the courts . . . . .	214	37	251
<b>Total . . . . .</b>	<b>380</b>	<b>73</b>	<b>453</b>

The children in *country* districts who were given education were as follows :

	Boys	Girls	Total
(a) " Truants " . . . . .	74	15	89
(b) Children who were vagrants or professional beggars . . . . .	40	8	48
(c) Children whose conduct showed moral depravity or serious corruption but who had not been brought before the courts . . . . .	224	18	242
<b>Total . . . . .</b>	<b>338</b>	<b>41</b>	<b>379</b>

**Annex 2.**

**PARTICULARS OF SERIOUSLY CORRUPT CHILDREN, COMMUNICATED BY MAGISTRATES, POLICE STATIONS AND DISTRICT BAILIFFS.**

The particulars relating to children of 14 to 15 years were given in 1896.

	Boys	Girls
A. Towns . . . . .	244	37
B. Country districts . . . . .	111	13
Total for the Kingdom . . . . .	355	50

In the period 1892-1896, the following measures were taken under § 51 of the Elementary School Regulations.

	1892	1893	1894	1895	1896	Total
A. <i>In towns.</i>						
(a) Warnings given by the Church Council . . . . .	40	48	56	42	48	234
(b) Children removed from the charge of their parents . . . . .	24	33	37	44	61	199
B. <i>In country districts.</i>						
(a) Warning given by the Church Council . . . . .	81	58	87	122	118	466
(b) Children removed from the charge of their parents . . . . .	16	19	34	39	60	168

**Annex 3.**

**POPULATION OF SWEDEN.<sup>1</sup>**

1890 . . . . .	4,779,695	1905 . . . . .	5,277,848	1920 . . . . .	5,875,763
1891 . . . . .	4,793,866	1906 . . . . .	5,315,970	1921 . . . . .	5,929,403
1892 . . . . .	4,804,808	1907 . . . . .	5,357,384	1922 . . . . .	5,970,918
1893 . . . . .	4,815,508	1908 . . . . .	5,403,657	1923 . . . . .	5,996,640
1894 . . . . .	4,848,667	1909 . . . . .	5,453,021	1924 . . . . .	6,020,939
1895 . . . . .	4,896,221	1910 . . . . .	5,499,422	1925 . . . . .	6,044,840
1896 . . . . .	4,940,914	1911 . . . . .	5,542,101	1926 . . . . .	6,063,965
1897 . . . . .	4,986,100	1912 . . . . .	5,582,996	1927 . . . . .	6,081,146
1898 . . . . .	5,036,275	1913 . . . . .	5,621,388	1928 . . . . .	6,096,557
1899 . . . . .	5,080,160	1914 . . . . .	5,659,095	1929 . . . . .	6,112,635
1900 . . . . .	5,116,922	1915 . . . . .	5,696,174	1930 . . . . .	6,131,135
1901 . . . . .	5,155,835	1916 . . . . .	5,735,153	1931 . . . . .	6,152,319
1902 . . . . .	5,186,990	1917 . . . . .	5,779,207	1932 . . . . .	6,176,405
1903 . . . . .	5,210,022	1918 . . . . .	5,807,349	1933 . . . . .	6,200,965 <sup>1</sup>
1904 . . . . .	5,241,051	1919 . . . . .	5,830,444	1934 . . . . .	6,222,328 <sup>1</sup>

<sup>1</sup> Preliminary particulars.



**Annex 4.**

**POPULATION OF SWEDEN ACCORDING TO AGE-GROUPS.**

	10 to 15 years	15 to 20 years	20 to 25 years
1890 . . . . .	487,620	432,759	348,785
1900 . . . . .	529,370	485,210	425,607
1910 . . . . .	550,063	512,433	457,536
1915 . . . . .	527,069	534,075	475,283
1920 . . . . .	591,494	557,327	508,252
1925 . . . . .	566,531	579,279	529,100
1930 . . . . .	547,981	558,334	555,319
1931 . . . . .	554,022	551,565	560,376
1932 . . . . .	552,439	543,437	564,061

**Annex 5.**

**PREVENTIVE MEASURES IN 1908, 1915, 1928 AND 1931.**

Kind of measure	1908	1915	1928	1931
Admonition to parents . . . . .	533	597	741	498
Warning to child . . . . .	597	810	920	805
Corporal punishment . . . . .	90	123	44	18
Institute in support of home training . . . . .	—	—	39	35
Supervision (not connected with other measures)	—	—	797	1,400
	<u>1,220</u>	<u>1,530</u>	<u>2,541</u>	<u>2,756</u>

**Annex 6.**

**NUMBER OF CHILDREN REMOVED FROM THEIR HOMES BY DECISIONS TAKEN IN 1908 AND 1915 UNDER THE CHILD WELFARE LAW OF 1902.**

	1908	1915
Country districts . . . . .	250	273
Towns . . . . .	427	520
<b>Total . . . . .</b>	<u>677</u>	<u>793</u>

**Annex 7.**

**GENERAL EDUCATIONAL INSTITUTES.**

**A. STATE EDUCATIONAL INSTITUTE AT BONA.**

The Bona estate consists of six houses, with a total of about 165 hectares of arable land, 707 hectares of productive forest, and 275 hectares of other land. The Regulations issued by the King on June 26th, 1925, provide, *inter alia*, that the pupils, with a view to their training as capable workers, must be used according to their aptitude and capacity on duties connected with the upkeep of the institute and estate, and should also receive practice in Sloyd or handwork; they are therefore trained not only in agricultural work, but also in tailoring, shoemaking, carpentry, leather-work, smith's work, etc.

From 1905, when the Institute began its work, until 1935, about 2,100 pupils were admitted. The staff consists of a director, pastor and headteacher, agricultural inspector, two teachers, overseer, matron, accountant, engineer, about thirty foremen and handwork teachers, gardeners, male nurses, farmyard foremen, etc.

**B. DEACONESS INSTITUTE HOME AT VIEBÄCK.**

This Institute was recognised as a General Educational Institute by Royal Decree of June 16th, 1906.

The pupils receive instruction in cooking, weaving, sewing, machine and hand-knitting, washing and ironing, and in gardening. In addition, theoretical instruction in the usual school subjects is given.

Area of land, 183 hectares.

Staff: Directress, one to three assistant deaconesses, one woman teacher, porter, farm labourer and farmyard hand.

In addition, there are two Educational Institutes established by the State for erring mentally deficient children — *i.e.*, for boys at Salbohed, with 50 places, and for girls at Vänersborg, with 40 places.

**Annex 8.**

**NUMBER OF COMMUNES IN SWEDEN IN 1931.**

Country Districts and Towns	Communes (Poor Relief Communities)	
	Total	With separate Child Welfare Councils
City of Stockholm . . . . .	1	1
Province of :		
Stockholm . . . . .	121	110
Uppsala . . . . .	87	78
Södermanland . . . . .	95	88
Östergötland . . . . .	152	137
Jönköping . . . . .	136	127
Kronoberg . . . . .	88	81
Kalmar . . . . .	107	99
Gotland . . . . .	93	84
Blekinge . . . . .	40	39
Kristianstad . . . . .	149	145
Malmöhus . . . . .	245	239
Halland . . . . .	91	78
Göteborg and Bohus . . . . .	94	87
Älvsborg . . . . .	225	203
Skaraborg . . . . .	269	239
Värmland . . . . .	93	90
Örebro . . . . .	65	64
Västmanland . . . . .	70	65
Kopparberg . . . . .	57	57
Gävleborg . . . . .	56	55
Västernorrland . . . . .	67	67
Jämtland . . . . .	61	61
Västerbotten . . . . .	32	32
Norrbotten . . . . .	29	29
Total for the entire country . . . . .	2,523	2,355

**Annex 9.**

**PREVENTIVE MEASURES (UNDER § 23 OF THE CHILD WELFARE LAW) IN 1928.**

Kind of measure	Legitimate Children		Illegitimate Children		Total
	Boys	Girls	Boys	Girls	
Admonition to parents . . . . .	457	155	82	47	741
Warning to the child . . . . .	685	108	94	33	920
Institute in support of home training . . . . .	21	8	3	7	39
Corporal punishment . . . . .	34	3	6	1	44
Supervision . . . . .	359	273	89	76	797
Net number of children . . . . .	1,217	473	229	142	2,061
Including number placed under care . . . . .	117	52	41	20	230

**Annex 10.**

**PREVENTIVE MEASURES (UNDER § 23 OF THE CHILD WELFARE LAW) IN 1931.**

Kind of measure	Legitimate children		Illegitimate children		Total
	Boys	Girls	Boys	Girls	
Admonition to parents . . . . .	329	96	43	30	498
Warning to the child . . . . .	631	85	70	19	805
Institute in support of home training . . . . .	13	13	2	7	35
Corporal punishment . . . . .	18	—	—	—	18
Supervision . . . . .	703	459	122	116	1,400
Net number of children . . . . .	1,454	621	216	164	2,455
Including number placed under care . . . . .	93	45	24	21	183

**Annex 11.**

**PREVENTIVE MEASURES (UNDER § 23 OF THE CHILD WELFARE LAW) IN 1934.<sup>1</sup>**

Kind of measure	
Admonition to parents . . . . .	430
Warning to the child . . . . .	824
Institute in support of home training . . . . .	32
Corporal punishment . . . . .	13
Supervision . . . . .	1,063
Net number of children . . . . .	2,100

**Annex 12.**

**GENERAL EDUCATIONAL INSTITUTES AND PROTECTION HOMES IN SWEDEN IN 1935.**

*General Protection Homes.*

	Address	Number of places
State Educational Institute at Bona (for boys) . . . . .	Karlsby	250
Deaconess Institute Home at Viebäck (for girls) . . . . .	Malmköping	56
Total . . . . .		306

<sup>1</sup> Preliminary figures.

*Protection Homes.*

A. For boys.			Address			Number of places		
§ 43, paragraph 1, of the Child Welfare Law :								
Skrubba . . . . .	Stockholm	85	Alvåsen . . . . .	Älvsbacka	40	Akerby . . . . .	Nora	45
Norrby . . . . .	Häverö	35	Sundbo . . . . .	Västanfors	36	Engesberg . . . . .	Bönan	20
Folåsa . . . . .	Vikingstad	40	Klockarsvedja . . . . .	Näsviken	18	Boda . . . . .	Viskan	30
Norrgård . . . . .	Kalmar	80	Stenfors . . . . .	Änäset	30	Johannisberg . . . . .	Kalix	60
Ostra Spång . . . . .	Orkelljunga	45	§ 43, paragraphs 2 and 3 :			Hall . . . . .	Södertälje	171
Ljungaskog . . . . .	Lund	50	§ 43, paragraph 5 :			Höreda . . . . .	Eksjö	30
Råby . . . . .	Skällinge	30	Total . . . . .					1,052
Måshult . . . . .	Kragenås	40						
Vrängsholmen . . . . .	Uddevalia	37						
Gråskärr . . . . .	Frändefors	40						
Forsane . . . . .	Lidköping	40						
Margretelund . . . . .								
B. For girls.								
§ 43, paragraph 1 :								
Ennäs . . . . .	Enköping	35	§ 43, paragraph 2 :			Mossebo . . . . .	Malmbäck	18
Husby . . . . .	Akers-Runö	17	Morängen . . . . .			Morängen . . . . .	Almunge	19
Broby . . . . .	Söderköping	36	Hornö . . . . .			Hornö . . . . .	Enköping	33
Allarp . . . . .	Skåralid	24	Härsjögården . . . . .			Härsjögården . . . . .	Rävlanda	25
Sonestorp . . . . .	Eket	25	§ 43, paragraph 3 :			§ 43, paragraph 3 :		
Lingatan . . . . .	Hallinden	34	Skarviken och Tallåsen			Mölnbo . . . . .		50
Sjötorp . . . . .	Huddinge	30	§ 43, paragraph 5 :			§ 43, paragraph 5 :		
Gålegården . . . . .	Viskan	50	Drottning Sophias hem			Bålsta . . . . .		25
Håkanstorp . . . . .	Baggetorp	18	Total . . . . .					473
Glava . . . . .	Glava	34						

**Annex 13.**

**CHILDREN WHO WERE UNDER PROTECTIVE EDUCATION IN 1928  
CLASSIFIED ACCORDING TO THE REASONS FOR THE MEASURE.<sup>1</sup>**

*Protective education in accordance with § 22.*

Country districts and towns	(a) Neglect, etc.	(b) Moral danger	(c) Moral corruptions	Total
City of Stockholm . . . . .	28	252	368	648
Province of :				
Stockholm . . . . .	46	87	121	254
Uppsala . . . . .	16	45	50	111
Södermanland . . . . .	9	20	48	77
Östergötland . . . . .	12	105	98	215
Jönköping . . . . .	11	52	35	98
Kronoberg . . . . .	6	26	18	50
Kalmar . . . . .	34	55	58	147
Gotland . . . . .	4	14	8	26
Blekinge . . . . .	13	36	33	82
Carried forward . . . . .	179	692	837	1,708

<sup>1</sup> The above figures relate to all children taken in charge for protective education in 1928, whether the decision was taken during that year or previously. With regard to children taken in charge for protective education by decisions taken in the year 1928, see Annex 15.

Country districts and towns	(a) Neglect, etc.	(b) Moral danger	(c) Moral corruption	Total
Brought forward . . . . .	179	692	837	1,708
Kristianstad . . . . .	10	38	40	88
Malmöhu . . . . .	52	138	392	582
Halland . . . . .	16	35	25	76
Göteborg and Bohus. . . . .	56	193	216	465
Älvsborg . . . . .	44	77	57	178
Skaraborg . . . . .	19	44	36	99
Värmland . . . . .	84	103	49	236
Örebro . . . . .	13	66	64	143
Västmanland . . . . .	12	41	41	94
Kopparberg . . . . .	74	91	52	217
Gävleborg . . . . .	54	73	75	202
Västernorrland . . . . .	61	139	91	291
Jämtland . . . . .	46	81	39	166
Västerbotten . . . . .	39	43	29	111
Norrbottn . . . . .	64	65	81	210
<b>Total for the Kingdom . . . . .</b>	<b>823</b>	<b>1,919</b>	<b>2,124</b>	<b>4,866</b>

**Annex 14.**

**CHILDREN WHO WERE UNDER PROTECTIVE EDUCATION IN 1931  
CLASSIFIED ACCORDING TO THE REASONS FOR THE MEASURE.<sup>1</sup>**

*Protective education in accordance with § 22.*

Country districts and towns	(a) Neglect, etc.	(b) Moral danger	(c) Moral corruption	Total
City of Stockholm . . . . .	95	304	440	839
Province of :				
Stockholm . . . . .	52	84	125	261
Uppsala . . . . .	21	54	45	120
Södermanland . . . . .	7	29	45	81
Östergötland . . . . .	26	90	118	234
Jönköping . . . . .	13	47	42	102
Kronoberg . . . . .	11	34	15	60
Kalmar . . . . .	50	61	69	180
Gotland . . . . .	6	8	16	30
Blekinge . . . . .	15	32	45	92
Kristianstad . . . . .	36	62	55	153
Malmöhu . . . . .	84	173	317	574
Halland . . . . .	7	35	25	67
Göteborg and Bohus. . . . .	103	189	247	539
Älvsborg . . . . .	47	88	56	191
Skaraborg . . . . .	58	38	37	133
Värmland . . . . .	164	129	56	349
Örebro . . . . .	27	92	78	197
Västmanland . . . . .	19	39	40	98
Kopparberg . . . . .	86	107	51	244
Gävleborg . . . . .	77	71	92	240
Västernorrland . . . . .	67	194	84	345
Jämtland . . . . .	42	82	48	172
Västerbotten . . . . .	51	61	36	148
Norrbottn . . . . .	81	58	71	210
<b>Total for the Kingdom . . . . .</b>	<b>1,245</b>	<b>2,161</b>	<b>2,253</b>	<b>5,659</b>

<sup>1</sup> The above figures relate to all children taken in charge for protective education in 1931, whether the decision was taken during that year or previously. With regard to children taken in charge for protective education by decisions taken in the year 1931, see Annex 16.

**Annex 15.**

**AGE-GROUPS OF CHILDREN TAKEN IN CHARGE FOR PROTECTIVE EDUCATION BY DECISIONS TAKEN IN THE YEAR 1928.**

	Children born in the years			Total
	1922-1928	1912-1921	1911 and earlier	
Country districts . . . . .	145	331	26	502
Towns . . . . .	82	362	70	514
<b>Total . . . . .</b>	<b>227</b>	<b>693</b>	<b>96</b>	<b>1,016</b>

The figures relate to all cases of protective education and not only to moral corruption and moral danger, but also neglect.

**Annex 16.**

**AGE-GROUPS OF CHILDREN TAKEN IN CHARGE FOR PROTECTIVE EDUCATION BY DECISIONS TAKEN IN THE YEAR 1931.**

	Children born in the years			Total
	1925-1931	1915-1924	1914 and earlier	
Country districts . . . . .	167	327	26	520
Towns . . . . .	92	307	69	468
<b>Total . . . . .</b>	<b>259</b>	<b>634</b>	<b>95</b>	<b>988</b>

The figures relate to all cases of protective education and not only to moral corruption and moral danger, but also neglect.

**Annex 17.**

**CHILDREN WHO WERE UNDER PROTECTIVE EDUCATION IN 1934 CLASSIFIED ACCORDING TO THE GROUNDS FOR THE MEASURE.<sup>1</sup>**

*Protective education in accordance with § 22.*

(a) Neglect, etc.	(b) Moral danger	(c) Moral corruption	Total
1,480	2,491	2,402	6,375
Net number of children . . . . .			6,280

<sup>1</sup> The above figures, which are preliminary, relate to all children taken in charge for protective education in 1934, whether the decision was taken during that year or earlier. It has been impossible to ascertain the number of children under protective education in accordance with decisions taken in the year 1934, since the statistics for that year have not yet been prepared.

**Annex 18.**

**GROSS EXPENDITURE OF THE COMMUNES IN 1928.**

	Expenditure on care	Care at private institutions	Other expenditures Kronor	Total
<i>Country districts.</i>				
Protective education . . . . .	763,889	68,417	25,924	858,230
Public care . . . . .	3,705,033	363,599	68,710	4,137,342
Miscellaneous . . . . .	10,400	722	12,906	24,028
<b>Total . . . . .</b>	<b>4,479,322</b>	<b>432,738</b>	<b>107,540</b>	<b>5,019,600</b>
<i>Towns.</i>				
Protective education . . . . .	594,307	362,472	41,784	998,563
Public care . . . . .	2,507,747	707,244	121,162	3,336,153
Miscellaneous . . . . .	14,137	14,716	3,106	31,959
<b>Total . . . . .</b>	<b>3,116,191</b>	<b>1,084,432</b>	<b>166,052</b>	<b>4,366,675</b>
<i>Entire country.</i>				
Protective education . . . . .	1,358,196	430,889	67,708	1,856,793
Public care . . . . .	6,212,780	1,070,843	189,872	7,473,495
Miscellaneous . . . . .	24,537	15,438	16,012	55,987
<b>Total for entire country . . . . .</b>	<b>7,595,513</b>	<b>1,517,170</b>	<b>273,592</b>	<b>9,386,275</b>

The above-mentioned expenditure on protective education relates to expenditure on children taken in charge on account of moral corruption, moral danger and neglect ; the expenditure does not include payments for officials, inspections, etc., but only expenditure for actual care.

