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LEAGUE OF NATIONS

CHILD WELFARE COMMITTEE

ORGANISATION OF JUVENILE COURTS
AND THE
RESULTS ATTAINED HITHERTO

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PREFACE.

In 1910, the International Penal and Penitentiary Commission, having been instructed to place on the agenda of the Washington Congress the question of the desirability of setting up special courts for minors guilty of offences against the law, caused the following question to appear on the programme of Section IV of the Congress (" Children and Minors "):

> " Should young offenders be subject to the same proceedings as adults ? If not, what should be the guiding principles in proceedings against children and young persons ? "

As was expected, this subject aroused a lively interest, witnessed both by the number of preparatory reports (17) and by the extent of the discussions in the Section and in the full Assembly.[1] There was entire agreement with regard to the first part of the question. Writers and speakers were unanimous that the reply should be in the negative and that special courts were an imperative necessity. With regard to the second part of the question, there was some difference of opinion as to how the desired result should be attained. Each writer or speaker based his suggestions mainly on existing legislation and bore very largely in mind the judicial system of his own country. It proved, however, possible to establish a series of guiding principles, and these were combined in a final resolution, which was passed by a large majority.[2]

The effect of the resolution is to recommend the setting up of a new institution — namely, " Juvenile Courts " — though the expression does not actually occur in the text of the resolution, which merely indicates the general method to be followed, and avoids all direct allusion to existing systems The above-mentioned reports show that, at the time of the Washington Congress, several countries had begun to introduce into their legislation, and to apply in practice, special rules of procedure in regard to young offenders. In some countries

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[1] See " Proceedings of the International Prisons Congress of Washington ", Vol I, pages 221-245, 246-249, 265-269, 297-300, 320-325, 417, and Vol IV, pages 1-260.

[2] The text adopted, after discussion, was the following

" I Young offenders should not be subject to the criminal procedure at present applied to adults.

" II The following principles should govern procedure adopted in the case of young offenders

" (1) Magistrates dealing with cases involving young offenders, including the preliminary examination of such cases, should, above all, be selected for their skill in understanding children and sympathising with them and should also have some special knowledge of social and psychological science

" (2) They should be assisted by probation officers, whose duty it will be to hold a preliminary examination and to watch over and assist young offenders who might be placed on probation

" (3) It would be desirable that, in connection with the examination of young offenders' cases, all enquiries should be made that might lead to fresh information as to the criminal tendency of minors; the results of such enquiries should be applied on any occasion where they may assist in finding a solution Medical enquiries should only be entrusted to doctors with special knowledge of social and psychological science Confidential information thus obtained should not be made public

" (4) In young offenders' cases, arrest should be avoided whenever possible, warrants of arrest should only be issued in exceptional cases

" (5) When it may be necessary to detain young accused persons, they must not be placed in the adults' quarters.

" (6) In countries where the courts have jurisdiction over the young offenders' cases

" (*a*) These cases must never be taken at the same sitting as adults' cases, and

" (*b*) It is desirable that, in young offenders' cases, the procedure should be a discussion in the child's interest rather than a trial

" III Magistrates dealing with young offenders' cases must, at the same time, have authority to take the necessary steps in the interests of abandoned or ill-treated children "

See " Proceedings of the International Prisons Congress, Washington ", Vol I, page 299

— including several States in North America[1] — actual juvenile courts were already in operation.

By collective visits during the prison tour which preceded the Congress, or by individual visits after its conclusion, members of the Congress were able to observe the working of this system in certain States ; and this certainly helped to encourage the concept outlined in the resolution.

Subsequently, the idea was propagated further ; first, by the International Congress of Children's Courts, specially convened in Paris from June 29th to July 1st, 1911, at which the principal features of the organisation and operation of the system were dealt with in detail.[2]

Then, ten years later — when the disastrous events which had necessitated the extension of the regular interval of five years had come to an end, and their consequences no longer formed an obstacle -- the International Penal and Penitentiary Commission set to work to prepare the next Congress. It proposed to investigate the subject of juvenile courts, so as to obtain a view of the development of the system in different countries up to that date. At a meeting of the Commission in London in 1924, the text of a questionnaire was drawn up and distributed to members during the same year. But the investigations were hindered, not to say suspended, by the absorbing work in connection with the preparation and winding-up of the great International Prisons Congress in London in August 1925. They were resumed shortly afterwards and brought to a conclusion two years later. The results of the enquiry were published in the *Bulletin* of the Commission (New Series, No. 3, December 1927).[3]

Meanwhile, in 1926, at its second session, the Child Welfare Committee of the League had proposed that the Council should instruct the Secretariat to collect documentary information and report on the functions, organisation and operation of the courts and other organisations in the different countries dealing with matters connected with children and young persons.