**Annex 19.**

**GROSS EXPENDITURE OF THE COMMUNES IN 1931.**

	Expenditure on care	Care at private institutions	Other expenditure Kronor.	Total
<i>Country districts.</i>				
Protective education . . . . .	914,186	73,299	28,468	1,015,953
Public care . . . . .	4,416,469	287,226	79,130	4,782,825
Miscellaneous . . . . .	9,927	783	14,949	25,659
<b>Total . . . . .</b>	<b>5,340,582</b>	<b>361,308</b>	<b>122,547</b>	<b>5,824,437</b>
<i>Towns.</i>				
Protective education . . . . .	673,000	519,498	54,218	1,246,716
Public care . . . . .	2,599,833	660,093	134,399	3,394,325
Miscellaneous . . . . .	13,876	14,772	5,951	34,599
<b>Total . . . . .</b>	<b>3,286,709</b>	<b>1,194,363</b>	<b>194,568</b>	<b>4,675,640</b>
<i>Entire country.</i>				
Protective education . . . . .	1,587,186	592,797	82,686	2,262,669
Public care . . . . .	7,016,302	947,319	213,529	8,177,150
Miscellaneous . . . . .	23,803	15,555	20,900	60,258
<b>Total for entire country . . . . .</b>	<b>8,627,291</b>	<b>1,555,671</b>	<b>317,115</b>	<b>10,500,077</b>

The above-mentioned expenditure for protective education relates to expenditure on children taken in charge on account of moral corruption, moral danger and neglect ; the expenditure does not include payments for officials, inspections, etc., but only expenditure for actual care.

**Annex 20.**

**CHILD WELFARE : MAIN ESTIMATE FOR 1935.**

**CURRENT EXPENDITURE.**

	Kronor
Officials, according to estimate of salaries . . . . .	91,920.40
Other personnel, cash payments . . . . .	11,300.—
"    "    holiday payments . . . . .	800.—
"    "    occasional employees . . . . .	900.—
Maintenance of buildings and garden . . . . .	2,500.—
"    "    "    "    "    extra grant. . . . .	2,500.—
Rent of office premises. . . . .	6,100.—
Office expenses of ten " child welfare men " at 650 kronor . . . . .	6,500.—
Heating . . . . .	4,000.—
Lighting . . . . .	1,700.—
Cleaning . . . . .	7,500.—
Water rate . . . . .	600.—
Maintenance of fixtures, bedding, etc. . . . .	1,800.—
Board of staff at the reception homes . . . . .	5,000.—
Board of persons admitted to the reception homes . . . . .	13,000.—
Clothing of staff in reception homes . . . . .	450.—
"    "    persons admitted to the reception homes . . . . .	3,000.—
Rewards and excursions . . . . .	500.—
Protection home charges . . . . .	67,000.—
Equipment costs for persons boarded out and in employment . . . . .	12,000.—
Travelling expenses for children and young people . . . . .	2,000.—
Costs for boarding out children and young people . . . . .	220,000.—
Medical expenditure at reception homes . . . . .	1,500.—
Expenditure on persons under care in hospitals, homes for invalids and institutes . . . . .	27,000.—
Medical attendance and medicine for persons boarded out in private homes . . . . .	2,300.—
Expenditure on investigation and inspection . . . . .	5,500.—
Burial costs . . . . .	500.—
Charges for work homes . . . . .	2,100.—
Equipment costs, etc. for children not taken in charge . . . . .	1,600.—
Investigations . . . . .	500.—
Legal expenses and investigations . . . . .	500.—
Post, telephone and tram, and advertisements, except for " child welfare man " . . . . .	4,235.—
Post, telephone and tram and advertisements for " child welfare man " . . . . .	6,000.—
Stationery, printed matter, etc. . . . .	2,800.—
Payment to municipal pensions fund, normal charges . . . . .	9,250.—
Pension supplement according to estimate for pensions and maintenance . . . . .	78.24
Interest on book value of equipment and fixtures . . . . .	7,382.10
Depreciation of fixtures . . . . .	2,992.05
	<hr/>

535,307.79

**CAPITAL EXPENDITURE.**

Purchase of fixtures . . . . .	2,775.—
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**CURRENT RECEIPTS.**

State contribution . . . . .	4,500.—
Refunds from other communes and from the State . . . . .	50,000.—
"    "    property of children under care and from parents and guardians . . . . .	35,000.—
Revenue from garden . . . . .	100.—
Earnings on sowing . . . . .	1,000.—
Allowance for benefits in kind, according to estimates of wages . . . . .	499.20
	<hr/>

91,099.20

**CAPITAL REVENUE.**

Depreciation of fixtures . . . . .	2,992.05
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The attached wage list gives details of payments to staff amounting to 91,920.40 kronor.



**Annex 21.**

**PROTECTION HOMES : MAIN ESTIMATE FOR 1935.**

**CURRENT EXPENDITURE.**

**1. Protection Home for Boys.**

	Kronor
Officials according to estimate of salaries . . . . .	22,484.80
Other personnel, cash payments . . . . .	2,000.—
Maintenance of buildings . . . . .	1,700.—
Fire insurance charges . . . . .	300.—
Heating . . . . .	1,600.—
Electric power . . . . .	200.—
Lighting . . . . .	1,200.—
Cleaning . . . . .	900.—
Maintenance of fixtures . . . . .	2,000.—
Educational material . . . . .	400.—
Board of staff : seven persons at 0.90 per day . . . . .	2,299.50
Board of pupils : thirty persons at 0.85 per day . . . . .	9,307.50
Clothing for pupils in the Home . . . . .	1,950.—
Clothing for discharged pupils . . . . .	1,000.—
Rewards and excursions . . . . .	250.—
Medical attendance and medicine . . . . .	800.—
Cost of boarding-out . . . . .	200.—
Taxes . . . . .	350.—
Postage and telephone charges, advertisements, etc. . . . .	400.—
Travelling expenses . . . . .	500.—
Stationery, printed matter, etc. . . . .	200.—
Pension payments to State Pension Institute . . . . .	539.—
Payment to Municipal Pension Fund, normal charges . . . . .	725.—
Interest on book value of the buildings and fixtures . . . . .	5,815.—
Depreciation of fixtures . . . . .	458.82

**57,579.62**

**2. Protection Home for Girls.**

Officials according to estimate of salaries . . . . .	13,286.93
Maintenance of buildings . . . . .	700.—
Fire insurance charges . . . . .	100.—
Heating . . . . .	1,400.—
Electric power . . . . .	100.—
Lighting . . . . .	300.—
Cleaning . . . . .	500.—
Maintenance of fixtures . . . . .	600.—
Educational material . . . . .	200.—
Board of staff : three persons at 0.80 per day . . . . .	876.—
Board of pupils : twenty-four persons at 0.75 per day . . . . .	6,570.—
Clothing for pupils in the Home . . . . .	1,300.—
Clothing for discharged pupils . . . . .	800.—
Rewards and excursions . . . . .	200.—
Medical attendance and medicine . . . . .	700.—
Taxes . . . . .	30.—
Postage and telephone charges, advertisements, etc. . . . .	400.—
Travelling expenses . . . . .	300.—
Stationery, printed matter, etc. . . . .	150.—
Pension payments to State Pension Institute . . . . .	461.—
Payment to Municipal Pension Fund normal charges . . . . .	270.—
Interest on book value of buildings and fixtures . . . . .	2,159.67
Depreciation of fixtures . . . . .	171.51

**31,575.11**

**3. Joint Expenditure.**

	Kronor
Officials in accordance with estimate of salaries . . . . .	511.68
Postage and telephone charges, advertisements, etc. . . . .	150.—
Travelling expenses . . . . .	1,600.—
Stationery, printed matter, etc. . . . .	300.—
Interest on book value of fixtures . . . . .	4.09
Depreciation of fixtures . . . . .	16.35
	<hr/>
	2,582.12
	<hr/>
Grand total . . . . .	91,736.85

**CURRENT RECEIPTS.**

**1. Protection Home for Boys.**

Protection Home charges for 30 pupils at 1,000 kronor . . . . .	30,000.—
State contribution for 30 pupils at 200 kronor . . . . .	6,000.—
State contribution to school library . . . . .	50.—
Receipts from agriculture . . . . .	1,500.—
Allowance for benefits in kind in accordance with estimate of salaries . . . . .	4,051.84
	<hr/>
	41,601.84

**2. Protection Home for Girls.**

Protection Home charges for twenty-four pupils at 1,000 kronor . . . . .	24,000.—
State contribution for twenty-four pupils at 200 kronor . . . . .	4,800.—
Receipts from garden and domestic animals . . . . .	500.—
Allowance for clothing from communes . . . . .	600.—
Allowance for benefits in kind in accordance with estimate of salaries . . . . .	3,120.—
	<hr/>
	33,020.—

Grand total . . . . .	74,621.84
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**CAPITAL RECEIPTS.**

Depreciation of fixtures, Boys' Home . . . . .	458.82
"    "    "    Girls' Home . . . . .	171.51
"    "    "    Joint receipts . . . . .	16.35
	<hr/>
	646.68

The attached estimate of salaries gives details of the totals of kronor 22,484.80 for the Boys' Home, kronor 13,286.93 for the Girls' Home and kronor 511.68 for joint expenditure.

**Annex 22.**

**STATE EDUCATIONAL INSTITUTE FOR BOYS, BONA.**

In 1934, the management of the Institute made an investigation into the result of the educational work at the Institute, from which the following information is taken :

The total number of pupils finally discharged from the Institute from January 1st, 1905, to December 31st, 1933, and included in the investigation amounted to 1,861. 187 of these pupils have not been included in the investigation for various reasons (discharged to hospitals or mental homes, deceased before discharge, etc.). Of the remaining 1,674, 1,206 lived wholly respectable lives after discharge, while the remainder are described as "doubtful" or "failures".

The result of the education is summarised in the investigation as follows :

Failures . . . . .	24.37
Doubtful . . . . .	3.59
Satisfactory . . . . .	72.04

*The investigation therefore shows that the percentage of satisfactory cases is about 70.*

**Annex 23.**

**STATE EDUCATIONAL INSTITUTE FOR GIRLS AT VIEBÄCK.**

According to information supplied to me, the Home has admitted in all 313 pupils since it was opened in 1906. The result of the work in respect of the discharged pupils is described as :

Good . . . . .	236
Unsatisfactory or uncertain . . . . .	47
Unknown . . . . .	30
	<hr/>
	313

The expression "good" implies that the discharged pupil has been restored to a respectable and honest life and carries out her work satisfactorily. My informant states that "in many cases where the result is described as unsatisfactory or uncertain, although the desired result has not been attained, the educational work has nevertheless left deep traces and should not be regarded as wasted".

*If no account is taken of the 30 pupils of whom nothing is known and the reduced figure is compared with the satisfactory cases, the satisfactory results amount to 83.4 %.*

**Annex 24.**

**RÄBY PROTECTION HOME FOR BOYS, LUND.**

According to the contents of the Jubilee publication of the Protection Home published in 1928 and relating to the period 1840-1928, 498 pupils in all have been discharged from the home. The results are as follows :

No cause for complaint . . . . .	325
No particulars known . . . . .	51
Did not receive a very good testimonial, but had not undergone punishment . . . . .	46
Underwent punishment . . . . .	51
Ran away and were not caught . . . . .	7
Died while running away . . . . .	2
Transferred to another protection home or a general educational institute . . . . .	9
	<hr/>
	491
Died while in the protection home . . . . .	7
	<hr/>
	498

On the basis of these figures, if the total number of 498 is reduced by 51 of whom nothing is known and 7 who died in the Protection Home, the number investigated is 440. In order to obtain a percentage of satisfactory cases, the 325 pupils (with good testimonials) are compared with the total. *This calculation shows that 73.9 % of the pupils admitted to the Protection Home underwent improvement and were restored to an ordinary social life.*

*According to information from the Director of the Institute, the satisfactory cases are at present considered to be about 80 % of the total.*

**Annex 25.**

**PERSONS ADMITTED TO STATE FORCED LABOUR INSTITUTES  
AT THE END OF THE YEARS IN QUESTION FOR VAGRANCY.**

Year	Men	Women	Total	Year	Men	Women	Total
1921 . . . . .	163	134	297	1928 . . . . .	221	121	342
1922 . . . . .	206	140	346	1928 . . . . .	222	96	318
1923 . . . . .	243	145	388	1930 . . . . .	230	97	327
1924 . . . . .	241	141	382	1931 . . . . .	229	98	327
1925 . . . . .	272	114	386	1932 . . . . .	209	96	305
1926 . . . . .	248	116	364	1933 . . . . .	184	98	282
1927 . . . . .	247	143	390	1934 . . . . .	167	107	274

**Annex 26.**

**CHILD WELFARE INSTITUTES IN 1931.**

	Number	Places
Children's homes for permanent care . . . . .	153	2,943
Reception homes . . . . .	154	3,395
Children's homes for permanent and provisional care . . . . .	38	777
Protection homes . . . . .	38	1,510

Of the 153 children's homes for permanent care, 38 belonged to the communes and the remaining 115 to private associations etc.

Of the 154 reception homes, 44 were under the administration of the commune, 27 under the provincial assembly and 83 under private associations.

Of the 38 reception homes for permanent and provisional care, 7 were under the communes and 31 were administered by private associations.

Lastly, of the 38 protection homes, 8 were under the administration of communes, 17 under the provincial assembly and 13 under private associations.

*These particulars relate to the last year for which statistics are available.*

[Communicated to the Council  
and the Members of the League.]

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Geneva, September 4th, 1937.

**LEAGUE OF NATIONS**

**ADVISORY COMMITTEE ON SOCIAL QUESTIONS**

**PRINCIPLES APPLICABLE TO THE FUNCTIONING  
OF JUVENILE COURTS AND SIMILAR BODIES,  
AUXILIARY SERVICES AND INSTITUTIONS**

**ANNEXES.**

**1. The Evolution of the Treatment of Neglected and Delinquent  
Minors.**

*By Madame Wanda Woytowicz-Grabinska,  
Substitute Delegate of Poland.*

**2. Brief Study of the Age of Criminal Responsibility and the Age-  
limits for the Jurisdiction of Juvenile Courts (or Child Welfare  
Councils).**

*By Miss J. I. Wall,  
Substitute Delegate of the United Kingdom.*

**3. Resolution of the Sixteenth Assembly of the League of Nations,  
1935, concerning the Imprisonment of Children.**

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## PREFACE.

The Child Welfare Committee has, since its first session in 1925, been engaged in studying certain special aspects of the question of neglected and delinquent minors. Four volumes were published containing the documentation collected on this subject, namely :

- (1) Organisation of Juvenile Courts and the Results attained hitherto;<sup>1</sup>
- (2) Auxiliary Services of Juvenile Courts;<sup>2</sup>
- (3) Institutions for Erring and Delinquent Minors;<sup>3</sup>
- (4) Child Welfare Councils.<sup>4</sup>

In 1935, the Advisory Committee adopted a series of conclusions regarding institutions for neglected and delinquent minors and in 1936 a Sub-Committee was appointed to prepare a general plan setting forth the principles underlying the treatment of such minors, to be discussed at the session of 1937.

The Advisory Committee, at its session in 1937, discussed the report of this Sub-Committee, and asked that it should be printed together with the resolution adopted by the 1935 Assembly of the League of Nations concerning the imprisonment of children, and as an annex under the authors' names the memoranda prepared by Miss J. I. Wall, substitute delegate of the United Kingdom, and Mme. W. Woytowicz-Grabinska, substitute delegate of Poland. These memoranda, which have been drawn up with the help of the material collected by the Advisory Committee, were intended to serve as a commentary on the Sub-Committee's report.

In the collection of the information upon which the present report is based and of all documentation prior to 1935, the term "erring and delinquent minors" ("enfants dévoyés ou délinquants") was used. The Committee decided in 1935 to substitute "neglected and delinquent minors" ("enfants dévoyés ou en danger moral") for this expression, in reference to the problem as a whole, and this decision has been followed throughout.

To avoid misunderstanding, however, it should be explained that the report is concerned with neglected minors only so far as they come within the jurisdiction of the juvenile courts or services or institutions primarily for delinquents. It thus only deals with a limited aspect of the question of neglected minors, the wider aspects of which remain for further consideration.

Consequently, in this report the term "neglected and delinquent minors" should be interpreted in a wide sense when the whole field is under discussion, but in the narrower sense of "erring and delinquent minors" in all specific references to the documentation compiled prior to 1935, and particularly in reference to institutions caring for minors.

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<sup>1</sup> Document C.484.M.260.1934.IV.

<sup>2</sup> Document C.P.E.238(1).M.193(1).1931.IV.

<sup>3</sup> Document C.I.M.1.1934.IV.

<sup>4</sup> Document C.8.M.7.1937.IV.



Though several States may deal with neglected and delinquent children under the same procedures and systems, others attach great importance to preservation of the distinctions between the two groups. In 1935, the Committee decided that :

“ Although the Committee’s deliberations have been centred on institutions for young people in special types of difficulty, it is worth recognising that the conclusions reached in regard to them may have an application to many other kinds of institution, whether under voluntary or under official management, and whether they exist for other classes of children such as orphans or destitute or neglected children, it being impossible to draw hard-and-fast lines between the requirements of one set of children and another.”

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## PRINCIPLES APPLICABLE TO THE FUNCTIONING OF JUVENILE COURTS AND SIMILAR BODIES, AUXILIARY SERVICES AND INSTITUTIONS.

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### I. INTRODUCTION.

The question of neglected and delinquent minors has engaged the attention of the Child Welfare Committee ever since its first session in 1925. From the outset, however, it was clear that the question was too large for immediate treatment as a whole, and various partial investigations were therefore set on foot. In 1926, for example, the question of juvenile courts was placed on the agenda, and the Committee decided to study this special aspect of the problem. The fact that it was being investigated at the same time by the International Penal and Penitentiary Commission was further proof of its importance. With this body, the Committee soon established practical and effective co-operation and, in 1927, after transmitting to the Committee the documentary material which it had collected, the International Commission decided to leave the further investigations entirely in the Committee's hands.

On examining the material received from the International Penal and Penitentiary Commission, the Committee found that it dealt only with the legal aspect of juvenile courts and that, from the social point of view, information was necessary on other aspects, including the activities of the auxiliary services attached to such courts. But even after this information had been collected, the material was still found to be incomplete, since the Commission's material related only to its own member States, whereas the League of Nations enquiry into the auxiliary services covered all Members of the League of Nations and non-member States. It was clearly necessary, therefore, to obtain information on juvenile courts from the countries which were not members of the International Penal and Penitentiary Commission. At the same time it was considered essential, for the sake of completeness, to make a thorough enquiry into the measures ordered by juvenile courts, and more particularly into the institutions by which such measures are carried out.

This enquiry, in its turn, disclosed the need for a concise study of the age of criminal responsibility and also for a study of the various methods of placing of children in families of which the juvenile courts and institutions are making increasing use. From the investigations on the placing of children in families, it became apparent that this enquiry could not be restricted to delinquents. It was decided to treat the placing of children in families as a separate problem and, from the general material received, to extract the information relating to the placing of delinquents. Finally, to complete these various investigations, a study was made of the Child Welfare Councils to which the functions usually performed by juvenile courts are entrusted in the Scandinavian countries.

Concurrently with this enquiry, investigations were conducted into the problem of children exposed to moral and social danger through the environment in which they live.

This enquiry, which was carried out in seven countries, supplements the work of the Committee on the main problem.

These investigations have covered a considerable period. The method followed by the Committee was to send a questionnaire on each of the subjects investigated to the Governments of States Members of the League of Nations and non-member States. The replies were studied and classified by the Secretariat and published in documentary form. They were also discussed by the Committee on the basis of a report submitted by one of its members.<sup>1</sup>

As a result of these discussions certain essential points were dealt with, and the Committee reached conclusions on some aspects of the problem. In particular, during the 1935 session, the Committee adopted a series of conclusions relating to institutions for neglected and delinquent children<sup>2</sup> and also a resolution on the imprisonment of children.

Lastly, in 1936, the Committee decided, on the basis of the material collected, to state its conclusions in the general form of principles applicable to juvenile courts and similar bodies, the auxiliary services, and the institutions responsible for these children. These conclusions are intended to bring out the theoretical and practical aspects of the Committee's investigations, and all the facts it ascertained in the course of its sessions. Such is the object of the present study.

<sup>1</sup> In the course of the Committee's study of this question, an abundance of material was collected. Generally speaking, this material can be sub-divided into three categories :

I. The printed reports containing :

- (a) Information received from Governments on the various aspects of the question, viz. :  
The Organisation of Juvenile Courts (document C.484.M.260.1935.IV);  
Auxiliary Services of Juvenile Courts (document C.P.E.238(1).1931);  
Institutions for Erring and Delinquent Minors (document C.1(1).M.1(1).1934.IV);  
Child Welfare Councils (Denmark, Norway, Sweden) (document C.8.M.7.1937.IV).

(b) The report on the special investigations carried out in various countries by Mlle. Chaptal entitled "Enquiry into the Question of Children in Moral and Social Danger" (document C.285.M.123.1934.IV).

II. The comparative reports submitted by certain members of the Committee :

(a) Report by Mme. Woytowicz-Grabinska and M. Rollet on the Auxiliary Services of Juvenile Courts (document C.P.E.293.1931);

(b) Report by Mme. Woytowicz-Grabinska on the Internal Organisation of Institutions for Erring and Delinquent Minors (document C.P.E.450.1934);

(c) Report by M. Maus on the Internal Organisation of Institutions for Erring and Delinquent Minors (document C.P.E.456.1934);

(d) Report by Miss Wall on the Internal Organisation of Institutions for Erring and Delinquent Minors (document C.P.E.468.1934);

(e) Report of Mme. Woytowicz-Grabinska on the Conclusions to be drawn from the Study of the Problem of Institutions for Erring and Delinquent Minors (document C.P.E.496.1936);

(f) Report of Mme. Woytowicz-Grabinska on the Preparation of a Plan of Work concerning the Study of the Whole Problem of Young Offenders and Children in Moral Danger (document C.P.E.536.1936).

III. The reports on the work of the Child Welfare Committee, containing summaries of the discussions on the question of neglected and delinquent minors :

Document C.224.M.80.1926.IV;  
" C.228.M.90.1927.IV;  
" C.185.1928.IV;  
" C.169.1929.IV;  
" C.223.M.110.1930.IV;  
" C.249.M.113.1931.IV;

Document C.395.M.221.1932.IV;  
" C.247.M.129.1933.IV;  
" C.149.M.62.1934.IV;  
" C.187.M.104.1935.IV;  
" C.204.M.127.1936.IV.

<sup>2</sup> See document C.187.M.104.1935.IV, Chapter III.

In view of the magnitude and complexity of the problem of neglected and delinquent children, it has not been possible to arrive at general conclusions covering the whole field. The Committee considers, however, that the time is ripe to state the conclusions it has reached on certain aspects of the problem which it has studied most thoroughly. These conclusions, which bear upon certain essential points, have been drawn up so as to enable every country to take them into consideration.

The present report, therefore, does not cover every aspect of the problem. Its object is more limited. It merely states the principles applicable to the functioning of juvenile courts and similar bodies, their auxiliary services and the institutions for negligent and delinquent minors. The present study may be useful to Governments and organisations concerned with the question if they wish to re-examine the methods hitherto applied in the light of certain general principles which have already emerged from the studies made by the Child Welfare Committee.

Some countries will find that their systems broadly conform to modern ideas on the subject of neglected and delinquent minors. The principles stated here may be useful to such countries for the purpose of ascertaining how far their systems conform in detail to the principles generally accepted to-day. Countries whose systems are in process of evolution may find them useful as a general guide in the establishment or development of their systems.

## II. JUVENILE COURTS AND SIMILAR BODIES.

### GENERAL OBSERVATIONS.

Before dealing with the principles applicable to the functioning of juvenile courts and similar bodies, it may be well to examine in broad outline the causes underlying the problems with which these various organisations are called upon to deal.

The causes of delinquency and neglect amongst minors may broadly be divided into social (exogenous) factors and personal (endogenous) factors.

We cannot deal with this large subject in detail; we will only mention as the main social causes an unfavourable family environment, rapid and profound economic changes, the numerous causes of demoralisation such as alcoholism, depravity, criminality, inadequate and unhealthy living accommodation, and the absence of opportunities for healthy recreation. The personal causes include the minor's personality and his physical and mental condition, which are often affected by hereditary taints.

It must be recognised, moreover, that the commission of a crime by a minor does not necessarily connote the existence of serious perversity or of a vicious *milieu*. It may rather be due to excessive vitality or a sudden temptation, such as are natural to childhood.

As regards social conditions, the first step is, of course, to remove the unfavourable influences. Measures directed to this end are usually termed "preventive measures", and are much more important than the treatment applied to the minor after he has become delinquent or been found to have suffered from living in moral danger.

With reference to personal conditions, it is equally obvious that recourse must be had to all that modern science can offer in the form of physical, mental and psychiatric treatment.

In considering the measures to be applied to children of this type, it is necessary constantly to keep in mind rational and generally recognised principles of child welfare, and to take into consideration (a) *measures of protection for the normal child*, and (b) *measures specially adapted to the defective or abnormal child*.

These measures should be of an educative character and should be individualised so as to meet the requirements of each particular case.

It follows from this brief outline of the causes of juvenile delinquency, and of the solutions to be aimed at, that satisfactory results cannot possibly be obtained from a system of repression, punishment or mass treatment. On the contrary, the system must be modern and individualised, and based on educative principles which general experience has shown to be the soundest.

*In view of the etiology of juvenile delinquency and the necessity for applying special measures, it may be concluded that cases relating to minors who have committed acts contrary to the law should be tried, not by the ordinary courts, but by special bodies adapted to the particular nature of these cases, and applying a special procedure.*

These bodies, which already exist in most countries in the form of juvenile courts, should fulfil the minimum conditions formulated in this chapter.

Juvenile courts have been taken as the basis of the present study for the sake of simplicity and because their organisation and functions are fairly well known. The work usually entrusted to juvenile courts is sometimes done by other bodies, such as committees or councils, whose activities cover part or all or even exceed the scope of the functions of juvenile courts. These organisations will be considered later.

The observations relating to juvenile courts are, moreover, of a sufficiently general character to apply to these other organisations as well.

#### DEFINITION OF MINORS.

1. In every country the concept of minority extends to the age of civil majority, which is, with slight variations, the age of 21.

As in certain legal systems the age of criminal responsibility of minors does not correspond with the age at which due understanding is in fact attained, and is often several years below the age of civil majority, the age of civil majority should be taken into account in considering measures applicable to minors under criminal law and practice.

The application of treatment appropriate to the needs of the individual is more difficult if there are rigid age-divisions within the limit of civil minority. Nevertheless, for practical purposes, it may be necessary to provide for two groups, the one being the child, and the other the adolescent.

The test of the maturity of a minor cannot properly be whether or not he has due understanding or, in other words, is in full possession of his faculties (the criterion employed in certain legal systems to determine responsibility in penal matters), but should rather be whether his stage of development corresponds to his physical age.

#### ORGANISATION.

2. The authority—whether it is a judicial body or not—called upon to deal with offences against the law committed by children should be of a different nature from the authority that tries adults.

The court should consist either of a single magistrate with a special knowledge of juvenile delinquency, or of a magistrate assisted by " assessors " (magistrates), who should be chosen particularly from doctors, educationists, psychiatrists, psychologists, social workers, or persons with practical experience of child welfare questions. The co-operation of women, either as magistrates or as assessors, is greatly to be desired.<sup>1</sup>

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<sup>1</sup> A resolution to this effect was adopted by the Penal and Penitentiary Congress at Prague in 1930.

3. The magistrates called upon to try minors who have committed an offence against the law should be persons who, as a result of their academic and practical training and their ability to understand children, are specially qualified to deal with questions in which children and young people are involved.

4. Different premises from those in which adults are tried should be used for the hearing of juvenile cases; if conditions make this impossible, they should, in any case, be heard at different times from adult cases.

5. The appearance of the juvenile court—the arrangement of the court-room, for example, should be as simple as possible, and it should not have the solemn character of an ordinary court.

#### COMPETENCE.

6. Generally speaking, all offences of whatever nature committed by children should be tried by juvenile courts. When they are called upon to deal with questions concerning the protection of children in moral danger, these courts are more in the nature of institutions for the protection of children and young people than of legal tribunals; in countries where cases concerning children in moral danger do not come within the competence of juvenile courts or similar bodies, it is essential, from the point of view of preventive social action, that measures should be taken on behalf of these children, either by extending the competence of the juvenile courts or by entrusting this task to similar bodies.

7. In cases in which minors are implicated together with adults, the procedure followed for the minors should, as far as possible, be different and they should appear before a juvenile court.

#### PROCEDURE.

8. Juvenile courts should not apply the usual procedure laid down for adults: it should be simplified and should be adapted to the special nature and functions of juvenile courts.

9. In cases where a minor is implicated, the object of the enquiries should be to obtain detailed information regarding the minor, so that the court may have the fullest possible knowledge of all the elements and factors which may have brought about or influenced the state of affairs that led up to the commission of the offence, and may take the appropriate measures. In addition to establishing the facts and all the accompanying circumstances, the court should also arrange for a competent person or organisation to make a detailed social enquiry into the minor's character and environment.

10. In order to obtain the fullest possible knowledge of the minor's character, he should, from the outset of the enquiry, be placed under appropriate observation, and, if necessary, should undergo a physical, mental and psychiatric examination.

11. If, in the course of the proceedings, it is necessary to take provisional measures in regard to a minor, such measures should be adapted to his mental state, physical needs and home conditions, and should be of an educative character.

12. If circumstances permit, the best procedure is to place the minor provisionally under the supervision of his own family, who will be responsible for him; or, if this is not possible, under the supervision of the probation officer or of an appropriate social agency.

13. During the hearing of the case, the court should be empowered to have the minor removed whenever any incident arises which might harmfully affect him (for instance, the evidence of a medical expert regarding the state of health of the minor or his parents, the evidence of his parents or of other persons, etc.).

14. Persons taking part in the proceedings should adopt a natural attitude towards the minor, so that the questioning may, as far as possible, take the form of a simple conversation and there may be nothing to prevent the child from giving frank and straightforward answers.

15. With a view to avoiding any undesirable publicity in cases in which minors are implicated, the courts called upon to try such cases should sit *in camera*.

16. Only persons such as the child's family, plaintiffs, witnesses, etc., and the representatives of the agencies directly concerned should be admitted to the court.

17. In principle, the publication of newspaper reports of trials in which minors are concerned should be prohibited, except with the special authorisation of the court. In no case should the name and address of the delinquent be mentioned, and his photograph should never be published.

#### AUXILIARY SERVICES.

18. The juvenile courts should also have at their disposal the services of persons competent to perform the duties indicated by the court (enquiries, supervision, etc.).

19. A number of them should be placed permanently at the court's disposal, and should devote their whole time to this service. These persons (probation officers, "délégués à la protection de l'enfance") should have received special training, and should devote their whole time to their duties. These will consist in giving the minors, with the collaboration of such social agencies as are available, the necessary assistance and protection, visiting their homes, and drawing up reports on them. The court should supervise their activities and collaborate fully with them.

20. Juvenile courts should also have the fullest co-operation of public and private organisations for the assistance of minors, liaison with these bodies being ensured by the persons referred to in the previous paragraph (probation officers, "délégués à la protection de l'enfance").

21. Should it be necessary to take the minor into provisional custody, he should be placed in an educative environment. To this end, suitable institutions should be established, and the ordinary houses of detention or prisons should not be used for this purpose.

22. The preliminary interrogation of the minor should be carried out by competent persons and should be separate from the examination of adults. A certain number of women should be appointed to the police force to deal with cases concerning minors.

23. During the investigations, it should be possible for the court to place the minor in a special institution where his mental and physical state can be observed.

#### MEASURES TO BE TAKEN.

24. In deciding upon the measures to be taken in regard to a minor after his case has been tried, the court should take into consideration, not so much the nature of the offence or whether the minor understood what he was doing, as his personal character and all the causes which led to his misconduct or induced him to commit the offence.

25. These measures should not be of a repressive character, or be such as to impair the minor's health or lessen his personal dignity. They should in every case be adapted to his circumstances and should aim at educating and reforming him, so as to enable him later to become a useful member of society.

26. Juvenile courts should have full powers as regards the choice and application of the re-educative measures to be taken in respect of minors, having regard to the nature of the offence, the minor's age, etc.

27. Since the measures must necessarily be adapted to the minor's circumstances, it is useful for the court, as in some countries, to have the right to take an amending decision in future, in order that such measures may be appropriate to the age of the minor, his aptitude and the progress he makes.

28. Since the family constitutes the natural environment in which the minor should be brought up, the court should, in principle, take educative measures which will enable him to remain with, and under the responsibility of, his family, if the latter is trustworthy.

Supervision by the probation officer is one of the most suitable measures.

29. This supervision should be of a comprehensive character. It should embrace every aspect of the life of the minor—that is to say, his family and social environment—and should take into account his social, educational, and moral needs.

30. Not until it has considered all the methods of rehabilitating the child compatible with leaving him with his family should the juvenile court, where necessary, have recourse to measures for his rehabilitation outside his family (by placing him in a family, institution, etc.).

31. If the court finds it impossible to take the necessary action in regard to the minor by leaving him with his own family, it should consider whether the requisite measures could be applied if he were placed in a foster-family (boarding out). This method should, however, be employed with care, and only when the court is fully satisfied that the new environment affords every guarantee that the child will receive appropriate individual treatment.

32. When the minor cannot be properly supervised if he is left with his family or placed in a foster-family, the juvenile court should be able to choose between various kinds of institutions (educational institutions, reformatories, special schools, etc.), so that the minor may be sent to the institution which is most suitable, having regard to his circumstances and character.

### III. INSTITUTIONS.

#### (a) *General Observations.*

The study of institutions, by which is meant the establishments which take neglected and delinquent minors, is a study of one of the methods available for the assistance of these young people. Although the principles established relate to institutions for young people in a special type of difficulty, the conclusions reached have an application to other kinds of institution—those under voluntary or official management and those for other classes of children, such as orphans or the destitute child; for there is no hard-and-fast line between the requirements of one set of children and another.

Institutions are a very usual and readily available method of providing shelter, care and supervision for children who are in moral danger; they were generally first in the field in the development of child welfare schemes, and there is no doubt that many of them apply modern principles to their work and that those who direct them are imbued with the spirit of social service.

Among the various types of existing institutions, the so-called cottage system is worthy of special notice. The inmates of large establishments, particularly the older ones, often have no opportunity of shouldering responsibilities, showing initiative or exercising forethought, and many enjoy no private life of their own. The cottage-home system minimises the disadvantages of institutionalism and allows better educational conditions for developing the social sense of the inmates.

Some countries are to-day reconsidering the rôle of the institution in their schemes of child care; recognising its limitations, they are attempting alternative methods of treatment and, generally speaking, are resorting to the institution only for purposes of observation or if a young person fails to respond to a trial in ordinary family life, under supervision. A good deal can be done, however, to lessen the disadvantages of life in an institution, and, in general, the solutions appear to lie in an appreciation of the directions



in which such a life is artificial and divorced from realities, as compared with family life, in taking appropriate measures to overcome deficiencies, and in bearing in mind that the object of the institution is to prepare the child or young person eventually for independent and unsheltered life.

Good premises and sound organisation are undoubtedly important to the well-being of the inmates, but the spirit of the establishment is the factor which requires most careful cultivation. The personality of the inmates should develop in an atmosphere of affection, trust and happiness, which resembles, so far as possible, the atmosphere in the best home life of the day.

Those in charge gain breadth of view and better understand the conditions which await the young people under their care if they establish contacts with the world outside. They should constantly compare the standards and mode of life outside with practices obtaining in the institution, and should adjust institutional habits, whether in matters of importance or in detail, to those standards.

Institutions serve the community well when they recognise that they are not an end in themselves, and that the value of their work is judged, not by whether an establishment runs smoothly, but on the far harder test of the behaviour and social adjustment of the young people after leaving its shelter.

#### *(b) Specific Observations.*

As regards the kind of institutions in which neglected or delinquent minors are placed by virtue of the decisions of juvenile courts or of other competent authorities, it is desirable to direct special attention to the following questions :

##### *Observation Centres.*

Among neglected and delinquent minors there is a substantial percentage of children who are retarded in development, nervous, mentally backward, psychopaths, etc. An accurate diagnosis of their characteristics, which is necessary for the application of the appropriate educative or curative measures, is very difficult if not preceded by a period of observation under suitable conditions. Therefore steps should be taken to see that juvenile courts, and the other authorities empowered to take decisions in regard to such children, should have at their disposal institutions designed for the observation of neglected and delinquent minors.

##### *Special Institutions.*

Since the logical sequence of a medico-psychological diagnosis of neglected or delinquent minors is to put them under the form of supervision appropriate to their mental and physical condition, it would seem extremely desirable to organise among the services designed for such children a sufficient number of establishments of a special character.

##### *Educational Institutions.*

Among the numerous and different kinds of educational institutions, special attention should be directed to the " hostel " type of establishment organised in some countries, in which children live under a system of semi-liberty, enabling them to have independent work or training outside the hostel. By affording the inmates regular contact with normal everyday life under the supervision of the teachers, these hostels make a very special contribution to the formation of the characters of neglected and delinquent minors and to their social re-adaptation.

### *Reformatory Institutions.*

As an alternative to prison, it would seem necessary to stress the extreme importance of having among the reformatory type of institution some establishments of a Borstal character, which provide at a later age the sort of training and education given to younger boys and girls at residential schools of the educational type. Such institutions, as organised in some countries following the example of the United Kingdom, form a favourable field for the training of young offenders, as they combine the necessary discipline with the system of the more educational establishment.

### *The Title of the Institutions.*

Since delinquent minors are only one sub-division of a more general group of children who are in moral or social danger, and as it is advisable to avoid features which separate such minors into a class by themselves, the aim should be to give up the practice of calling institutions for such children by names which expressly imply that they are places for training delinquent minors.

For the same reason also, the inclusion, as is the practice in some countries, of all institutions for neglected and delinquent minors under a common heading of "educational institutions" would seem to merit special emphasis.

As regards the administration and supervision of public, and the supervision of private, institutions for delinquent minors, it is desirable that these services should be entrusted to a special section of general administration other than the section responsible for prisons.