The Council of the League, at its fortieth session in June 1926, took note of the report by the Child Welfare Committee on the work of its second session, on which occasion the Rapporteur informed the Council that the International Penal and Penitentiary Commission proposed to conduct a general enquiry on the same subject. Under the circumstances, the Council felt it might be advisable to await additional information before taking any final decision on the Committee's resolution. After obtaining certain data from the International Penal and Penitentiary Commission with regard to the proposed enquiry, the Council decided that it would not be desirable to instruct the Secretary-General to take action covering the same ground as the investigations already made by the Commission, and that an attempt must be made to co-ordinate the work of the two organisations (forty-first session of August 1926).

When the evidence collected by the International Penal and Penitentiary Commission in twenty-two countries was published by it in the number of the *Bulletin* referred to (December 1927), the Commission placed at the disposal of the Child Welfare Committee a sufficient number of copies of the *Bulletin* for distribution to all members and assessors of the latter.

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[1] See report prepared for the International Penal and Penitentiary Commission by Mr. Samuel J. BARROWS, delegate of the United States Government to the Commission, entitled " Children's Courts in the United States " (Washington Government Printing Office, 1904) ; also the book presented to the members of the Washington Congress on the initiative of Mr. BARROWS' successor on the Commission, " Correction and Prevention ", edited by Charles Richmond Henderson, Vol I, Part 2, " Criminal Law in the United States ", by Eugene SMITH , Chapter IV, " Children's Courts and Probation Officers" ; Vol. IV, " Preventive Treatment of Neglected Children ", by Hastings H. HART, LL D ; Part 6, " The Juvenile Court ", and also the supplement to this book, entitled " Juvenile Court Laws in the United States Summarised ", edited by Hastings H. HART, LL D , New York, 1910

[2] See proceedings of this Congress published by M Marcel KLEINE, Advocate at the Paris Court of Appeal, Secretary-General of the Congress (Paris ; A. Davy, Printer, 1912).

[3] The above reproduces in part the text of the Preface to this number of the *Bulletin* by the Secretary-General of the Commission The *Bulletin* further contains at the end a table giving a synopsis of the legal jurisdiction in regard to minors from the information collected in the reports.

After noting this evidence, the importance of which it recognised, the Committee retained the study of juvenile courts on its agenda and decided to continue and extend its enquiry. At its fourth session (1928), it passed a resolution for the preparation of a questionnaire on the auxiliary services of juvenile courts. At its fifth session (1929), after taking the opinion of the International Penal and Penitentiary Commission, it drew up the text of the questionnaire and decided to distribute it. These decisions were approved by the Council. The replies received were analysed by the Secretariat in a publication which appeared last year (1931) numbered C.P.E.238 (1).

At its sixth session in 1930, the Committee proposed to the Council that the questionnaire on juvenile (children's) courts contained in the Proceedings of the enquiry of the International Penal and Penitentiary Commission should be sent to all countries, including countries not belonging to the League In the case of countries represented on the Commission, and accordingly covered by the previous enquiry, the questionnaire was to be sent for purposes of information only. This proposal received the approval of the Council in May 1930 and was duly put into effect.

Important evidence from ten States, several of which are federated States, was received by the Secretariat in reply to the questionnaire. To facilitate the use of this information, the Chairman of the Child Welfare Committee thought it better to publish all the information obtained in a single joint publication rather than to treat the replies received as a continuation of the information previously collected by the International Penal and Penitentiary Commission He accordingly made a proposal to the Committee at its seventh session (April 1931), in agreement with the Secretary-General of the Commission, to the effect that the Secretariat should publish, in a single report, with the collaboration of the Commission, all the evidence collected on the subject of the existence and organisation of juvenile courts. The Child. Welfare Committee agreed to the proposal, which was approved by the Council in May 1931. It was welcomed by the International Penal and Penitentiary Commission, and the latter brought up to date the information which it had previously collected.

The present document accordingly contains all the replies received to the questionnaire. They are arranged on the same lines as before, since it was desirable, not merely to give a summary of the legislation of the different countries on the subject, but also to make possible some comparison of the data collected.

The main object of the enquiry as it has proceeded in its various phases has been to throw light on the organisation of juvenile courts in a number of countries and to give prominence to those features which merit imitation. The enquiry has already been supplemented by the results of the enquiry into the auxiliary services of juvenile courts (which are collected in a similar document); and it is to be still further amplified, in accordance with a resolution adopted by the Committee at its sixth and seventh sessions (1930 and 1931), by a third analogous enquiry to be made with the collaboration of the International Penal and Penitentiary Commission into those institutions entrusted with the charge of erring or delinquent minors.