### *(c) Internal Organisation of Institutions.*

On the internal organisation of institutions, both educational and correctional, for neglected and delinquent minors, it would seem possible to draw the following conclusions :

#### *Examination of the Child's Personality.*

(i) The essential condition, if training is to produce a result, is an exact knowledge of the individuality of the child entering the institution. The task of the directors of the institution should be facilitated in this respect by the competent authorities who have placed the child in the institution. The institution should be supplied with a number of particulars regarding the inmate—namely, his social history, the features of his previous environment and the results of any physical, psychological or psychiatric examination which he has undergone.

(ii) It would also seem advisable for every institution not to be content with these particulars, but to carry out on admission a supplementary observation test of the children in sections specially organised for the purpose and on the methods established for psychological and medical examination.

The authorities of the institution must then act on the results of this observation and allocate the child to the appropriate classification for work and study and allot it to a suitable group of inmates, so as to enable the teachers to adapt their pedagogical methods to each individual pupil.

In addition to the initial observation test, further similar examinations should be carried out at intervals during the child's stay in the institution.

#### *Staff.*

(i) The practical application of rational methods of training is possible only in institutions with an adequate and qualified staff. It is desirable for this staff to be

recruited from persons of high principles, possessing special pedagogical training and, if possible, training in social work and with a sense of vocation. Training for their profession must also be based on a certain amount of practical experience.

(ii) As it is essential for the educational spirit to pervade the whole life of the pupil, and as work plays the leading part in life, it would seem to be very necessary for the staff responsible for the practical vocational education of the inmates to have, in addition, certain pedagogical training.

(iii) It is desirable that there should be available the services of doctors who are specialists in the psycho-pathology of children, and also psychologists.

(iv) As the co-operation of women in forming the character of children imparts to that training special elements, it would seem advisable not to deprive neglected and delinquent children of this valuable influence, and to arrange, according to the special circumstances of the case, for women to take part also in teaching in the institutions for boys.

Moreover, there is no general objection to the employment of men qualified for certain branches of instruction at institutions for girls.

#### *Physical Education.*

As regards physical education and games in institutions for children, it must be pointed out that the rational utilisation of these factors not only serves to strengthen the physical health of the inmates but is also one of the factors in forming their characters.

In this connection, a matter of special interest is the establishment in the institutions of such autonomous organisations as scout troops, sports clubs, etc., which can be linked up with similar national associations, while at the same time giving the children opportunities to engage in competitions with other teams outside the institution.

#### *Disciplinary Punishment.*

Disciplinary punishments applied to children should not be prejudicial to their physical health or moral well-being, and should, in particular, not be of such a kind as to weaken the child's sense of personal dignity.

#### *Rewards.*

It would seem undeniable that the moral and social progress of the inmates of an institution can be freely developed only in an atmosphere of trust, understanding, affection and happiness. It is therefore satisfactory to note that in many countries great weight is attached both to the recreational side of the inmates' lives and to the system of educative rewards.

Among the latter—apart from the granting of certain material privileges—are certain rewards that merit special mention owing to their humanising character and to the personal responsibility that they develop, such as singling out an inmate by entrusting to him certain supervisory functions in the institution, the right to leave the institution premises without permission, participation in entertainments outside the establishment, etc.

#### *Religious, Scholastic and Vocational Training.*

The Advisory Committee feels that :

(i) Every child ought to be given in the institution an opportunity of religious training and education in the faith to which he belongs;

(ii) Every child ought to receive in the institution the mental training adapted to his age and degree of intellectual development.

On the basis of the information collected, it may be asserted that, in most countries, the teaching is equivalent to that given at elementary schools. In this connection, it

is particularly noteworthy that some institutions give their abler inmates opportunities of secondary and even university education and also afford inmates who are specially gifted the chance of developing their talents (art, music, languages, etc.).

Very valuable also is the system of scholastic education under which provision is made for some of those under training who are mentally subnormal or educationally backward to receive instruction in special classes or schools.

As regards older inmates who are nearing the end of their period in the institution, a method which is extremely interesting and useful, as applied in some institutions, is to give such inmates special extra lessons on current events and information regarding social requirements (civil rights and responsibilities, social insurance, savings banks, labour exchanges, etc.). This extra training may be given either in the form of appropriate courses or of special talks, wireless lectures, reading of daily newspapers, etc. The co-operation in this work of outside child welfare associations may be useful.

(iii) At a suitable age, every child should be given practical vocational training while in the institution.

It should be emphasised that, in the training of neglected children and of those in moral danger, the work factor, so prominent in all training institutions, acts as the main source of social regeneration, and at the same time constitutes a practical basis for independent life in the future.

The question of a suitable choice of vocation is therefore fundamental, and it is essential that in this choice there should be taken into account, not only the child's inclinations, but also his capacities, and the conditions of the labour market. The system has been adopted with advantage in some countries of ascertaining vocational aptitude by psychological tests.

Among the various systems of vocational training, a particularly interesting one is that of apprenticing (often for wages) the older inmates outside the institution, this system being at the same time one of the ways of gradually adapting the pupils to normal life in society.

In many countries, the question of the relation between the wages paid and the work done by inmates in the institution in the field of vocational training takes the form of granting them either a regular remuneration or periodical bonuses; in both these systems, some of the money is deposited in the minor's savings bank account, thus forming a nest-egg which will be returned to him on leaving, while the remainder is given to him as pocket-money to use as he likes.

This form of procedure, which, within the limits of a modest budget, permits the inmate to become accustomed both to saving money and to spending it wisely, is of special interest from the standpoint of practical preparation for a future life of independence.

#### *Relations with the Outside World.*

(i) With a view to the inmate's return to normal social life, it is essential that his ties with his family should not be broken, as the breaking or excessive weakening of those ties might be followed by an unfortunate loss of family instinct and the creation of an atmosphere of mutual indifference between the child and his family circle. For these reasons, it would seem indispensable that, while in the institution, inmates should, as far as possible, keep in touch with their families to the extent determined by the Board of the institution in each particular case, according to the special character of the child and the nature of the family circle, and not according to predetermined rules.

(ii) Further, rational resort by the authorities of the institution to various ways of keeping inmates in touch with the outside world (correspondence, visits of relatives,

visits to relatives, leave, work outside the institution, excursions, summer camps, sports, competitions, etc.) makes an agreeable break in the monotony of the everyday routine of the institution, and is very effective in re-adapting neglected and delinquent children to society.

#### *Length of Stay.*

The purpose of training neglected or delinquent minors in the relevant institutions is to restore to individuals who have been morally handicapped in early life their mental and physical health and, by stimulating definite social interests and giving them a practical preparation for life, to make them useful members of society.

It is therefore understandable that the period of stay necessary for achieving this purpose cannot be laid down in advance, but must depend on the results of the training given in each particular case.

From this standpoint it would seem possible to state that the system, applied in very many countries, of sending neglected or delinquent minors to institutions, not for fixed periods, but for periods varying between a fixed minimum and a fixed maximum term, is the most suitable method in practice.

On the other hand, lengthy confinement in institutions of persons under training who are already fit for independent life must be carefully avoided as prejudicial to the persons themselves.

#### (d) *Release.*

##### *Provisional, Conditional and Final Release : Conduct after Release.*

(i) In a great many countries, the final release of an inmate from an institution is always preceded by a period of provisional release, during which the minor is liberated subject to a general proviso that he will conduct himself properly, supervision of such conduct being entrusted to private or official agencies.

The application on the widest scale of this period for testing the inmate's moral calibre as well as his practical capacity for life, carried out under the observation of competent organisations, would seem to be one of the best ways of protecting him from the dangers resulting from his inexperience of life.

(ii) Since the neglected and delinquent minors trained in institutions are mainly drawn from socially depressed *milieux*, or are either completely orphaned or without father or mother, or are abandoned children, their return to normal life in society is often associated with the danger of moral isolation or of contact with harmful influences in their old environment. It is therefore indispensable to give in such cases, either through official or private organisations, some special help and supervision (placing in hostels or families, help in finding employment, moral welfare), which should be continued until they are completely settled in life.

Mention may be made of an interesting practice that obtains in certain countries : When a minor brought before a court is finally released, the court declares him rehabilitated. This rehabilitation not only has the effect of annulling the subsidiary penalties and all the other penal effects provided by law in respect of sentences passed on minors, but is mentioned in the sentence itself and is entered in the police record. Once rehabilitation has been ordered, no mention is made of the minor's criminal past in the extract from the police record.

#### *Recording of Results of Training.*

In view of the necessity of having as accurate data as possible, with a view to drawing the necessary conclusions regarding neglected and delinquent minors, these conclusions

being indispensable for judging the effectiveness of the various methods of treatment applied to such children, it is extremely desirable that all welfare institutions for neglected and delinquent minors should keep individual case-cards for their inmates which would contain the fullest possible information regarding the results of the examination of the child's individuality and the course of his development during training at the institution.

In using this information later, however, it is important to proceed with the greatest discretion in order not to interfere in lives which may for some years past have been reformed, by reviving the memory of acts which, through the irreproachable conduct of the authors, have become completely forgotten.

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## ANNEX 1.

### THE EVOLUTION OF THE TREATMENT OF NEGLECTED AND DELINQUENT MINORS.

*Memorandum by Madame Wanda Woytowicz-Grabinska, Substitute Delegate of Poland.*

#### I. BRIEF OUTLINE OF THE EVOLUTION OF THE PROBLEM OF JUVENILE DELINQUENCY.

It was not until the twentieth century, and more particularly in recent years, that the need for special methods of dealing with cases of neglected and delinquent minors was thoroughly studied from both the theoretical and practical points of view. This problem arises in particular as regards the category of minors in moral danger who have committed offences against the criminal laws, and is closely bound up with the general evolution of ideas on crime and the criminal. In the sphere of criminal legislation also, it was not until the end of the nineteenth and the beginning of the twentieth century that the question of minors came to be regarded as a special problem.

In former times, the laws of most countries were based, with slight divergences, on the classical conception of Roman law, under which children below 7 years of age (*infantes*) were entirely relieved of all criminal responsibility, while minors between 7 and 14 years of age (*impuberes*) only enjoyed the same immunity in so far as they were recognised to be incapable of committing offences. Between the age of 14 and their majority, the law often provided for certain mitigations of the penalty. In most cases, the laws concerning minors merely provided, in a general way, for the mitigation of penalties or the exemption of minors from certain categories of penalties, without making any systematic attempt to carry out the aims of penal policy.

From the age of 8 and sometimes even from the age of 7 onwards, children were formerly tried by the ordinary courts and according to the procedure usually followed for adults. Minors nearly always served their sentences of imprisonment in the same prisons as adults, in surroundings which, far from exercising an educational influence on them, were often likely to turn them into confirmed offenders. It was not until the middle of the nineteenth century that a start was made with the institution for minors sentenced to long penalties, of special penitentiary colonies or establishments, which at first did not greatly differ in equipment and methods from the ordinary prisons.

The end of the nineteenth century was marked by a very definite desire for reform under the twofold influence of the anthropological and sociological schools which

revolutionised ideas on the classical school of criminal law by focusing attention, not on theoretical conceptions of the offence, but on the personality of the offender and on the methods to be adopted to bring about his social adaptation.

Interest being thus concentrated on the individual, his physical and mental constitution, his environment and the causes which led him to commit an offence against society, it was soon realised, in the light of these researches, that the problem of the child who commits an offence differs from the problem of crime among adults. It was also realised that, apart from the fundamental difference due to the fact that a child is not mentally mature, there are a great number of special causes of crime amongst children.

Both lawyers and sociologists have recognised as the most important of those causes the *harmful influence of the environment* in which the child grows up and is educated. Special investigations have shown that the majority of delinquent children come from morally or materially unfavourable surroundings, and particularly from those in which immorality, drunkenness, begging, crime, etc., are rife.

So harmful is the influence which such an environment often exercises on ordinarily normal children that their character and faculties are warped, and they lose their perception of the dividing-line between right and wrong according to the principles on which society is based. Thus, in the eyes of a physically and morally neglected child living in poor surroundings, it is often right to steal the necessaries of life and wrong merely to be caught. Misled by his own faulty standards, he does not realise that by stealing he is committing an act against society. Still less will theft be considered to be wrong-doing by the child of parents who are professional thieves and who consider theft an "occupation" involving a certain risk—that of punishment at the hands of the law. This inability to distinguish between right and wrong as conceived by society is characteristic of children whose upbringing has been neglected, particularly children in large towns who spend most of their time in the streets. Without multiplying examples, it may be said that though children brought up in unsatisfactory surroundings are not responsible for their low moral standards, it is precisely because those standards are low that they are apt to commit offences.

Apart from these more external causes, the individual researches carried out by doctors, psychologists, social workers and educationists have shown, both in theory and practice, that a *large proportion of delinquent minors consists of children who, independently of their surroundings, have displayed from their earliest infancy a tendency, usually morbid, to commit anti-social acts.* According to the investigations of certain psychological observation centres, the proportion of these children fluctuates between 25 % and 40 % of the total number of cases of juvenile delinquency under consideration.

It has also been found that, apart from cases of abnormality and physical, mental or moral under-development, the mere fact that *a child is not psychically and mentally mature* and is sensitive to all sorts of influences exposes it to harm from the most varied causes. Sensational tales, adventure and detective stories, cinematograph and theatrical performances, newspaper reports, etc., greatly excite the imagination of children, particularly during the period when they are reaching maturity, and often bring about a temporary tendency to anti-social behaviour and particularly to vagrancy and theft. The underlying motive is not the desire for a given object but the need to satisfy the thirst for adventure and the craving for danger. There are also children who have gone astray *accidentally* as a result of difficult circumstances, the loss of their parents, neglect or some other misfortune.

The observation of all these causes, both external (exogenous) and internal (endogenous), and nearly all inter related, convinced those responsible for penal and social policy that the system of dealing with juvenile crime must be radically changed. *As delinquent minors are, in most cases, victims of social conditions, or act under the impulse of*

*a morbid or retarded mental development, it would be a mistake to visit them with penalties based on the traditional idea of retribution, particularly as a penalty which does not possess an educational character cannot destroy the evil at the root and thus prevent the development of criminal tendencies.*

This is shown by the fact that the most dangerous and incorrigible criminals have been men who entered prison for the first time when they were still young. Its only effect was to demoralise them, and they fell lower and lower each time they returned there. In support of this argument may be adduced the constant growth of juvenile crime, as shown by nearly all the statistics of the end of the nineteenth and the beginning of the twentieth centuries, and the increase in the number of cases of recidivism, amounting sometimes to as much as 70 % or 80 %.

Nevertheless, the growing conviction that the usual penalties of the criminal law should not be applied to juvenile offenders has not been accompanied by a complete breach with the classical theory, and still less by the adoption of the new idea that the only measures appropriate to such cases are those of a purely educational character. This new idea has been demanding recognition since the end of the nineteenth century, not only in the field of science, but also particularly in criminal codes and in their practical application. This struggle has been clearly reflected, not only in the evolution of the laws of the various countries, but also in the international sphere, in the discussions and decisions of a large number of congresses held by the international social organisations concerned (for example, the International Penal and Penitentiary Commission, the International Child Welfare Association, etc.). As a result of these observations, and also the researches of the sociological schools mentioned above, the desire for reform began to take concrete shape at the outset of the twentieth century, and crystallised into two doctrines similar in tendency but different in form.

The *first*, or neo-classical, doctrine recognises, in principle, the justice of the arguments of the sociological school and admits that, in regard to minors, the measures taken should be mainly educational. But it also desires to retain the possibility of applying specific penalties (for example, detention in a reformatory) and even sentences of ordinary imprisonment to a certain category of minors—those who “realised what they were doing”.

Under the system constructed on the basis of this doctrine, the law not only adopts a restrictive conception of minority for criminal purposes by fixing an upper limit which, as a rule, is lower than that of civil majority, but it also divides minors below this limit into a number of groups according to age and the extent to which they are presumed to have realised what they were doing (for example, (1) absolute criminal responsibility, (2) responsibility of the minor in proportion to his capacity for discerning between right and wrong, (3) mitigated criminal responsibility).<sup>1</sup>

The *second* doctrine, accepting the full consequences of the findings of the sociological school mentioned above, desires, in principle, to discontinue the application of the ordinary penalties of the criminal law, even in a mitigated form, to delinquent minors, and to substitute the exclusive use of educational measures.

The advocates of this second doctrine have set themselves to construct a system completely rejecting the criminal responsibility of minors below a certain age (varying in practice between 16 and 18) and providing for the application to minors guilty of punishable offences of exclusively educational measures to be determined in each case after careful enquiry into the character of the child concerned. Having adopted this

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<sup>1</sup> (a) Report by Mme. Woytowicz-Grabinska; Definition of Minors, pages 3, 4 and 5 (document C.P.E.496.1935); (b) Report by Miss Wall on the Age of Criminal Responsibility (document C.Q.S./B.11).



conception of "minority" as regards the absence of criminal responsibility, this system does not divide minors below the age-limit thus fixed into special groups.

In the countries where this system is applied (*e.g.*, Belgium, Brazil, Greece, the Netherlands, Mexico, Portugal, Spain, etc.), children who have broken the criminal law are placed, in practice, in the general category of "children in moral danger", and the choice of the educational and protective measures to be taken regarding them is dictated, as prescribed by the doctrine, by the results of a careful individual examination of the child's personality from the psychological, psychiatric and medical points of view.

As this system develops, it tends to raise the age of criminal minority and even—as the doctrine requires—to make it identical with that of civil responsibility.

The change in ideas regarding the criminal law in its application to minors has gone hand in hand with a similar development in regard to procedure. Attention being concentrated, not on the offence committed by the minor, but on his individuality and the causes which led him to commit an anti-social act, the logical conclusion is that criminal procedure must be so changed as to make it easier for the courts to study the child's personality and environment. Thus, at the beginning of the twentieth century, it came to be held that children who have committed offences must not be subjected to the criminal procedure followed with regard to adults, as this is too rigid and is not in keeping with the modern view of the manner in which minors should be treated.

On the other hand, a number of principles have emerged which, in accordance with both the theory and the practice which is gradually evolving, should govern the procedure to be followed in regard to minors charged with offences.

Those principles relate chiefly to the specialisation which must be required of persons responsible for the judicial investigation of cases concerning minors, the necessity of co-operation between the courts and social workers, doctors and teachers, the educational character of the measures taken with regard to minors both during the trial and after judgment, the provision of special court-rooms, etc.

Practice has shown that it is difficult for the ordinary courts, which often attempt to compromise—with not very happy results—to conform with these principles. Thus arose the idea of providing for the trial of all delinquent minors by special tribunals known as "juvenile courts".

## II. JUVENILE COURTS.

*I. In theory, juvenile courts should be places in which the administration of justice is vitally related to the aims of social policy in regard to minors in moral danger—a category which largely consists of juvenile offenders. In addition, therefore, to their judicial functions, such courts should also act as public authorities whose special duty it is to combat crime among minors, both by educational and reformative measures and by the necessary preventive action.*

Acting on these lines, numerous States have organised juvenile courts on the basis of the foregoing general principles, duly adapted to local conditions and the character of the laws in force.

Juvenile courts were first created in the United States of America towards the end of the nineteenth century; at the beginning of the twentieth century, the idea spread to European countries and subsequently to other parts of the world. With the passage of time, certain countries have developed and perfected the system from the point of view both of the laws governing the activities of these courts and the manner in which those laws are applied in practice. The results have been most satisfactory.

The organisation of special juvenile courts, together with the essential auxiliary institutions (observation centres, institutions for education and reform, psychological clinics, etc.), came to a stop, however, during the world war and was subsequently

hampered by the severe economic depression which followed. Hence, in many of the countries which organised juvenile courts immediately before the outbreak of war, and in those which introduced this reform during the post-war depression, the practical application of the principles embodied in the legislation on this subject is attended with great material difficulties. Moreover, certain countries have been content to compromise by adapting, to some extent, modern ideas of dealing with juvenile crime to the existing organisation of the ordinary courts and general prison system. Others have continued to apply to minors the old principles of punishment through the ordinary courts and prisons. In other countries, lastly, reform of the juvenile courts, though projected, has not yet begun.

The special juvenile courts and the various related questions are thus still, in many countries, only at the stage of organisation, as regards both the reform of the law and its application.

It is for the above reasons that the problem is to-day of such great interest both from the point of view of the experiments made by the different countries and of its own intrinsic importance, and also from that of international social action. The interest it arouses is clearly shown by the fact that the problem has been discussed by numerous international congresses, and particularly at the sessions of the Child Welfare Committee of the League of Nations.

#### *Organisation.*

2. In most States, juvenile courts are not separate institutions.<sup>1</sup> They form part of the ordinary criminal courts, special branches of which hear cases brought against minors. These branches are known as "juvenile courts", "children's courts" or "children's and young persons' courts" (for instance, in the United States of America, Austria, the United Kingdom, France, Greece, Italy, the Netherlands, Switzerland and Yugoslavia). Less frequently, there are special juvenile courts which differ in structure from the ordinary courts and are adapted solely to the special requirements of judicial proceedings against minors (for instance, in the United States of America—a mixed system—Australia (New South Wales and Western Australia), Belgium, Canada (British Columbia), Chile, Egypt, Japan, Mexico, Portugal and Spain).

*Under the first system*, either the judges of the ordinary courts take it in turn to act temporarily as judges in juvenile cases, or else those cases are heard by a judge or a magistrate specially selected by the judicial authorities as having the requisite scientific knowledge and familiarity with social questions.

*Under the second system*, the judges of the juvenile courts deal exclusively with juvenile cases and hold office for a fairly long period.

Generally speaking, a legal training is a necessary qualification for appointment as judge in a juvenile court; some States, however, allow exceptions to this rule (*e.g.*, the United States of America). In other countries, in addition to children's judges, special prosecutors and examining magistrates are appointed for cases concerning minors (*e.g.*, Belgium, Hungary, Peru and Switzerland).

*The social and educational functions of a juvenile court cannot be properly discharged unless the judge is possessed of the requisite scientific knowledge and experience of social questions.* When judges who have not the necessary qualifications are appointed to hear cases against minors in the juvenile branches of ordinary courts, the practical value of these courts from the standpoint of their special mission of dealing with juvenile delinquency is to some extent impaired.

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<sup>1</sup> (a) Organisation of Juvenile Courts (document C.484.M.260.1935.IV); (b) Report on the Work of the Eighth Session (document C.395.M.221.1932.IV).

### *Composition.*

3. The composition of juvenile courts is very varied. In those which are branches of ordinary courts, it is for the most part similar to that of the various types of ordinary court. There are, however, some exceptions which cannot be covered by a general formula : there are juvenile courts with three judges (*e.g.*, France) or courts composed of one judge and two experts—one a doctor and the other an educationist (*e.g.*, Mexico); magistrates' courts (*e.g.*, Austria, the United Kingdom and Germany); and courts with one judge (*e.g.*, Belgium, Greece, Hungary, Japan, the Netherlands, Poland, Portugal, Uruguay and Yugoslavia); courts with two judges, one for children's and one for family hearings (Canada (Ontario)). The magistrates sitting in juvenile courts are as a rule specially selected on account of their experience of child welfare or their special training. In some States, the law provides that when the accused is a girl, at least one of the magistrates in the juvenile court must be a woman (*e.g.*, Austria). In the United Kingdom, provision is made for the co-operation of a woman in all cases where it is possible. Medical or educational experts are usually at the disposal of courts with only one judge. There have been very interesting theoretical discussions as to whether juvenile courts should consist of a bench of judges, or whether there should be only one judge (see, for example, the Acts of the International Penal and Penitentiary Congress, Prague, August 1930).

Those in favour of courts with a bench of judges point out that proceedings against minors who have committed offences are complicated because of a number of social, medical, psychological and educational questions with which it is difficult for one man to be familiar. Experts in these various matters should therefore sit in juvenile courts, side by side with professional judges. In this way, expert assistance would be available in each case, and the position of the experts as members of the courts would confer on them the necessary authority.

Those who do not favour benches of judges suggest that it is easier for one judge to enter into contact with the child and its family and to create the necessary atmosphere of simplicity during the hearing. This, however, is difficult to achieve in a court consisting of three judges, which, in the very nature of things, would tend to be somewhat forbidding and formal. Adequate provision is, moreover, made for the co-operation of experts by the fact that the court is empowered to call them in for consultation and take their views into account in passing sentence. Nevertheless, a judge sitting alone should possess the requisite experience and training, and should be able to appreciate and take advantage of the co-operation of experts.

### *Competence.*

4. Generally speaking, the juvenile courts have, in theory, jurisdiction over all minors who have committed offences under the Criminal Law. But there are a good many exceptions to this fundamental principle. In practice, the jurisdiction of juvenile courts is usually restricted to a certain class of offence.

Under the laws of certain countries, juvenile courts have no jurisdiction over certain petty offences which have to be punished administratively or heard in a *tribunal de paix* (police court). In others, juvenile courts are not competent to pass judgment in cases in which minors are accused of serious offences, particularly crimes. In such cases, minors are tried by the ordinary criminal courts or by a jury, or sometimes by a court of several judges, of whom the judge of the juvenile court is one.

In very rare cases, the jurisdiction of juvenile courts covers every class of offence (crimes, indictable and petty offences) committed by minors within the meaning of the criminal law (*e.g.*, Belgium, Mexico and Portugal), yet to extend it to all cases would seem to be the only satisfactory method.

*These courts are, in fact, expected to deal with juvenile delinquency by means of appropriate measures, not according to the nature of the offence committed but to the character of the offender and the environment in which he lives.*

In view of the large number of auxiliary institutions from which they can obtain assistance (welfare committees, various institutions, clinics, etc.), juvenile courts are able, not only to make investigations in the proper conditions, but also to apply suitable educational measures. All this work is concentrated in the hands of the special children's magistrate, who is for the most part a man of high qualifications devoted to child welfare. If this is borne in mind, it would seem undesirable to restrict the jurisdiction of juvenile courts to a particular type of offence, to the exclusion—as is frequently the case—of the more trivial or more serious charges: petty offences and crimes.

Experience shows that the offences committed by children often bear no relation to their general character or, more particularly, to their moral development. Juveniles whose moral standards are seriously impaired frequently commit only minor offences, while serious offences are committed by children who merely are unable to appreciate what they are doing. In both cases, a specially qualified magistrate will be able, with the help of experts, to form an accurate idea of the relationship between the offender and his offence and to take appropriate action. Even if it were true that serious offences are often committed by minors whose moral standards are seriously impaired, the juvenile court would still be the most suitable court to try such cases, just as a specialist is the most competent person to treat a complicated disease.

Another form of restriction imposed on juvenile courts is to remove from their jurisdiction offences committed by children of an age at which they have no criminal responsibility whatever (*e.g.*, Austria, the United Kingdom, France, Germany, Hungary, Japan and Yugoslavia). Under some penal systems, cases of this kind are automatically "filed"—which means the discontinuance of all proceedings—and are thus not tried by any court; under others, they are within the jurisdiction of the civil court (*e.g.*, France) or guardianship court (*e.g.*, Austria and Germany). In countries whose laws do not distinguish between different classes of minors in criminal matters (complete irresponsibility, relative or restricted responsibility), all juvenile offences fall within the jurisdiction of the juvenile courts (*e.g.*, the United States of America, Australia, Belgium, Greece, British India, Mexico, the Netherlands, Portugal and Spain).

In some countries, besides having jurisdiction over juvenile offenders, the juvenile courts are also competent in cases concerning children who have been abandoned, children in moral danger, vagrant children and juvenile prostitutes (*e.g.*, Belgium, Brazil, the United Kingdom, the Netherlands, Portugal, Spain and Uruguay). Less frequently, the juvenile courts are also competent in cases in which adults are charged with offences in connection with the guardianship or custody of children, as well as offences against the health, morals, etc., of children (*e.g.*, the United States of America, Austria, Hungary and Portugal). Another exception is constituted by the extension of the jurisdiction of juvenile courts to certain civil cases in regard to guardianship (*e.g.*, the United States of America, the Netherlands and Portugal).

The jurisdiction of juvenile courts has given rise to very interesting theoretical discussions, as a result of which two main schools of thought have emerged. *According to the first, the jurisdiction of juvenile courts should be limited to cases in which minors have committed offences against the law, leaving the public guardianship officials to deal with children in moral danger who have committed no actual offence.* In practice, this view has led to the founding in numerous States of special institutions to deal with children in moral danger, children deserted by their parents, etc.; such are the administrative welfare and assistance committees, the child welfare committees, the child welfare councils

(Denmark, Norway and Sweden), the youth offices (Germany), the district welfare supervisors (Italy), the children's aid societies in Canada, etc.

Those in favour of this system maintain that the judge should intervene only when a minor has committed some specific offence necessitating proceedings with regard not only to the guardianship of the culprit, but also to his offence against public and private interests and the consequences ensuing therefrom. On the other hand, they do not consider it necessary for the judge to intervene in other cases involving minors.

*According to the second view, juvenile courts, being institutions with a definite sociological function, should be competent to deal both with children who have committed offences and with children who have merely been abandoned or exposed to moral danger, since it is highly desirable to bring all these cases under a single authority.*

From a practical point of view, it would seem impossible to dogmatise on this matter by deciding one way or the other. In practice, the solution depends entirely on local conditions and the legal and administrative organisation of the country concerned. We can do no more than emphasise the extreme desirability of founding special guardianship institutions to deal with children in moral danger, wherever such questions do not come within the jurisdiction of the juvenile courts.

#### *Procedure.*

5. The principles on which procedure in the juvenile courts is based are in most countries adapted to the special aims of social policy in the matter of juvenile delinquency. Such policy aims at introducing a system of preventive and educational measures based on intimate acquaintance with the environment and character of minors who have committed offences against the criminal law. The effectiveness of these measures depends very largely on the procedure followed in juvenile cases. *The law is here dealing with children who are still mentally immature and therefore require to be handled in a more personal way, while the environment in which they live is often characterised by numerous family and social difficulties. If, therefore, the procedure followed in juvenile cases is to reveal the causes of juvenile delinquency and hence to allow of the appropriate reformatory measures being taken, it must be both responsive and elastic.*

It is for this reason that, under the laws of many countries, ordinary rules of criminal procedure are modified in cases involving minors. This is especially true of procedure in the juvenile courts, the most important characteristics of which are the following :

(a) *The preliminary investigation* into cases involving juvenile delinquents aims both at establishing the circumstances in which the offence was committed and at conducting an exhaustive enquiry into the culprit's personality—*i.e.*, his character, mental and physical qualities, associates, family, school and social environment, etc. This is usually known as the "enquiry into home circumstances". It is carried out by probation officers (*délégués à la protection de l'enfance*), officials of social welfare institutions or other trustworthy persons whom the judge designates for the purpose.

The fact that this enquiry and, indeed, the entire preliminary investigation of the case may be placed in the hands of a "trustworthy person" selected at the judge's discretion constitutes one of the most characteristic departures from ordinary criminal procedure provided for in juvenile cases. This wise provision allows the children's judge to take advantage of the co-operation of social welfare officials, teachers, educationists, etc., who, while unable to co-operate on a permanent footing in the work of the courts, give valuable assistance in individual cases by undertaking the enquiries into home circumstances. Under the laws of many States, an exhaustive *enquiry into home circumstances* during the preliminary investigation of juvenile cases is compulsory (*e.g.*, Australia (New South Wales and Victoria), Austria, Belgium, the United Kingdom, Canada (British

Columbia), France, Germany, Greece, Hungary, Japan, Mexico, Poland, Spain, Switzerland, Yugoslavia, etc.).

More rarely, the law provides for the compulsory *medical examination* of children as part of the preliminary investigation (e.g., Australia (New South Wales), Canada (British Columbia), Chile, Mexico and Spain). In most countries, this examination is optional, and is left to the discretion of the children's judge. In view of the fact that it is often very difficult even for an experienced judge to recognise the characteristic symptoms of an abnormal condition, opinion inclines to the belief that the medical and psychological examination of child offenders should be the rule. This examination should serve to establish how far the child is capable of discerning between right and wrong, within the meaning of the law, but chiefly to arrive at some conclusion regarding his personality as a whole, which may be useful in determining the educational measures to be taken with regard to him in the future.

The medical and psychological examination of the minor is usually carried out in court by experts summoned to the hearing for that purpose. This examination in court, where conditions are such that the child is unlikely to behave naturally, cannot as a rule result in a reliable understanding of his case. In some States, therefore, the examination takes place at child guidance clinics or in special observation centres, where the children are sent during the preliminary investigation of the case (e.g., the Moll Institute in Belgium). While this preliminary investigation and the enquiry into home circumstances are in progress, the court may subject the minor to appropriate measures of restraint.

(b) *Measures of restraint* applied to minors have a double aim—to prevent the minor's escape from justice and to bring about the desired social change in the child, and sometimes in his family as well. In accordance with this principle, the judicial authorities in all States have the power, when dealing with minors, to order educational measures of a provisional character instead of, or in addition to, the usual measures of restraint (arrest, sureties, etc.). The following are the most frequent measures of this kind: (1) the minor is placed under the supervision of his family, which is made responsible for him; (2) the minor is left with his family, but a special supervisor is appointed for him (probation officer (délégué à la protection de l'enfance), care committee worker, etc.); (3) the minor is provisionally placed in the care of a trustworthy person or a social or public institution; (4) the minor is provisionally sent to a home connected with the juvenile court; (5) the minor is provisionally sent to an educational or special institution (hospital, observation centre).

The educational measures mentioned in 3, 4 and 5 above are often supplemented by the appointment by the court of a special minors' supervisor (probation officer), who is also asked, as a rule, to undertake the enquiry into home circumstances. In this way, the available data regarding the personality of the child, the environment in which he lives and similar particulars are supplemented at the principal hearing by a report on the results of the provisional educational measures already applied and by a statement of conclusions advocating either the continuance of such measures or the substitution for them of others of an educational or deterrent nature.

There are, however, only a few countries where preventive measures of a purely educational character are taken in regard to minors accused of an offence (e.g., Australia (South Australia, Western Australia), Belgium, Mexico, Poland, Portugal and Spain). Most countries allow, in conjunction with such measures, detention of minors in custody pending trial; in this case, they are kept either at special minors' detention centres or in special wards of the ordinary prisons. This system is repugnant to the "educational" school, the supporters of which are opposed to the imprisonment of minors *in any form* and especially as a deterrent.<sup>1</sup>

<sup>1</sup> (a) Document C.249.M.113.1931.IV; (b) document C.395.M.221.1932.IV; (c) document C.187.M.104.1935.IV.

When the preliminary investigation has been completed, the children's magistrate (or the public prosecutor), according to the circumstances of the case, either "files" the case or fixes the date of the principal hearing, when the proceedings will be completed and judgment given. Among the various reasons for which a case may be "filed", certain legislative systems allow the proceedings to be dropped if it is proved during the preliminary investigation that the minor acted without realising what he was doing. Under others, proceedings against minors may also be dropped during the preliminary investigation if the offence was a trivial one or if the circumstances of the case warrant the assumption that the minor will at most be reprimanded, or again if the educative measures which have been taken have proved effective and if the proceedings in court may have a harmful effect on the child.

Under most systems of legislation, the juvenile courts can take educative measures with regard to juvenile delinquents, even after proceedings have been dropped.

(c) *Both the preliminary formalities before the principal hearing and those during the proceedings themselves are, as a rule, considerably simplified in the procedure followed by juvenile courts. A special effort is made to prevent these proceedings from taking place in an atmosphere of artificiality and ostentation such as is characteristic of the ordinary courts, and likely to intimidate the accused. With this object, not only the rules of procedure but also the internal arrangements of the court itself are taken into consideration, and in most countries juvenile courts hold their sessions in informal surroundings or simply in the magistrate's room. Both theory and practice have shown that direct and spontaneous contact between the magistrate and the accused minor can be achieved only in an informal environment. In practice, the magistrate tries to create the desired atmosphere by his own attitude while hearing the case. He encourages the minor and his parents to give their evidence as if they were merely taking part in an everyday conversation. He uses his tact, intuition and personal experience to vary the tone of this conversation, and his own attitude in accordance with the personality of the minor and the circumstances of the case.*

Under most legislative systems, *cases in juvenile courts are usually held in camera*, since it is felt that the presence of members of the public might prevent the child from speaking frankly about himself. The hearing of cases *in camera* also ensures that no publicity will be given to them, a matter in which the utmost discretion is desirable in order to avoid prejudicing the child's future. Representatives of the Press are either allowed to be present in juvenile courts on certain conditions—if, for example, they undertake not to publish names, photographs, etc.—or else they are excluded altogether (*e.g.*, Australia (New South Wales, Western Australia and Victoria), Brazil, the United Kingdom, Canada (British Columbia), Egypt, France, Uruguay and Yugoslavia). In all countries, on the other hand, the minor's nearest relatives and representatives of welfare organisations co-operating with the court (welfare committees, institutions, etc.) have access to the court-room.

Under most legislations, *the attendance of the minor in court at the principal hearing is regarded as indispensable*, while his attendance during the preliminary investigation is subject to certain restrictions which may be imposed for moral reasons by the judge. Under some legislations, special provision is made for this possibility (*e.g.*, Germany and Poland).

Though seemingly trivial, this provision is of very great practical importance in the juvenile court procedure. Proceedings in these courts are usually directed to deducing and elucidating the causes for neglect of a child or its exposure to moral danger. Light is thrown upon these facts by the enquiry into home circumstances (the results of which are usually entered in a document attached to the record of the case); but it is often

necessary to supplement the information thus obtained by the statements made in court at the principal hearing by parents, witnesses and experts. These statements sometimes reveal highly interesting details of the life of the minor and his family or the social environment in which he lives. But it might have an adverse effect on a young person's mind if he were to hear them. Hence the special provision authorising a judge to restrict the attendance of an accused minor in court would seem more than justified.

(d) *The manner in which the prosecution is conducted* in juvenile courts usually follows the main principles of the normal procedure in public and private prosecutions. Under a few legislations, a different procedure has been established, which either does not permit of private prosecutions and the intervention of civil parties in juvenile courts, or else entirely excludes the participation in the proceedings of those appearing for the prosecution, whether public or private (*e.g.*, Austria, Poland and Spain). The object of excluding private prosecutions and the intervention of civil parties in juvenile courts is to prevent the intervention in the proceedings of elements which might tend to distort the facts of the case.