* * *

Note. — Though the term " Juvenile Court " has, for the sake of uniformity, been adhered to wherever possible, the expression " Children's Court " has been left whenever it occurs in a direct quotation from an official text. There is, however, no essential difference between the two terms. The word " Judge " has been used to denote a professional judge, and " Justice " to denote a lay or honorary judge or magistrate (also " Schoffen "). The term " misdemeanour " has throughout been used to translate " *délit* ", while " *contravention* " has been translated " petty offence ". The countries are classified according to the French alphabetical order.

PREFACE TO THE SECOND EDITION.

The first edition of this document, printed in 1931, being exhausted, and in view of the importance of this documentary material and the frequent applications made to the Secretariat, it has been decided to issue a second edition.

This second edition contains certain improvements and alterations. Considerable changes having been made in the legislation of certain countries, such as Denmark and Italy, the chapters relating to the text inserted in the first edition have been replaced by redrafted chapters. Account has also been taken of other alterations or amendments in the laws of the various countries by inserting addenda. The statistics have also been brought up to date.

Reports have, further, been inserted from Brazil, Chile, New Zealand, Peru and Uruguay.

ORGANISATION OF CHILDREN'S COURTS AND THE RESULTS ATTAINED HITHERTO

QUESTIONNAIRE.

I.

Has your country any juvenile courts or other institutions of a similar character for the purpose of dealing with minors who have committed an offence or whose present situation is a danger for themselves or for society ?

II.

If so :

1. *What is the organisation in force ?*
2. *What is the competency of the authority in question ?*
3. *What procedure has to be followed by this authority ?*
4. *What measures can this authority take, and what are the resources at its disposal ?*

III.

What are the results hitherto obtained and what conclusions can be drawn therefrom ?

Germany.

REPORT FORWARDED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

The laws concerning the punishment and protection of delinquent or neglected children are the Law on Juvenile Courts (Jugendgerichtsgesetz) of February 16th, 1923, and the Law on the Protection of Children (Jugendwohlfahrtsgesetz) of July 9th, 1922. The application of the latter law as a whole is not compulsory for the individual States (see Decree of February 14th, 1924).

[1] In the first edition of the document, this report was reprinted in the form in which it had been submitted to the Commission by Dr. E. Bumke, first delegate of the German Government, and published in the Commission's *Bulletin* for 1927, except for an addendum referred to at the end In the second edition, certain changes have been made on the basis of data supplied by Dr. E. Schäfer, delegate to the Commission, including the above-mentioned addendum.

II.

1. · Organisation.

Juvenile Courts (Jugendgerichte) are sections of the ordinary district courts (Amtsgerichte) designated for the purpose for one year. They consist of one judge and two justices (Schöffen). Criminal cases which, under the Judicial Organisation Act, the district judge (Amtsrichter) may decide unassisted (petty criminal offences), are heard by the juvenile court judge without the assistance of justices in the case of punishable acts committed by minors (Decree of June 14th, 1932). If, under the general regulations, the offence would come within the jurisdiction of the High Court of the Reich, or the Court of Assize, the juvenile court consists of two judges and three justices; nevertheless, minors charged with high treason (Hochverrat) or treason (Landesverrat) must be judged by the People's Court of Justice (Volksgerichtshof), to which have been allotted, under the Act (April 24th, 1934) amending the Provisions of Criminal Law and Criminal Procedure, these offences which previously came under the jurisdiction of the High Court of the Reich.

The judges are chosen from the district judges most experienced in dealing with children's cases. The President is generally at the same time judge in guardianship. The justices for children are appointed in the same way as the other justices, but separately; they deal exclusively with children's cases. The courts of several districts may together form one juvenile court common to the different districts.

The guardianship courts (Vormundschaftsgerichte) are courts of voluntary jurisdiction. As a rule, the district courts appoint a judge in guardianship for this purpose (Vormundschaftsrichter); but the duties may also be entrusted to special authorities, as is the case in Württemberg, Hamburg and Mecklenburg-Schwerin. The judge in guardianship sits alone, without justices. In all serious matters he must hear the parents of the ward.

Juvenile courts work in collaboration with guardianship courts and with the authorities to be established under the Law of 1922. This law provides for offices for the protection of children (Jugendämter) to be set up by the States of the Reich and by the communes, to deal, *inter alia*, with legal assistance, protective supervision and welfare education.

2. · Competency.

Juvenile courts have jurisdiction in all offences committed by young persons — *i.e.*, by persons between 14 and 18 years of age.

Children under 14 are not subject to the criminal law. If they commit acts which are punishable when committed by adults, the guardianship courts and offices for the protection of children take the steps which appear necessary. The same authorities have jurisdiction in the case of young persons who have not committed offences but whose situation is a danger to themselves or to society.