(e) *The presence of counsel* (either independently chosen or officially appointed) to defend the accused at the proceedings in a juvenile court is obligatory under most legislations. Under some judicial systems, however, it is maintained that the children's magistrate is best qualified to protect the child's interests, and the presence of defending counsel is either not obligatory at all or is so only in certain specified cases. In some countries, minors may be defended by a representative of an auxiliary organisation acting in co-operation with the juvenile court, or by the probation officer (Germany).

(f) *After enquiring into all the circumstances of the case*, hearing the evidence of the minor, his parents, his guardian, and the experts, witnesses and other persons concerned, the children's magistrate either adjourns the case or declares the proceedings closed and delivers his judgment or final decision. Apart from the grounds upon which a case is usually adjourned (need for additional information, non-appearance of witnesses, etc.), the characteristic feature of juvenile-court practice in some countries consists in the postponement of the final decision in a case involving a minor until some specified or unspecified date. The object is to give the juvenile offender a chance to turn over a new leaf during this time, while provisional educational measures are being taken with regard to him. Some countries make legal provision for this purpose (*e.g.*, Australia, Canada and France).

In most judicial systems, the procedure for appeals and reversal of judgments in cases involving minors follows general rules. These cases are usually heard by the judges normally constituting the appropriate courts of appeal. In rare instances special courts are constituted to hear appeals regarding minors, or the court of appeal entrusts the case to a children's magistrate attached to the court.

### III. MEASURES PRESCRIBED.

Measures<sup>1</sup> taken by the courts or other competent services with regard to minors who have been abandoned or exposed to moral danger, and delinquent minors, may be divided into two groups: (1) Re-education or rehabilitation measures; (2) penal measures.

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<sup>1</sup> (a) Institutions for Erring and Delinquent Minors (document C.I.M.1.1934.IV); (b) Reports by M. Maus, Miss Wall, and Mme. Woytowicz-Grabinska on the organisation of institutions (documents C.P.E.456.1934.IV; C.P.E.468.1934.IV; C.P.E.450.1934.IV); (c) Report by Mme. Woytowicz-Grabinska (document C.P.E.496.1935; report on the Work of the Committee in 1935 (document C.187.M.104.1935.IV).



The so-called reformatory measures, such as the placing of minors in a reformatory, do not constitute a special group, but are classed, according to the legal system concerned, either as educative or as penal measures. In most countries, both educative and penal measures are applied to delinquent minors, in accordance with the neo-classical doctrine. Penal measures, in particular imprisonment, are barred in countries which endeavour to cure juvenile criminality by educative means (*e.g.*, Australia (South Australia, Western Australia), Belgium, Greece, the Netherlands, Poland, Portugal, Spain and Uruguay).

#### *Re-education or Rehabilitation Measures.*

I. The most typical educative measures to be met with under the various legislations are the following: (*a*) warning; (*b*) requiring the minor to observe certain obligations; (*c*) placing the minor under the supervision of the family held responsible; (*d*) placing the minor in the charge of a special supervisor; (*e*) placing the minor in the care of a social welfare institution; (*f*) placing the minor in the care of a trustworthy person or an adoptive family; (*g*) placing the minor in an educational, reformatory or special institution; (*h*) supervised education.

(*a*) *A warning* (to which recourse is usually had in the case of petty offences and minor infringements of the law) consists in verbally drawing the minor's attention to his misconduct, and in warning him of the consequences which may ensue if it continues. This measure is provided for by the legislation of numerous countries (*e.g.*, the United States of America, Austria, Belgium, Germany, Greece, Japan, Mexico, the Netherlands, Poland, Portugal and Spain). Under certain legislations, a warning may also be given to the minor's parents, together with instructions as to the attitude they are to take in future towards the child (*e.g.*, Canada (British Columbia) and Sweden).

Exceptions to this rule include cases where the warning may be accompanied by corporal punishment—a measure condemned by teachers as incompatible with modern educational principles.

(*b*) *Requiring the minor to observe certain specific instructions given by the court* (*e.g.*, forbidding him to smoke or drink, advising him to hand over his earnings to his parents, etc.).—These instructions are given at the magistrate's discretion. Various legislative systems provide for the application of similarly elastic measures of rehabilitation (*e.g.*, the United States of America, Australia, Canada and Germany).

(*c*) *Placing the minor under the supervision of his parents or in the charge of some other qualified supervisor*.—This measure, which is to be found in all legislations, consists in tightening up the duty of supervision incumbent on parents or on the supervisor by imposing a certain responsibility on them—*i.e.*, by laying upon them a specific legal responsibility for any failure to discharge their obligations. This measure is supplemented in some countries by requiring parents to lodge some security for the satisfactory discharge of the obligations undertaken (*e.g.*, Austria, Brazil and the United Kingdom).

(*d*) *Placing minors in the charge of a special supervisor* designated for the purpose by the court.—Such supervision is usually undertaken by persons who collaborate with the juvenile court in juvenile welfare cases. It consists in paying systematic visits to the minor, supervising his conduct, work, education and so on, and reporting to the juvenile court. This measure is applied either alone or in conjunction with other educative measures [(*e*), (*f*) and (*g*)] intended to make it more effective. Both supervision by the parents who are made responsible (*c*) and that by a special supervisor (*d*) are provided for by most legislative systems and are very widely applied in practice by juvenile courts (*e.g.*, the United States of America, Australia, Austria, Belgium, the United Kingdom, Canada, Egypt, France, Germany, Greece, Hungary, British India, Italy, Mexico, the Netherlands, Poland, Portugal and Spain).

(e) *Care of the minor by a social welfare institution.*—In such cases, the court delegates its right of selecting rehabilitation measures to a social welfare institution of its choice (public welfare committee, religious congregation, etc.), which undertakes the care of the minor in such a manner as it deems appropriate. This measure is generally resorted to in the case of very young children who have been abandoned or are in moral danger.

The institution which takes care of the minor is responsible for his education and is required to report on that subject to the court.

(f) *Care of the minor by a trustworthy person or family.*—This is one of the most recent educative measures taken by courts in dealing with minors. Until quite lately, this form of protection was practised only under the usual social-welfare system. According to the modern theory, children who have committed acts contrary to, and punishable by, law should simply be classed with those who are in need of protection by society. By this theory, the courts of numerous countries now have the power to apply to minors many different forms of protection by society adapted to the conditions of the particular country, the most important being to place them with a family (*e.g.*, the United States of America, Belgium, the United Kingdom, Canada, Germany, Hungary and Switzerland).

This practice has grown in recent years and, especially in the case of very young children, has yielded distinctly better rehabilitation results than those obtained by educational boarding establishments. The supervision of the minor's education in the families with which they are placed is entrusted by the Court to auxiliary institutions (*e.g.*, supervisory authorities of independent and State bodies, social assistance institutions and so on), or is supervised directly by the court itself through probation officers.

(g) *Placing in educational, reformatory or special institutions* (medico-pedagogical, etc.).—The object of this measure is to bring about a radical change in the environment in which the minor lives, and to have him educated and supervised on specified lines for a time. This system of supervision is applied to minors in all countries, being almost invariably resorted to in some, while in others it is practised as frequently as the system of placing with a family.

The following are mostly placed in purely educational institutions: (1) Children whose education has been neglected and those exposed to moral danger, who have not committed an offence; (2) Children who have not attained the age of criminal responsibility; (3) Minors who are declared by the courts to have "acted without a consciousness of wrong". Minors who are declared by the courts to have "acted with a consciousness of wrong" are sent to reformatories, as are also—in countries where no such criterion exists—those whom the court considers, in view of their personal character, to be in need of stricter educative discipline. Minors who are physically or mentally abnormal, or are unhealthy, are sent by the courts to special institutions. Under some legislations, provision is made for minors to be sent to special or penitentiary institutions at the request of their parents on the ground of misconduct (*e.g.*, France—" *Correction paternelle*"—and Uruguay).

(h) *Supervised education.*—In cases where the supplementary steps for supervision of the minor [(b), (c), (d)] prove inadequate, certain legislations provide for the possibility of submitting the minor to a combination of measures of education and supervision under the general heading of supervised education. To this end, the custody of the minor is put into the hands of a public or Government service (*e.g.*, Australia, Belgium, France, Germany, the Netherlands and Sweden). These services, to which the minors are normally entrusted until their majority, mostly provide for their education by placing them in an educational establishment or in a family, supplying them with the necessary supervision and reporting on them at regular intervals. During the period of supervised education, the competent service remains in touch with the court (by reports, proposals, etc.), or

with whatever other authority has ordered the supervised education. This form of education is found in countries where the campaign against juvenile criminality is founded on close co-operation between the courts and the public social assistance services.

The *application* of the above-mentioned educative measures, which have the effect of separating the minor from his environment, may be conditionally suspended for a time in order to give the minor an opportunity of showing that the supplementary measures of supervision have in themselves been sufficient to effect an improvement.

### *Punitive Measures.*

2. Amongst the punitive measures provided for up to now by certain legislative systems with regard to minors who have committed misdemeanours with due understanding, the following are most often found: (a) warning; (b) fines; (c) placing in a reformatory; (d) arrest and imprisonment.

The penalty of whipping, which is recognised by educationists as an unsuitable measure, is only rarely found.

(a) Some criminal codes provide for the possibility of using a *warning* as a punitive measure in cases where a minor has committed a petty offence or misdemeanour (e.g., Australia, Hungary and New Zealand).

(b) *Fines* as a punitive measure for minors exist only in a few criminal codes. In practice, this punishment is applied in cases where petty offences or misdemeanours have been committed by minors earning their own living (e.g., Austria, the United Kingdom, Hungary, Italy, the Netherlands, Spain and Switzerland.)

(c) *Placing in a reformatory* is employed as an educative measure in some countries which do not consider penal measures to be applicable to minors; but under the legislation of other countries, it constitutes a punitive measure *sui generis*, admitting of both certain formal elements of punishment and certain material elements of prevention. This measure is applicable only to minors who have been found by the court to have acted with due understanding; in practice, it is put into force only when every attempt to improve the minor by educative methods has failed.

(d) *Imprisonment*,<sup>1</sup> within the meaning of the criminal code, is at present applied to minors in numerous countries. These countries, although they apply educative methods to minors not amenable to criminal courts and minors who have acted without due understanding, allow ordinary imprisonment for minors who have committed an offence with due understanding.

The legislative systems which have kept the possibility of applying imprisonment to certain categories of minors almost always provide for the application of such punishment to minors under the system of mitigated sentences (the death penalty being usually replaced by hard labour, hard labour by ordinary imprisonment, ordinary imprisonment by confinement in a place of detention, etc.).

In most of these countries, minors serve their term of imprisonment either in penitentiary establishments exclusively for minors or in separate wards of ordinary prisons and under special rules. In some countries, however, minors serve their term of imprisonment in ordinary prisons, and are placed in separate cells only when such are available.<sup>2</sup>

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<sup>1</sup> Report on the Work of the Seventh Session (document C.249.M.113.1931.IV); Report on the Work of the Eighth Session (document C.395.M.221.1932.IV); Report by M. Maus (document C.P.E. 456.1934.IV); Report on the Work of the Eleventh Session (document C.187.M.104.1935.IV).

<sup>2</sup> Report by M. Maus, Institutions for Erring and Delinquent Minors (document C.P.E.456.1934.IV).

*The application of imprisonment to minors and the imprisonment of minors as a preventive measure are contrary to the modern trend in the campaign against delinquency; for the objective of that campaign is to abolish the application of the system of criminal punishment to minors and to replace it by re-educative measures.* According to the advocates of this movement, the prison atmosphere in general is harmful to the child's mentality, even when in an ordinary prison he is completely shut off from the adult prisoners (in a separate cell or a ward for minors) or when he is placed in a prison exclusively for minors. The outward aspects of the prison interior (high walls, iron bars, cells, etc.), the penitentiary discipline and the feeling of being confined in a place of ignominy and punishment engender, according to the minor's nature, either fear, depression and collapse, or an assumption of bravado, a hardening and a psychological resistance due to a spirit of revolt and a sense of having been unjustly treated. Often to this state of mind is added the minor's unhealthy feeling of being treated like the "real criminals" and of henceforth belonging irrevocably to their ranks.

All the measures to lessen this feeling through the interior arrangement of the minor's prisons, by making them as similar as possible to the arrangement of educational establishments (beds instead of mattresses, pictures, flowers, etc.), and by introducing normal educational methods instead of prison rules, cannot eliminate the minor's sense of confinement and the mental reactions aroused by that sense. Such prisons, on the other hand, without becoming suitable places for re-educative measures, lose the punitive character which advocates of criminal punishment would like to see them preserve.

Such being the case, it appears more logical, when the educational system is substituted for the penitentiary system in minors' prisons, to change the name of the institution itself to that of "educational establishment" and to do away with its walls and its iron bars. It may be asked, however, whether this prison atmosphere, condemned though it is by the supporters of the educational system, would not be suitable for minors who have committed serious offences (crimes) or for minors of the refractory type. Here also, theory and practice in matters of social education give a negative reply.

With minors who have committed serious offences, the question whether a given measure should be applied must be decided, not according to the nature of the minor's offence, but on the basis of a thorough examination of his personality, his environment and all the causes that led him to commit the offence. The mere fact that a minor has committed a serious offence is not a sufficient ground for deciding that he must be placed in a penitentiary establishment. As regards "refractory" minors, medico-psychological research confirms that their anti-social instinct is mostly due to anomalies, either congenital or acquired under the harmful influence of their social environment. Minors in these categories should usually be sent not to prisons but to special establishments where their personality defects (anti-social impulses, brutality, irascibility, insolence, violence, malevolence, and so on) should be studied by medical and educational specialists, and where they should be given medical and educative treatment according to the indications of this special branch of education. This course of action has been confirmed by numerous experiments, and particularly by the practice of institutions of the Borstal type.

On the other hand, to send minors in this category for long terms of imprisonment in the hope of arousing the desired psychical reaction by methods of penitentiary discipline would be an error; for such a course would merely aggravate their personality defects and make them into types not amenable to education. Still less would the desired result be obtained by administering short spells of imprisonment.

3. Under most legislations, the sentence of internment in a reformatory or of imprisonment *can be suspended* for a certain period, during which, as a rule, the court orders the application of re-educative measures. If during the period of suspension, the minor's conduct proves wholly satisfactory, the penalty is not applied; if otherwise, the

suspension is annulled. The conditional suspension of sentences passed upon minors is very often granted in practice; indeed, it is the rule with minors not previously convicted. The rehabilitation measure most frequently adopted for minors during the period of suspension is supervision by the probation officer.

#### IV. AUXILIARY INSTITUTIONS.

By the auxiliary institutions of juvenile courts<sup>1</sup> are meant all the institutions and associations which help the courts to perform their duty concerning the immediate preventive and supervisory measures to be taken in regard to the minor. This duty is of such importance from the social point of view that it would be beyond the powers of the juvenile courts if they were not helped by a number of auxiliary institutions, and especially those which supplement the action of the courts in the social and educative sphere. On the other hand, it is customary to exclude from the concept of auxiliary institutions establishments in which the final decisions of the courts concerning the rehabilitation or penal measures to be taken with regard to minors are carried out (e.g., educational establishments, reformatories, penitentiary establishments, etc.).

*The auxiliary institutions of the juvenile courts may be divided into two categories:* (1) auxiliary institutions in the strict sense of the term—that is, those whose object is direct co-operation with the judicial authorities in the campaign against juvenile criminality, whether such co-operation is founded on legal provisions or on the statutes of the institutions themselves; (2) auxiliary institutions in the widest acceptance of the term—namely, those which provide for or admit certain forms of co-operation with the juvenile courts within the scope of their general activity.

I. Amongst those in the first group, the following institutions should be mentioned: A. Probation officers; B. Police service dealing with minors; C. Hostels for minors; D. Observation centres; E. Social welfare associations which confine their activity to co-operation with the juvenile courts.

A. The change of ideas which has taken place concerning the methods to be followed in the campaign against criminality, and the co-operation of social and educative factors in that campaign, have made it obviously necessary to place the permanent co-operation of these factors at the disposal of the courts and penitentiary institutions. Thus the second half of the nineteenth century saw the creation of probation officers in the United States of America and in the United Kingdom. Their duties included the supervision of minors who, having committed a first offence, were not placed in a penitentiary establishment, or those to whom a suspension of sentence was granted because it was hoped that they would mend their ways. The functions of probation officer were at first honorary; they were considered a sort of philanthropic activity.

The co-operation of probation officers and the judicial and penitentiary authorities proved to be very useful; at the beginning of the twentieth century, such co-operation was to be found in almost all the countries which had taken up reforms in the campaign against juvenile criminality.

Experience has shown, however, that the voluntary and honorary work of probation officers is not enough. In the first place, such probation officers consider their work to be of a philanthropic character, and do not always possess suitable qualifications for a branch of social work which demands special training if it is to be carried out in the sphere of the juvenile courts. Such training requires, not only long practice in the supervision

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<sup>1</sup> (a) *Auxiliary Services of Juvenile Courts* (document C.P.E.238(1).1931); (b) Report by Mme. Woytowicz-Grabinska and M. Rollet on the *Auxiliary Services of Juvenile Courts* (document C.P.E.293.1931.IV); (c) Report on the Work of the Seventh Session (document C.297.M.139.1931.IV).

of children and adolescents, but also, and more particularly, a special knowledge of the sciences of sociology, pædagogy, psychology, etc.

Further, probation officers must be selected from people who can adapt themselves to children, and in whom this gift is the result, not only of intellectual ability, but also of a special sensibility to everything concerning the welfare of children and adolescents. These requirements arise from the very nature of the probation officer's work. That work consists chiefly in improving and correcting the minor's character by direct contact. Such work naturally demands a special gift and special knowledge, and dilettantism here may do great and irreparable harm.

For this reason, there is in most countries a tendency at the present day to place at the disposal of the juvenile courts the co-operation, not only of voluntary agents, but also of suitably qualified professional probation officers, who, being paid from State funds, make this co-operation with juvenile courts their principal occupation. Besides this category of co-workers, honorary officers may also co-operate in most countries, as well as officers from social child welfare institutions; but the work of these persons is under the direction of the professional officers.

The method of appointment of probation officers varies from one country to another; they are mostly appointed by the juvenile courts with which they co-operate, or by the Minister of Justice.

The duty of the probation officers is to carry out the tasks entrusted to them by children's magistrates in the courts' own field of activity. Their chief duties are :

- (a) To carry out enquiries into home conditions in cases concerning minors;
- (b) To undertake the supervision of minors: (1) as a preventive measure;
- (2) during the period of suspension of sentence; (3) as an independent educative measure; (4) during the period of the minor's premature discharge from an educational institution, reformatory or penitentiary establishment;
- (c) To supervise personally the education of minors placed in establishments by the court's decision or entrusted to social welfare institutions or families;
- (d) To co-operate with the auxiliary institutions of juvenile courts (welfare committees, child guidance clinics, observation centres, homes, etc.) while the minor is under their supervision;
- (e) To submit to the court periodical reports on their work and to make proposals as to the educational or correctional measures taken with regard to the minors under their supervision.

B. In most States, the police co-operate with the juvenile courts within the general scope of their powers; but in the last few years, there has been a movement in many States to create special police services dealing exclusively with cases concerning minors.

The attitude to adopt towards a minor who has committed an offence, and who is often a child in moral danger, or abandoned, or whose education has been neglected, must be dictated by social and educational considerations from his very first contact with the judicial or police authorities. For this reason, it would seem very desirable to entrust cases concerning minors, during the preliminary investigation, to a police official having the necessary training to deal with minors.

In some countries special women police services have been established for this purpose, and their work is everywhere proving very satisfactory (*e.g.*, in Austria, the United Kingdom, France and Poland).

C. The detention in ordinary jails of minors arrested by the police has also been recognised both in theory and in practice to be very harmful to the mentality of children and adolescents. In these jails, the minor meets criminals and prostitutes—in a

word, the dregs of society; and such detention, even though of short duration, may do irreparable harm to the minor's mentality. The actual separation of minors and adult prisoners in ordinary jails (separate quarters) does not solve the problem, since such separation is never strict enough to eliminate the harmful effects of the jail atmosphere (shouting, disorderly conduct, etc.).

For this reason special prisons for minors have been instituted by the police in several countries, in premises used exclusively for this purpose. Similarly, homes of a purely educative nature have been opened in some countries to take the place of penitentiary establishments. The efficiency of these institutions increases with the improvement of their organisation. Their improvement tends to make the homes in this category centres for the preliminary observation of the minor from the social, medical and psychological points of view.

D. The medical and psychological examination of minors who have committed offences is carried out in most countries through the medium of child guidance clinics, whose co-operation with juvenile courts has proved most effective. These clinics, in addition to direct co-operation with juvenile courts in individual cases, carry out theoretical research on the basis of the experimental data they have at their disposal, and thus help to elucidate many complex social, psychological and medical problems of juvenile criminality.

E. Besides the auxiliary institutions enumerated above, which are chiefly public ones, there are in almost all countries social institutions organised solely to co-operate with juvenile courts in affording protection and education; the field of such collaboration is, as a rule, clearly defined in the statutes of the organisations.

These institutions are usually in the nature of associations for the protection of children and adolescents, known in many countries as welfare committees (*patronages*). The organisation of these institutions varies considerably from one country to another, but their field of work is more or less the same. It consists in carrying out missions entrusted to them by children's magistrates in the social, educative, medical, psychological and other spheres, in all individual cases concerning minors and also with reference to the general problems of the campaign against criminality among children and adolescents.

To carry out their task, the associations in question organise, each within its own sphere, educational and welfare services and medical services (such as hostels, hospitals, clinics, dispensaries, etc.); and they also arrange for their members to co-operate with the juvenile courts as honorary probation officers. In many countries, these institutions play an important part and are considered to constitute an indispensable social basis for the organisation of juvenile courts.

2. The second group of auxiliary institutions in the widest sense of the term includes all institutions and associations which, in the scope of their general activity (social welfare, education, teaching, etc.), provide for certain forms of co-operation with the juvenile courts. These institutions are of a public character (*e.g.*, State services or autonomous bodies dealing with child welfare, health centres, employment bureaux); or they consist of social and religious organisations and associations (*e.g.*, the Scout movement, the Red Cross, holiday camp organisations, associations for the protection of unemployed young people, religious congregations).

The co-operation of these institutions with the juvenile courts is based either on the relevant provisions of the statutes of the institutions or on the actual contact of the institutions with the juvenile court, or rather with the judge and the probation officers.

On the importance of this co-operation depend, not only the successful application of a whole series of educative and medical measures to neglected and delinquent minors, but also, and more particularly, the scope of the preventive action taken.

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## ANNEX 2.

### BRIEF STUDY OF THE AGE OF CRIMINAL RESPONSIBILITY AND THE AGE-LIMITS FOR THE JURISDICTION OF JUVENILE COURTS (OR CHILD WELFARE COUNCILS).

*By Miss J. Irene Wall, Substitute Delegate of the United Kingdom.*

#### I. INTRODUCTION.

In concerning itself with young offenders, child welfare legislation has invaded the territory of criminal law, and reconciliation of the two systems, the one constructive and the other in the main repressive, has not been easy. In some cases, child welfare legislation has become dominant up to or over the primary school-leaving age, excluding young offenders in all circumstances from the operations of the criminal law, from its terminology, from courts of any character, from prosecution and from any penalty. Elsewhere the modification of criminal law, in the interest of young persons of a similar age-group, amounts to little more than an instruction that an ordinary court, functioning under its normal procedure, shall adopt a more benevolent attitude and impose penalties which are lighter than those applicable to adults.

Over a series of years, the Child Welfare Committee of the League of Nations has been making studies on various aspects of the law and practice relating to young offenders, from which it is clear that there is great variety in the systems established and in the character and scope of the special measures applied to young offenders. The systems are fully described in the answers sent by many countries to the Committee's questionnaires, and are not dealt with here.

The question of the age-limits appropriate to special measures for juvenile delinquents arose in connection with the studies on juvenile courts and institutions, which showed that in many cases the legal theory of an age of criminal responsibility was determining whether or not a child might benefit by the special measures. It was clear that while such measures as juvenile courts, guardianship councils, training-schools, probation and other child welfare services replaced the penal system up to a relatively high age for some young persons in a country, others, who might be many years younger, would be excluded from these measures because they had attained the age of criminal responsibility. There also appeared to be striking differences in the limit set to that age in different countries.

In these circumstances, the Committee decided that it would be useful to make a short practical study of the age of criminal responsibility.

No special request for information has been addressed to Governments, because sufficient material was available, in some of the replies to the Committee's earlier questionnaires, for a limited but representative account of the position to be presented. The age of criminal responsibility has been compared, on a broad basis, with the age-limits for the



jurisdiction of juvenile courts (or child welfare councils), which, although they vary greatly in character and in jurisdiction, are everywhere the most typical of the special measures available for young offenders, and are usually the central feature of each system. No attempt has been made to deal with the composition and functions of the court or council, partly in order not to confuse with details a study primarily concerned with questions relating to age-limits, and partly because, as mentioned before, the courts have already been fully described in a separate report.

This study is in three parts. The first deals with the definition of the age of criminal responsibility; the second, with methods of establishing and applying it; and the third deals briefly with higher age-limits.

A table comparing the age of criminal responsibility with the age-limits for the jurisdiction of juvenile courts (or child welfare councils) is appended.

## II. DEFINITION OF THE AGE OF CRIMINAL RESPONSIBILITY.

In practical terms, the age of criminal responsibility is the age at which a child is legally able to commit an offence, and therefore legally liable for some or all of the penal consequences of his act, such as to be proceeded against, convicted and punished. This type of definition may be exemplified by the information from Norway, which runs as follows :

*Norway.*—“ Children under 14 years are not punished for offences committed. They are not tried by the courts. But the law has set up a special authority, the ‘ Council of Guardianship ’ (*Vaergeraad*) for dealing with them, and punishment has been replaced by educational measures. (The council and the courts have concurrent jurisdiction over young offenders between 14 and 18.)”<sup>1</sup>

It is necessary, however, to consider the theory of the age of criminal responsibility, because this legal theory is operating in many systems of law relating to young offenders and has important consequences in some of the systems. The theory has its birth in one of the elements which constitute a crime. This element is a certain mental quality or attitude without which an act, however damaging it is or however clearly it is forbidden by law, is not a crime (*actus non facit reum nisi mens sit rea*).

In different legislations the mental quality which must accompany an act to make it a crime is variously expressed, the usual terms being, guilty knowledge or intention or due understanding or discernment or *mens rea*. In the case of an adult, the law infers the existence of this mental quality from his act and leaves it to the accused, if he can, to prove its absence and so obtain his acquittal.

To take a simple example : it is the crime of theft to take, with guilty intention, the property of another without his consent. The court before which an adult appears is concerned with evidence of facts such as ownership of the article, that it was taken, and that the accused was found with it, etc., and assumes that the taking was with guilty intention. But it is for the accused person himself to show that he took the property in mistake for his own, if this is his defence; and if he can satisfy the court on that point, he is held to have committed no crime, for the mental quality of guilty knowledge and of due understanding were not associated with the wrongful act of taking another's property. In fact he had no *mens rea*.

Having established the theory that a certain mental quality is an essential element for the commission of a crime, the criminal law is faced with the fact that in the progress

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<sup>1</sup> Organisation of Juvenile Courts, page 100 (document C.484.N.260.1935.IV).

of man from infancy to maturity there is a stage of his early life at which his mental qualities are so undeveloped that it is impossible to credit him with knowledge, intention, understanding or discernment, as these qualities are understood in law, and without this *mens rea* he cannot commit a crime. Therefore he is, by reason of age, *doli incapax*.

Based on legal theory, the definition of the age of criminal responsibility is that it is the age when a child attains a mental maturity which justifies the law in crediting him with due understanding (discernment) in respect of any unlawful act he commits. To satisfy this preoccupation of the criminal law, endeavours are made in many systems of law to provide judicial machinery for establishing when a child has the due understanding which justifies the intervention of criminal law in respect of his acts.

The form in which the various countries have expressed the conception of the age of criminal responsibility is not at all uniform. As already shown in the case of Norway, the age is sometimes expressed in terms of penal consequences or, conversely, it may be expressed in terms of the child welfare or educational measures applicable under the age of criminal responsibility. Some examples will show ways of expressing the same idea.

*Hungary.*—“As regards criminal responsibility, Article 16 of Law XXXVI of 1908 enacts that no criminal proceedings may be taken against anyone who, when the crime or offence was committed, was over 12 but not yet 18 years old (adolescent), if he was not aware of the significance of his act.”<sup>1</sup>

*Union of South Africa.*—“A minor under 7 years of age is, in law, incapable of criminal conduct. A minor between 7 and 14 years of age is presumed to be incapable of criminal conduct. But this presumption will be rebutted if it be proved by evidence or the circumstances that his mind was sufficiently mature to understand, and that he did understand, the wrongful character of the conduct in question.”<sup>2</sup>

These examples express the age of criminal responsibility in terms of proceedings or of conduct, and both include the legal theory of *mens rea*.

Another, and apparently newer, way of expressing the age of criminal responsibility is shown in some systems where an age of criminal minority is laid down and, within the period of minority, the age of responsibility is a subdivision. The following are three examples :

*Finland.*—“A person is deemed to be a minor for the purposes of criminal responsibility up to the age of 18. Children under 7 years of age are not considered responsible, but they may be punished or sent to a public training-home. Minors between 15 and 18 years of age are given reduced sentences.”<sup>3</sup>

*Italy.*—“In criminal matters, a person remains a minor until 18 years of age. Minors under 14 are not criminally responsible; minors who are over 14 but under 18 at the time the offence is committed are criminally responsible provided that they realised the significance of their act, but the penalty is reduced (Articles 97 and 98 of the Penal Code of October 19th, 1930, which came into force on July 1st, 1931).”<sup>4</sup>

*Roumania* (taken from the Penal Code which came into force on January 1st, 1937).—“A minor is one who has not completed his nineteenth year.

“A child is a minor who has not completed his fourteenth year; an adolescent is a minor between the ages of 14 and 19 (Article 138).

“A child is not responsible for the offences he commits.

<sup>1</sup> Institutions for Erring and Delinquent Minors, page 159 (document C.1(1).M.1(1).1934.IV).

<sup>2</sup> *Ibid.*, page 10.

<sup>3</sup> *Ibid.*, page 146.

<sup>4</sup> *Ibid.*, page 174.

“Similarly an adolescent is not responsible for any offence committed, except when it is proved that when he committed the offence he acted with discernment (Article 139).”

### III. METHODS OF ESTABLISHING AND APPLYING THE AGE OF CRIMINAL RESPONSIBILITY.

There are two main methods of establishing the age of criminal responsibility for young persons, and they depend upon whether or not, in the scheme adopted, the legal theory of *mens rea* is disregarded (System A) or preserved (System B). They are as follows :

*System A.*—Criminal responsibility attained at a fixed age for all young persons.

*System B.*—Criminal responsibility fixed, by judicial decision in each case, between a minimum and a maximum age.

Before considering separately the characteristics of these two methods and how they are applied, it is of interest to compare them from the point of view of the age-limit up to which they secure that no child in any circumstance will become subject to any feature of the criminal law. This limit is of importance, because it represents the maximum age of absolute protection for all young persons, as opposed to either limited protection at a higher age, or absolute protection for some, but not all, young persons at a higher age.

*Maximum age of exclusion of every child from the criminal law.*—The Governments' replies are not always clear in the information furnished on this point, but the position appears to be as follows :

*Under System A*, the age is for the Argentine, 14; Belgium, 16; Denmark, 15; Germany, 14; Norway, 14; Portugal, 16; Sweden, 15; and there appears to be as high an age-limit, or higher, in certain States of the United States of America.

*Under System B*, the age is for Albania, 10; the Union of South Africa, 7; Australia, 7; Austria, 14; Bolivia, 10; the United Kingdom, 8; Bulgaria, 10; Canada, 7; Chile, 16; Czechoslovakia, 14; France, 13; Hungary, 12; India, 7; Italy, 14; Japan, 14; Lithuania, 10; Mexico, 12; New Zealand, 7; Nicaragua, 10; Poland, 13; Siam, 7; the United States of America, 7 (in States retaining the old common law doctrine).

It will be seen that under System A, which has been adopted by a lesser number of countries, the maximum general age of absolute protection varies between 14 and 16, whereas under system B it varies—if we exclude the high age of 16 in Chile—between 7 and 14.

#### *System A.—Criminal Responsibility attained at a Fixed Age.*

Three examples may be taken as representative of the method of a fixed age of criminal responsibility and, as will be apparent, this method is applied to three quite different organisations of juvenile courts (or child welfare councils).

*Germany.*—“For the purposes of criminal responsibility, any person over 14 and under 18 years of age (Article 1 of the Juvenile Courts Law of February 16th, 1923) is deemed to be a minor.<sup>1</sup>

“Children under 14 are not subject to the criminal law. If they commit acts

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<sup>1</sup> Institutions for Erring and Delinquent Minors, page 17 (document C.1(1).M.1(1).1934.IV.)

which are punishable when committed by adults, the guardianship courts and offices for the protection of children take the steps which appear necessary.

“ Juvenile courts have jurisdiction in all offences committed by young persons —*i.e.*, by persons between 14 and 18 years of age. The court considers whether punishment or educational measures are necessary. In the case of punishment, the court pronounces sentence, which may be combined with educational measures. If the court thinks that the latter are sufficient, it does not pronounce sentence: it may itself order the educational measures or may remit the child for that purpose to the Guardianship Court.”<sup>1</sup>

*Belgium.*—“ Under the Law on the Protection of Children (May 15th, 1912) a young person up to the age of 16 cannot commit an offence; he commits ‘ an act amounting to an offence ’. The reduced punishments applicable to young persons under the criminal law are consequently replaced by ‘ measures of custody, education and preservation ’.

“ The juvenile court has jurisdiction over acts regarded as offences (crimes, misdemeanours or petty offences) when committed by young persons under 16, and as regards begging and vagrancy up to the age of 18;

“ The Law of 1912 requires that a definite act should be charged against a young person before the judge can attempt the work of reformation.”<sup>2</sup>

*Sweden.*—“ The fundamental provision regarding the criminal responsibility of minors under Swedish law is to be found in the Criminal Code, Chapter 5, paragraph 1, which reads: ‘ Acts which are otherwise punishable shall not be punished, if they are committed by children under 15 years ’. The present wording of the provision was adopted by a Law of June 27th, 1902.”<sup>3</sup>

“ Offences by such children are not regarded as crimes, delicts or contraventions, but only as signs of perversion or moral abandonment which must be remedied by measures of education or supervision.”<sup>4</sup>

Swedish legislation has in the past been based on the principle that in order to be liable, persons must have sufficient discretion to realise the criminality of their acts. The system has now been adopted which fixes merely an age-limit above which the person is always considered responsible.

Children up to the age of 15 are dealt with only by the child welfare councils. Young persons between 15 and 18 may be dealt with by either the council or the adult court and, in cases of vagrancy between 18 and 21 years of age, the case may since 1934 be dealt with by a youth commission or by the court.

The three very different systems of Germany, Belgium and Sweden are good examples of methods followed with modifications by many countries. In none of the three systems, however, does the age of criminal responsibility depend upon whether or not the young delinquent has due understanding of his act, or upon whether *mens rea* does or does not justify the intervention of the criminal law. A clean break is in fact made with criminal law up to a relatively high age—the age of criminal responsibility; and under that age all children who commit offences are exempted from any penal consequences.

The school-leaving age, and the age of protection specified in different fields of industrial and social legislation, are almost always fixed at a definite point, thereby ensuring that there shall be no uncertainty in the position, and that all under the prescribed age may profit equally from the measure of protection which has been established.

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<sup>1</sup> Organisation of Juvenile Courts, pages 10 and 11 (document C.484.M.260.1935.IV).

<sup>2</sup> *Ibid.*, pages 33 and 34.

<sup>3</sup> Child Welfare Councils, page 49 (document C.8.M.7.1937.IV).

<sup>4</sup> Organisation of Juvenile Courts, page 121 (document C.484.M.260.1935.IV).

Countries which adopt a fixed age of criminal responsibility are therefore following the method which obtains general acceptance in other fields of social welfare; and by disregarding consideration of the legal theory of due understanding—*mens rea*—they avoid a complication which often restricts the application of measures prescribed for young offenders.

*System B.—Criminal Responsibility fixed, by Judicial Decision in Each Case, between a Minimum and a Maximum Age.*

Where legislation on juvenile delinquents preserves any trace of the criminal law theory of due understanding—*mens rea*—the age of criminal responsibility is not fixed absolutely at a given age, as under System A, but varies between a minimum and maximum age, the system being as follows :

1. To fix a minimum and maximum age between which the age of criminal responsibility may be attained;
2. To require the court, or judge, to determine, in each case in which the young offender's age lies between these limits, if he has due understanding (*mens rea*) or not.

1. *The Minimum and Maximum Ages.*

At one time there were systems of law in force under which there was no minimum age of attaining criminal responsibility, and it would appear that this practice is reflected to-day in Netherlands law, which "does not fix a minimum age below which children cannot be prosecuted".<sup>1</sup> It was early established in most systems of law, however, probably to save the time of the court and to secure uniformity of treatment for very young children, that there should be a minimum age of criminal responsibility, below which no doctrine or practice of the criminal law would operate.

Among countries in System B, we may take first the category following English common law, of which three examples may be taken as typical.

*United States of America.*—"The common law doctrine is that children under 7 years of age are incapable of committing a crime; children 7 to 14 years are *prima facie* incapable, but may be proved to know the difference between right and wrong and therefore to be capable; minors over 14 years are *prima facie* capable until proved otherwise and, unless proved incapable, are fully responsible. This provision is still in effect in most of the States that permit criminal trials of juveniles.

"The theory of juvenile-court legislation is that the State as *parens patriæ* owes special protection to children. Under this principle, juvenile delinquents are considered wards of the State in need of its care and protection and are not held to criminal responsibility for their acts.

"The tendency in the United States is to raise to 18 years or higher the age to which juvenile-court jurisdiction extends. About half the States extend such jurisdiction to both boys and girls (or girls only) to 18 years, and, in a few States, this jurisdiction extends to a higher age. In the remaining States, the juvenile-court jurisdiction includes children under 16 or 17 years of age."<sup>2</sup>

*New Zealand.*—"No person can be convicted of an offence committed when under the age of 7 years and no person can be convicted of an offence committed when

<sup>1</sup> Organisation of Juvenile Courts, page 105, footnote 3 (document C.484.M.260.1935.IV).