3. Procedure.

In principle, the procedure of juvenile courts is the ordinary procedure of justices' courts, governed by the Code of Criminal Procedure. The Law of 1923 has made certain changes — viz., the preliminary enquiry must relate, in particular, to the conditions of life of the accused and all circumstances capable of throwing a light on his physical and mental personality. If necessary, there must be a medical examination. If educational measures have already been prescribed and seem sufficient, or if the insignificance of the offence makes it probable that the court would not inflict punishment, the Public Prosecutor, with the consent of the children's judge, may refrain from bringing any charge. A child may be kept in custody

pending the hearing of the case only when the purpose in view cannot be attained by other means, such as provisional measures of education or employment. The court decides.

Proceedings before the juvenile court are not public. The only persons admitted are the legal adviser of the accused, the complainant and the representative of the office for the protection of children. Before the principal juvenile court (consisting of two professional and three lay judges), the accused must be defended ; if he is undefended, the court supplies him with counsel. The same is done in other cases when necessary for special reasons — *e.g.*, in a complicated case. The court may also appoint an assistant who has the rights of counsel ; the office for the protection of children may ask to be appointed assistant.

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.

Procedure before the guardianship court is as prescribed by the Law on Voluntary Jurisdiction. The guardianship court may act either on the application of persons concerned (parents, legal representatives, office for the protection of children) or on its own initiative. It enquires into the facts (it may hear evidence), and decides whether educational measures should be ordered.

The decisions of the juvenile court are subject to appeal to the Criminal Chamber of the court of first instance (Landgericht). So far as possible, the courts form special criminal chambers for children, composed of three judges and two justices. There is an appeal from their decisions to the Court of Appeal (Oberlandesgericht) or to the High Court of the Reich. Decisions of the guardianship court are subject to appeal to the Civil Division of the court of first instance.

4. Measures to be taken.

Penalties may only be pronounced by juvenile courts They are the ordinary penalties, with certain reductions. Sentences of death or life imprisonment are replaced by imprisonment for from one to ten years ; life detention in a fortress by the same punishment limited to from one to ten years. The amount of all other sentences is fixed between the minimum laid down by the Criminal Code for the punishment in question and half the legal maximum for the offence committed. Fortress detention is always replaced by imprisonment. Loss of civil rights and police supervision are not permitted. Among the measures of precaution and reform introduced by the Act of November 24th, 1933, concerning Habitual Offenders and Measures of Precaution and Reform, a minor may not be sentenced to confinement in a penal labour institution (Arbeitshaus), precautionary confinement (Sicherungsverwahrung), castration or prohibition to engage in a certain profession. The juvenile courts may suspend execution of a sentence for a probationary period of from two to five years. If the convicted person behaves badly, the sentence will be undergone ; otherwise, it will be remitted after the probationary period.

Educative measures are : reprimand, handing over to family or school discipline, placing under special rules of conduct, employment, protective supervision (Schutzaufsicht), welfare education (Fursorgeerziehung). They may be ordered, after the usual proceedings, by the juvenile court itself or by the guardianship court to which the young person has been handed over by the former court. But the guardianship court may also apply them in other circumstances when they appear necessary to prevent the physical, mental or moral abandonment of a young person.

In the selection of " special rules of conduct ", the court is only limited by constitutional rights. The most frequent rules are abstention from alcohol and tobacco, the obligation on the young person to have a fixed occupation, to make amends for the damage caused, to hand over part of his salary to his parents, etc. Boarding out is made use of in cases which do not yet require welfare education; the young person may be placed in a family or apprenticed. " Protective supervision " consists of the protection and supervision of the young person. This task is entrusted to the office for the protection of young persons, or, after hearing that office, to an association or individual ready to undertake it. The supervisor (Helfer) must assist and supervise the parent or guardian in the upbringing of the young person. He must not deal with his property save as regards his wages. The court may ask him for reports as to the conduct of the young person. The purpose of " welfare education " is to prevent or remedy abandonment and perversion; it is ordered, when it is necessary for that purpose, to remove a young person from his surroundings and when no other employment suitable in the opinion of the guardianship court is found. Welfare education is carried out at the expense and under the supervision of the State, in a suitable family or in an institution.

III.