<sup>2</sup> Institutions for Erring and Delinquent Minors, page 131 (document C.1(1).M.1(1).1934.IV).

under 14 years unless the tribunal is of opinion that the child knew that the act or omission was wrong.”<sup>1</sup>

Children under 17 years of age are subject to the jurisdiction of juvenile courts except in case of grave crimes or when jointly charged with adults.

*United Kingdom.*—The English common law, formerly as stated in the preceding examples, has been superseded by legislation and is now as follows :

“ It is conclusively presumed that no child under the age of 8 can be guilty of any offence (Children and Young Persons Act, 1933, Section 50), and there is a certain qualification of the criminal responsibility of children between 8 and 14 and between 14 and 17. There are various provisions which prescribe special procedure or special treatment, on the basis of age, and may therefore be considered to limit to some extent the recognition that an age of full criminal responsibility has been attained. These are :

“ (a) All offences committed by children under 14, including all indictable offences except homicide, are to be tried in juvenile courts;

“ (b) Indictable offences committed by young persons between 14 and 17 may be tried by juvenile courts, with the consent of the young person;<sup>2</sup>

“ (c) Section 59 (1) of the Act of 1933 provides that the words conviction and sentence shall cease to be used in relation to children and young persons dealt with summarily.”

It will be observed that the minimum (7 or 8) and maximum (14) ages are low in the systems preserving English common law principles and that the onus is placed on the prosecution to prove *mens rea* between the two limits of age. The maximum age for the jurisdiction of the juvenile court extends to 17 or higher, and it is noticeable that the age of criminal responsibility plays more of an academic than a practical rôle—for example, its terminology of “conviction” and “sentence” has been suppressed in the recent legislation of the United Kingdom. Nevertheless, once the minimum age is passed, there is the possibility of criminal prosecution either in cases of very serious crime or where the child is charged jointly with an adult.

Four examples may be given of the other category of countries following System B.

*Austria.*—“Criminal responsibility does not begin until the age of 14. Children (persons under 14) are not responsible. If a child, through lack of proper training, commits a punishable act, educational measures must be applied.

“Persons who, at the time the punishable act is committed, have completed their fourteenth year, but have not yet reached the age of 18—minors within the definition of the criminal law—constitute the group of persons whose degree of maturity is problematical. Their responsibility must be examined in each particular case.

“They cannot be punished if, for special reasons, they are not yet capable of realising the illicit nature of the act committed or of regulating their conduct accordingly. In such cases, educational measures must be imposed if necessary, as in the case of children. If the young person is found to be responsible, the penalties are much less severe than in the case of adults.”<sup>3</sup>

<sup>1</sup> Institutions for Erring and Delinquent Minors, page 200 (document C.1(1).M.1(1).1934.IV).

<sup>2</sup> *Ibid.*, page 66.

<sup>3</sup> Organisation of Juvenile Courts, pages 28 and 29 (document C.484.M.260.1935.IV).

“ The criminal jurisdiction of minors’ magistrates attached to district courts (magistrates sitting alone) covers all offences committed by minors.<sup>1</sup>

“ If both young persons and adults are involved in a punishable act, a joint action will not be brought against all the accused (as is the general rule), but the minors will be dealt with separately.”<sup>2</sup>

*Chile.*—“ Any person under 20 years of age is regarded as a minor. There are two categories of minors—namely, minors under 16, who are always exempt from criminal responsibility and subject only to the measures laid down by the law for their protection or re-education, and minors over 16 and under 20, who are exempt from criminal responsibility and in the same position as offenders of the first class, if the minors’ judge finds that they have acted without being aware of the significance of their action. If he finds that they were aware, they are criminally responsible and have to be tried by the ordinary courts.

“ Persons of more than 16 and less than 20 years of age who, having been aware of the significance of their action, are convicted of crime serve their sentence in special sections of ordinary penitentiary institutions.”<sup>3</sup>

“ Juvenile courts have power to try minors over 16 and under 20 years of age who have acted without due understanding and are accused of a crime, a misdemeanour or an ordinary breach of the law. The preliminary investigation must ascertain whether the child has or has not acted with due understanding.”<sup>4</sup>

*France.*—“ Children under 13 who have committed offences are not dealt with by the ordinary criminal jurisdiction but, according to circumstances, by measures of guardianship, supervision, instruction, reform or assistance. These measures are decreed by the civil tribunal sitting in council chamber and have, as a rule, no penal consequences, for they are taken without the question of due understanding being raised.

“ For the trial of children between 13 and 16 years who have committed a misdemeanour or a crime, and those between 16 and 18 who have committed a misdemeanour, the criminal court sits specially as ‘ children’s and young persons’ courts’ and intervenes only when the child has committed a punishable offence. If, however, in such cases the offender is implicated as principal, co-principal or accomplice in the same case as older persons also awaiting trial, the case comes before the ordinary court.

“ Children’s and young persons’ courts, when considering cases of persons between 13 and 18 years of age, decide first whether the young person acted with or without due understanding. They may, however, postpone this decision and provisionally place the young person on probation in charge of a person or charitable institution appointed by them and under their direction. If, however, the court decides to determine immediately the question of due understanding, two replies are possible. If the court finds that the young person had due understanding, sentence limited by Article 67 of the Penal Code (modified by the present law) will be pronounced.

“ If it is decided that the young person acted without due understanding, he will be acquitted; but he will, according to circumstances, be handed over to his

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<sup>1</sup> Organisation of Juvenile Courts, page 26 (document C.484.M.260.1935.IV).

<sup>2</sup> *Ibid.*, page 27.

<sup>3</sup> Institutions for Erring and Delinquent Minors, page 109 (document C.1(1).M.1(1).1934.IV).

<sup>4</sup> Organisation of Juvenile Courts, pages 50 and 51 (document C.484.M.260.1935.IV).

parents, to an individual or to a charitable institution, or be sent to a supervised educational establishment to be educated.”<sup>1</sup>

*Poland.*—“ From the point of view of criminal responsibility, persons who have not yet completed their seventeenth year are deemed to be minors. Up to the age of 13, however, they do not incur any criminal responsibility. Minors from 14 to 17 who commit an offence without knowing that they are doing wrong do not incur criminal responsibility.

“ If a minor between 14 and 17 commits an offence, knowing that he is doing wrong, the court orders him to be sent to a reformatory<sup>2</sup> or may, in certain cases, merely apply educative measures.

“ The minors’ courts have jurisdiction in cases affecting two categories of minors. The first category includes: (a) minors of 13 years of age and under, who have committed a misdemeanour; (b) minors between the ages of 13 and 17, who have committed a misdemeanour without knowing that it was wrong; (c) those under 17 who have been charged with begging, prostitution or vagrancy; and (d) those under 17 whose behaviour is bad and whose parents appeal to the court for assistance (parental correction). The second category is made up of minors between the ages of 13 and 17 who have committed a misdemeanour knowing that it was wrong.

“ The minors’ courts are competent to deal with all matters relating to minors. Nevertheless, when minors are implicated in misdemeanours committed by adults, and it seems desirable to deal with the case as a whole, the ordinary court deals with it and pronounces judgment.”<sup>3</sup>

In the above four examples the minimum age of attaining criminal responsibility (from 13 to 16 years) is at or over the point at which the maximum age of no responsibility occurs in countries following the English common law. In all of them, the limits of criminal responsibility correspond with the age-limits for the jurisdiction of juvenile courts, and it is clear that the theory of due understanding (*mens rea*) plays an important rôle in the systems.

## 2. *The Question of Due Understanding (mens rea).*

Due understanding (*mens rea*) is, in legal theory, an essential element in the definition of a crime. Where this theory operates in the law on juvenile delinquents, the court or judge before whom a young offender between the minimum and maximum ages of criminal responsibility is brought has first to determine, in each case, whether the child has due understanding; if he has, he may be tried and, if convicted, be punished for his crime. If he has no due understanding, he is not subject to the criminal law, and theoretically, if not in practice, the court takes no cognisance of the offence alleged.

Looked at from the angle of criminal law, it is proper that an offence should only be punished where there is due understanding. But looked at from the angle of the welfare of a young person, the presence or absence of *mens rea* as an element in the offence is secondary, and may have little real importance as an indication of the requirements of the case. Previous offences or premeditation might suggest to a court that a child had due understanding, but a full social enquiry might reveal that the child had had no chance in life and lacked any healthy outlet for its high spirits. A court concerned with the narrow question of due understanding might therefore punish where, in the interests of

<sup>1</sup> Organisation of Juvenile Courts, pages 71 to 74 (document C.484.M.260.1935.IV).

<sup>2</sup> Institution for Erring and Delinquent Minors, page 217 (document C.1(1).M.1(1).1934.IV).

<sup>3</sup> Organisation of Juvenile Courts, page 113 (document C.484.M.260.1935.IV).



the child and therefore also of society education and training are really required. In any case, if it be desired to test the maturity of a person, with a view to assigning criminal responsibility, the test should not be whether he has "due understanding"—a faculty which may be present at a very early age—but rather whether he has self-control and sound judgment; and, as is well known, those qualities are generally absent during the unstable period of adolescence.

In this connection it may be useful to draw attention to a remark by M. Erling Broch, Judge of the Supreme Court at Oslo, in his report on Child Welfare Councils in Norway<sup>1</sup> and on the rôle played by observation schools :

"It is difficult, or impossible, to judge the mentality of an adult merely from his or her misdeeds. So far as children are concerned, however, it is infinitely more difficult. The reasons—ethical, rational and even economic—frequently lie on quite a different plane from those of adults. To use the illustration of one of our first home-school experts, thieving among children is in the same category as that phenomenon of sickness, fever. It is a symptom showing that something is wrong. But, just as fever may be the outward sign either of a mild or of a serious disease, so it is impossible to judge of the depravity of a child exclusively by the objective contemplation of the kind and the degree of heinousness of the theft."

Moreover, the answer to this rather artificial question of *mens rea* restricts the scope of measures designed for young offenders and so may produce very unequal results. A child as young as 13 may be sent to prison, while one of 17 may be committed to an educational establishment. However much legally such discrimination is justified, it cannot accord with the social requirements of the two cases, nor even with the physical difference in their stage of development.

Although many countries preserve the legal conception of due understanding in their legislation on young offenders, they endeavour to limit its operation. Thus in countries following the principle of the English common law, the onus is thrown on the prosecution to prove *mens rea*. In France, the court may suspend a decision on the question while other measures are taken; and in yet other countries, the court, even after a conviction, may order educational instead of penal measures. In some cases where the court has not found due understanding (and therefore the young offender is entitled to be discharged), steps are taken for his reformation and training.

No country has advanced any recommendation of the theory of "due understanding", and the Government of Chile has in fact submitted an unfavourable conclusion on the matter, which runs as follows:<sup>2</sup>

"The distinction with regard to acting with or without a knowledge of the significance of the offence should be done away with as having no practical object. Every minor should be tried by the minors' judges without reference to this circumstance. The only thing that matters is the possibility of re-educating him."

#### IV. HIGHER AGE-LIMITS.

The tendency to raise the maximum age of special measures for some young offenders, and the limit of age selected, is of interest and would seem to show that a conception of an age of criminal minority is gaining ground and that its limit is approximating to the well-established standard of the age of civil majority at 21 years of age.

<sup>1</sup> Child Welfare Councils, page 38 (document C.8.M.7.1937.IV).

<sup>2</sup> Institution for Erring and Delinquent Minors, page 111 (document C.1(1).M.1(1).1934.IV).

In this connection it is interesting to read that :

“ Swedish medieval law did not distinguish between civil majority and the age of criminal responsibility as, with few exceptions, a man came of age in both respects at 15. In 1721, legislation was introduced raising the majority under civil law to 21, the age of criminal responsibility remaining unchanged.”<sup>1</sup>

By a Law of 1934, Swedish child welfare councils may now deal with certain cases of vagrancy up to 21, and there seems to be similar provisions in Denmark and Norway.

Under legislation following that originating in the United Kingdom, there are laws in India and New Zealand which permit an ordinary court to sentence a young offender between 16 and 21 to two or three years of Borstal detention in lieu of imprisonment, and provisions of the same kind occur in the legislation of other countries. In Chile, the maximum age of criminal responsibility, if the act was done without due understanding, is 20, though the Government is of opinion that 18 years would be a better limit; the Roumanian Law of January 1937 fixes 19 as the maximum age of criminal responsibility where due understanding is absent; the Estonian draft law shows an age of 20 for criminal minority; and there are many countries where 18 is the maximum limit of reduced responsibility and for the jurisdiction of the juvenile court.

The same tendency is observable in Federal systems of Government. In the United States, the delinquency jurisdiction of twenty-one States covers boys and girls up to 18 years or a higher age, though jurisdiction is sometimes concurrent with that of an ordinary court. In Canada,<sup>2</sup> the Juvenile Delinquents Act, defines “child ” as a boy or girl apparently or actually under the age of 16 and permits a province, in virtue of a proclamation by the Governor in Council, to direct that this age be raised to 18. Four provinces have thus raised it and another has raised it to 18 in respect of girls but not of boys.

\* \* \*

It emerges from this study that the legislation of many countries comprises (whether for juvenile courts, or child welfare councils, or for measures of training prescribed by adult courts) some conceptions of a maximum limit of criminal minority (between 18 and 21) which approximates to the age of civil majority. The difficulty of applying this high limit of criminal minority to all young persons in a country is not essentially the fact that each case differs from the other in degree of physical, mental and moral development. Such differences are also true as regards the age of civil minority, and could be met in the case of juvenile delinquents by appropriate variation in the method of care or training to be applied. It would rather appear that the main difficulty in the way of establishing a high age of criminal minority for all young persons, uniformly, is due to the survival, in different forms, of the legal theory of an age of criminal responsibility which focuses attention upon the offence, rather than on the need of the young offender for measures of re-education and of training.

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<sup>1</sup> Child Welfare Councils, page 44 (document C.8.M.7.1937.IV).

<sup>2</sup> Organisation of Juvenile Courts, page 42 (document C.484.M.265.1935.IV).

*N.B.*—It has proved impossible to establish a comparative table, without reference back to Governments, with any confidence that it accurately represents the position in every case. This table is submitted only as a first attempt to classify the facts regarding age in each country.

V.

**THE AGE OF CRIMINAL MAJORITY COMPARED WITH THE AGE-LIMITS  
FOR THE JURISDICTION OF JUVENILE COURTS (OR CHILD WELFARE COUNCILS).<sup>1</sup>**

*System A.—Criminal Responsibility attained at a Fixed Age.*

Country	Age of criminal responsibility	Jurisdiction of juvenile courts (or child welfare councils)		
		Minimum age	Maximum age of exclusive jurisdiction	Maximum age of concurrent jurisdiction with adult court
Argentina .....	14	14	18	—
Belgium .....	16	—	16 <sup>a</sup>	—
Denmark <sup>b</sup> .....	15	—	15	18
Germany .....	14	14 <sup>c</sup>	18	—
Norway <sup>b</sup> .....	14	—	14	18
Portugal .....	16	—	16	—
Sweden <sup>b</sup> .....	15	—	15	18

<sup>a</sup> The age is 18 in cases of vagrancy.

<sup>b</sup> In these countries, a child welfare council takes action, not a juvenile court, up to the age of criminal responsibility. Concurrent jurisdiction is extended to 21 in the case of vagrancy.

<sup>c</sup> A guardianship council operates up to the age of criminal responsibility, and thereafter a juvenile court which has power to refer cases over 14 years to the guardianship council.

<sup>1</sup> The age-limits have been taken in respect of the juvenile courts' jurisdiction over young offenders, and not for its jurisdiction over the child in moral danger where the age-limits are often different.

*System B.—Criminal Responsibility fixed between a Minimum and Maximum Age.*

Country	Age of criminal responsibility		Jurisdiction of juvenile courts (or child welfare councils)		
	Where there is due understanding (minimum)	Where due understanding is absent (maximum)	Minimum age	Maximum age of exclusive jurisdiction	Maximum age of concurrent jurisdiction with adult court
Union of South Africa ...	7	14 <sup>a</sup>	7	16 <sup>b</sup>	—
Austria <sup>c</sup> .....	14	18	14	18	—
Bolivia.....	10	17	<sup>d</sup>	<sup>d</sup>	—
United Kingdom .....	8	14	8	14 <sup>e</sup>	17
Brazil.....	14	18	14 <sup>f</sup>	18	—
Bulgaria .....	10	17	<sup>d</sup>	<sup>d</sup>	—
Canada <sup>g</sup> .....	7	14	7	16 <sup>h</sup>	—
Chile .....	16	20	16	20	—
Czechoslovakia.....	14	18	14 <sup>i</sup>	—	18 <sup>j</sup>
France .....	13	16	13 <sup>k</sup>	16 <sup>c</sup>	18
Hungary.....	12	18	—	15	18
India <sup>l</sup> .....	7	14	—	16	—
Italy .....	14	18	—	18	—
Japan .....	14	18	—	16	18
Lithuania .....	10	17	<sup>d</sup>	<sup>d</sup>	—
Mexico.....	12	18	—	18	18
New Zealand <sup>m</sup> .....	7	14	—	17	—
Poland.....	13	17	13	17	—
Netherlands .....	—	18	—	16	18
Roumania .....	14	19	14	19	—

<sup>a</sup> There is a presumption that between 7 and 14 a child had no due understanding, and the onus is on the prosecution to prove the contrary.

<sup>b</sup> Homicide and serious offences are probably reserved for ordinary courts and also cases where children are charged jointly with adults.

<sup>c</sup> Age-limits differ as regards fiscal offences.

<sup>d</sup> No information.

<sup>e</sup> Except for homicide, or where charged jointly with adults.

<sup>f</sup> Under 14 years the judge, not the juvenile court, deals with the young offender.

<sup>g</sup> As in notes <sup>a</sup>, <sup>b</sup> and <sup>c</sup>.

<sup>h</sup> Four provinces have raised the age to 18.

<sup>i</sup> Under 14 a guardianship council operates.

<sup>j</sup> From 14 to 18, the juvenile court has jurisdiction in respect of minor offences.

<sup>k</sup> The civil court acts as regards children under 13.

<sup>l</sup> See notes <sup>a</sup>, <sup>b</sup> and <sup>c</sup>.

<sup>m</sup> See notes <sup>a</sup>, <sup>b</sup> and <sup>c</sup>.

ANNEX 3.

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RESOLUTION  
OF THE SIXTEENTH ASSEMBLY OF THE LEAGUE OF NATIONS, 1935,  
CONCERNING THE IMPRISONMENT OF CHILDREN.

The Assembly,

Having found, on the basis of the information collected by the Child Welfare Committee, that most countries still allow children in certain cases to be sentenced to imprisonment or to be kept in prison pending trial;

That, according to an opinion already twice expressed by the Committee, confinement in prisons should be absolutely excluded in the case of children, and that, in cases of delinquency, the treatment applied to them should be prompted by a desire for their education and training and not for their punishment;

That even the best organised prison is not, in view of its character, a suitable place for applying educative methods to children who are in process of mental and physical development :

Expresses the wish that all countries that have hitherto tolerated the imprisonment of children in any form whatsoever should aim at abolishing this system, replacing it in the case of delinquent minors by suitable measures of a purely educative character.

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