The Law on Juvenile Courts will be considered in the course of the revision at present being made of the German Criminal Code

The following statistical table shows the extent to which the provisions of the Law on Juvenile Courts have been applied:

Year	Young persons convicted		Not sentenced	Sentence suspended	Educative measures		
	Total	Previous conviction among the former			Total	Protective supervision	Welfare education
1923	86,051	9,974	2,053	48	1,618	43	5
1924	43,288	6,978	7,002	13,118	10,518	3,045	889
1925	24,805	2,992	3,977	9,772	8,039	2,783	1,070
1926	24,066	2,357	4,093	9,054	8,368	2,676	886
1927	24,119	2,173	4,469	8,910	8,692	2,653	829
1928	27,104	2,684	4,497	8,508	8,678	2,645	804
1929	25,673	2,783	4,588	8,086	8,301	2,478	762
1930	26,409	2,996	4,924	8,530	8,613	2,636	778
1931	22,814	2,639	4,302	7,513	7,582	2,184	722
1932	21,529	2,886	3,639	7,372	6,654	2,092	582

* * *

Addendum. — The figures for 1926, 1927 and 1928 were added by Dr. E. Schäfer, delegate to the Commission, who has also added to the second edition the figures for 1929, 1930, 1931 and 1932.

Australia.

REPORT DRAWN UP ACCORDING TO INFORMATION SUPPLIED BY THE COMMONWEALTH GOVERNMENT.

The question of Juvenile Courts falls within the jurisdiction of the States.

New South Wales.

I.

There are juvenile courts in New South Wales, established and working under the New South Wales Child Welfare Act, 1923, with amendments.

II.

1. Organisation.

Under Part XI of the Act, it is provided that the Governor shall by proclamation establish special courts in New South Wales to be called " children's courts ". Every such court shall consist of a special magistrate, and shall have jurisdiction within the area named in the proclamation. In places not within this area, the jurisdiction of the court is exercised by a special magistrate, or any two justices, and such special magistrate must possess the qualifications of a police or stipendiary magistrate.

2. Competency.

Within the area named in the proclamation of the Governor, the court and the magistrate constituting such court exercise the powers and authorities which are possessed by special stipendiary or police magistrates, courts of petty sessions, or justices in respect of children under the age of 18 years and of offences committed by or against such children.

The jurisdiction of the court in delinquency cases includes crimes and offences committed by all persons under the age of 18 years in New South Wales.

When a court is established, the jurisdiction of every other court in respect of the matters over which that children's court has jurisdiction ceases.

3 Procedure.

Juvenile courts are not held in the ordinary courts if such can be avoided, but, where possible, in the proximity of a children's shelter and in some room approved by the Minister of Public Instruction.

A court is a " closed court ", and at any hearing or trial the magistrate may order that any persons not directly interested in the case shall be excluded. The great principle observed is to shelter the child, avoid publication of his name or any other particulars which are likely to lead to his identification. It can be accepted that most magistrates and the department take the view that the presence of reporters is embarrassing and foreign to the informal atmosphere that prevails in these courts, and that the publication of reports, far from serving any good purpose, may prove mischievous and harmful.

The procedure to be followed by the courts is set down by Part IX of the Act. The Department of Justice is responsible for the administration of the courts, but it can be stated here that the proceedings are held *in camera* in a more or less informal manner with the magistrate and officials dressed as ordinary citizens. The procedure is as free from legal formality as the law will permit. The court endeavours to conduct its investigations, and the supervision of the children coming before it, in accordance with the principles of social care work so far as that is possible. The child is proceeded against, the parents are informed of the hearing and requested to be present, and the court thereupon hears and determines the matter.

Before being taken before the court, a child is invariably subjected to a careful mental and physical examination, and the home conditions are closely investigated with a view to determining to what extent these have contributed towards his offence.

The court has to hear any evidence which a child or his parents offer before making an order, and the order committing a child to an institution must be in general terms only, leaving it to the Minister, on the recommendation of the department, which considers carefully each case, to name the particular institution considered most suitable for the child's peculiar needs.

Great attention is paid to the case of recidivists, as these, in many instances, show medical symptoms and diseases which often, when rectified, lead to the prevention of further delinquency by the children concerned.

4. Measures to be taken.

The powers of the courts are to :

(*a*) Release the child on probation upon such terms and conditions and for such period of time as the court may think fit ; or

(*b*) Commit the child to the care of some person willing to undertake such care ; or

(*c*) Commit the child to an institution.

Where a child is *summarily convicted* of an offence for which the penalty is punishment by imprisonment, or imprisonment in default of a fine, the court has the additional power of sentencing the child according to law ; and where a child is charged with an *indictable offence* other than homicide or rape, and is not dealt with summarily, the court has the power to commit the child to take his trial at a court of quarter sessions according to law.

In each year, hundreds of children are brought before the court, but the offences committed by them are of so minor a nature that the court considers that a severe reprimanding by the magistrate will meet the case. In these cases, the children are specially advised by the magistrate and shown the error of their ways. This admonition by the court is successful in hundreds of cases, and in hundreds of others, where the court desires to be sure that the action taken will meet the situation, the case is remanded for a month, when the child is again brought before the court to see what effect the caution has had. When this has had the desired effect, the case is not proceeded with.

III.

The conclusions to be drawn from the juvenile court system working in conjunction with the department are that, in the majority of cases of children under the age of 18 years, the offences committed have been of a minor nature, or the degree of *mens rea* has not been

deliberate enough to warrant drastic action being taken by ordinary courts to brand them by unnecessary publicity or have them committed to a gaol or prison farm for a term of imprisonment.

The department operating with the juvenile courts is able to attend to hidden danger-spots in the community brought to light as a result of the visits of probation inspectors and investigators, by parents and others who have not known what to do about such dangers, or have been afraid to report them to the proper authorities. This often leads to such improvements as the better policing and lighting of public parks, the better supervision of playgrounds, the closing of undesirable places and the removal of insidious conditions. In this way, the department not only recovers and guides correctly the delinquent child received from the court, but also cleanses of sordidness and carelessness the family from which he comes. They are thus lifted into a cleaner and healthier atmosphere, where every thought and action is devoted to the good and lasting things in life. Experience has shown that less is to be gained by punishing the children received than by correcting the conditions that made for their lapses and protecting them. The dictum that " the child should be saved to the State of New South Wales and not punished by it " is observed whenever possible, and the juvenile court system plays a vital part in the work done by the Child Welfare Department in this connection.

Victoria.

I.

Provision is made by the Children's Court Act, 1928, for the holding of juvenile courts.

II.

1. Organisation.

A children's court may be held wherever a court of petty sessions is held. Special magistrates may be appointed; but, if none are available in any place, ordinary magistrates may sit.

The whole system is administered in the Law Department, under the direction of the Minister.

2. Competency.

Children under 17 years of age are subject to the jurisdiction of children's courts.

A juvenile court has exclusive jurisdiction to hear and enquire into all charges and informations against children for felonies and misdemeanours, and may direct the accused to be tried or discharged, and may hear and determine all informations for offences against any Act punishable on summary conviction. It also has exclusive jurisdiction to hear and determine charges and applications authorised by certain statutes with respect to neglected children and juvenile offenders — for instance, the Children's Welfare Act and Division 2 of Part II of the Crimes Act, 1928.

Where a child of between 7 and 12 years of age is charged before a juvenile court with any indictable offence other than homicide or a capital offence, the court may, in the absence of objection by the child's parent or guardian, deal summarily with the offence. The court may, with the consent of the child, deal similarly with a child of an age between 12 and 17 years charged before it with any indictable offence other than homicide or an offence which an inferior court has no jurisdiction to try.

3. Procedure.

The procedure and practice in and relating to juvenile courts ave the same as those of courts of petty sessions (see the Justices Act, 1928).

The court is to be guided by the real justice of the case without regard to legal forms, and is to direct itself by the best evidence available.

A child may be proceeded against by summons or apprehended. In the latter case, the child, pending the hearing or during any adjournment thereof, may :

(*a*) Be admitted to bail ;

(*b*) Be taken to a receiving home ; or

(*c*) Be placed with some respectable person.

Where the methods of detaining a child mentioned in paragraphs (*b*) and (*c*) are not available, or where safe custody is a matter of paramount importance because of the nature of the charge, the child may be placed in a gaol or lock-up, but must be kept apart from other prisoners.

In certain cases, the parent or guardian of a child may be heard on his behalf, either personally or by counsel ; if the parent or guardian is not present, the court may deal with the case in his absence or compel his attendance.

Persons who, in the opinion of the court, are not directly interested in the case are excluded from the place of hearing.

4. Measures to be taken.

On the summary conviction of a child, the court may :

(*a*) Deal with the child as a neglected child or juvenile offender ;

(*b*) If the child has not been previously convicted :

(1) Without convicting him, dismiss the information, subject, if the court thinks fit, to the payment by the child of damages and costs ; or

(2) Convict him and suspend execution of the sentence upon his entering into a recognisance ;

(*c*) Upon convicting the child, discharge him on his entering into a recognisance to appear for punishment when called upon, or to be of good behaviour for a term of not more than twelve months, and, if it thinks fit, order him to pay damages and costs ;

(*d*) Impose a penalty or term of imprisonment ;

(*e*) Without convicting the child, release him on probation ; or

(*f*) Without convicting him, order him to be committed to a reformatory school for not more than twelve months.

These provisions are not in derogation from any other additional punishment sanctioned by law.

Where a child is convicted of an offence and the court is of opinion that the child's parent or guardian has contributed to the commission of the offence by wilful default or by habitually neglecting to exercise due care of the child, the parent or guardian may be convicted of

contributing to the commission of the offence, unless the cause of such default or neglect is the parent's or guardian's want of pecuniary means. Where the parent or guardian is so convicted, he may be adjudged to pay the penalty, damages or costs that the child has been adjudged to pay instead of him.

III.

The conclusions that may be drawn are :

That probation is the most satisfactory way of dealing with the delinquent or " problem " child.

That honorary probation officers under expert guidance ensure satisfactory results.

That, when probation is impossible, church homes or philanthropic homes are desirable, but for some cases State institutions are necessary.

That about 10 per cent of the children dealt with are likely to constitute a permanent problem on account of pronounced vicious tendencies or mental, and perhaps also moral, deficiency.

Queensland.

I.

Juvenile courts were established in the State of Queensland by the Children's Court Act of 1907

II.

1. Organisation.

In cities and towns where police magistrates are stationed, juvenile courts are constituted by a police magistrate sitting alone In places not possessing, or not visited by, a police magistrate, two or more justices of the peace may constitute a court

2 Competency.

Where a child is to be brought before a court of petty sessions charged with any offence, the charge shall be heard and determined in a juvenile court.

Under the Children's Court Act, a child is defined as being a person under, or apparently under, the age of 17 years. A court may decide, on its own view and judgment, whether a child brought before it is under the specified age.

On the hearing of charges against children, the court is given discretionary power, even if the charge is proved, as to whether a conviction is recorded or not. Instead of convicting an offender, the court may admonish such child, or it may order the parent or guardian to pay any costs or damages incurred by its delinquency. No such order must be made in the absence of a parent or guardian, or without giving such persons an opportunity of being heard. An order is enforceable in the same way as any order of a court of petty sessions.

The object of the Children's Court Act is to distinguish between legal proceedings and fatherly correction. The offences committed by children mostly do not call for legal punishment, but for correction administered in a fatherly manner. The Legislature has invested police magistrates and justices officiating in children's courts with discretion to distinguish between childish offences and serious crimes, and to substitute fatherly admonition for sentences specified by the laws governing criminal offences.

In serious charges, however, such as murder, attempt to murder, manslaughter, or any offence for which an offender is liable under the " Criminal Code of Queensland " to imprisonment with hard labour for life, which cannot be dealt with by magistrates, the offender is committed for trial, and, upon conviction before a judge and jury, may be sentenced to detention for a specified period in a place and on such conditions as the Minister administering the State Children Act may direct beyond the age of 18 years. A " place " is defined as including a prison or a reformatory or any place declared to be such by the Governor in Council.

3. Procedure.

When a time has been fixed for the sitting of a children's court, notice thereof must be given to the parent or guardian of a child who is charged with an offence, and, if the court deems it prudent, to any religious or charitable institution interested in the care or reform of children. Where possible, a children's court is held in either the police magistrate's office, or in some room other than the court in which police charges are heard.

Charges against children are heard *in camera*. The only persons allowed to be present are the complainant or the prosecuting police officer, counsel, solicitor, or the parent or guardian of the accused child or the representative of any organisation or institution interested in the care or reform of children. The Director of State Children is also notified of the time for hearing charges against children and he, or one of his officers, is permitted to be present. Newspaper representatives are excluded from the court, and newspapers are precluded from publishing reports of cases heard in children's courts.

Children, when apprehended by the police, are not placed in the police-court cells. They are at once admitted to bail on the bond of parent or guardian, or are given into the care of some person who is willing to care for them and produce them, when required, to the court. If either of such alternatives cannot be arranged, the police officer having charge of the case must take care of the offender until dealt with by the court.

A solicitor cannot appear in a children's court against a child.

1. Measures to be taken.

When a child commits a serious offence, is convicted, and the court deems it necessary to inflict punishment, other than requiring a parent or guardian to pay costs or damages, such child may be dealt with in any of the following ways as provided by the State Children Acts, 1911 and 1928 :

Commit such child to the care of the department ; or

Order such child to be sent to a reformatory or industrial school, and to be there detained or to be otherwise dealt with under this Act ; or

Order the parent to give security for the good behaviour of such child until the child attains the age of 18 years or during such shorter period as the court thinks sufficient, and, upon being satisfied that such security has been given, may dismiss the charge ; or

Adjourn the case, on a near relative undertaking to punish the child in such reasonable and moderate manner as the court may approve, and, upon being satisfied that such punishment has been duly inflicted, may dismiss the charge ; or

Release the child on probation on such conditions (if any) as the court may order, and, in such case, the child shall be subject to the care of the department until it attains the age of 18 years.

Every child who is convicted and is over the age of 13 years is sent to a reformatory or industrial school. Under the age of 13 years, they are sent to homes or institutions conducted or controlled either by the State or by religious institutions.

Children convicted in a children's court cannot be detained in a reformatory or industrial school beyond the age of 18 years.

South Australia.

I.

With the exception of the children's court in Adelaide, no definitely established courts exist in this State for the purpose of dealing with juvenile offenders.

Apart from magisterial courts and superior courts, there is no institution of a similar character empowered to deal with minors charged with offences or whose situation, such as that of destitution, neglect by legal guardians, or of being under unfit guardianship, or of being uncontrollable, whereby they are a danger to themselves or Society.

II.

1. Organisation.

Under the Justices Act of South Australia, any two justices of the peace, men or women, may constitute a children's court; but in Adelaide, where most of the cases are dealt with, a special magistrate, appointed by the Chief Secretary, presides over the court, which is held in premises quite separate from the ordinary police courts.

In South Australia minors are not dealt with in the usual police court. It is the practice in the country centres to deal with minors at times other than the ordinary sittings of the special magistrates' or justices' courts.

2. Competency.

The juvenile court of Adelaide shall hear of every information or complaint:

(*a*) Laid against any child in respect of any alleged offence, whether such offence is indictable or is punishable on summary conviction or otherwise; or,

(*b*) Alleging that any child is a destitute, neglected, or uncontrollable or incorrigible child,

And which is to be heard within ten miles of any part of the city of Adelaide or of the city of Port Adelaide (Section 100 of the Maintenance Act of 1926).

In the Maintenance Act, " child " means any boy or girl under the age of 18 years, and, in the absence of positive evidence as to age, means any boy or girl apparently under the age of 18 years.

3. Procedure.

The special magistrate or justices summarily adjudicate upon all petty offences and, by consent of parent or guardian, with all serious offences or crimes, except homicide.

The offender is brought before the court either by summons, warrant, or upon apprehension by the police without a warrant.

The offender is charged upon the written complaint or information of some officer of the police or other public department, or of some private individual.

After the charge is read or, in the case of young offenders, explained in simple language to the defendant in all petty cases, he is forthwith asked to plead. If he tenders a plea of " Not Guilty ", the evidence for the prosecution is called, and the offender is then given an opportunity of giving evidence and calling witnesses in his defence. After hearing the whole of the evidence, the court then determines the matter, and, if the offender is found not guilty, he is forthwith discharged; but, if the court finds the charge proved, the defendant is then punished or otherwise dealt with as set out under 4 (Measures taken).

In criminal cases, the evidence for the prosecution is taken and, should a *prima facie* case be made out, the consent to jurisdiction is then required to be given. If the case is to be dealt with summarily, the defendant is called upon to make his defence, and the case is proceeded with in the usual manner.

In some cases, the written report of an officer of the Children's Welfare and Public Relief Board, as to the delinquent's antecedents, general conduct, and home and other environments, is supplied to the magistrate prior to sentence.

Where children are charged with being under unfit guardianship, the parents or guardians are notified in writing of the time and place of hearing of the complaint before the matter is dealt with. When the whole of the facts are fully adduced, the court proceeds to determine the case, and makes such order as it deems proper, as indicated under 4.

4. Measures to be taken.

The authority in question is empowered in cases of juvenile offenders to order .

(*a*) Detention in a reformatory school;

(*b*) Payment of pecuniary penalty, and, in default of payment, detention in a reformatory school;

(*c*) Release of offender under the Offenders' Probation Act, 1913, upon a bond to be of good behaviour for a period up to three years and to make restitution;

(*d*) The child to be placed in the custody and under the control of the Children's Welfare and Public Relief Board until 18 years of age (without detention);

(*e*) The child to be discharged upon the parent or guardian entering into a bond for the child's good behaviour until 18 years of age, or for a lesser period;

(*f*) The child to be discharged upon the parent or guardian punishing the child to the satisfaction of the court;

(*g*) Commitment to an institution other than a reformatory school;

(*h*) Release on probation subjecting the child to the supervision of the Children's Welfare and Public Relief Board;

(*i*) Commitment to a probationary school for a period not exceeding three months; or,

(*j*) The court may caution and convict without imposing a penalty.

III.

The results attained cannot be stated by the court beyond the fact that a very small percentage of the juvenile offenders released under the Offenders' Probation Act, 1913, appear before the court again. No record of recidivists has been kept by the court.

Although no particular effort is made to keep in touch with wards of the State following their release from the control of the Children's Welfare and Public Relief Board, yet officers of the department are able in many cases to give some idea of the after-career of many children.

There is no reason to doubt that the work of dealing with children, apart from adults, in court matters is of advantage to the child and the community.

The conclusion that is drawn is that, the more tendency there is towards special treatment of children both psychologically and from an individual point of view, the better the understanding and the more easy the reformation; therefore, any tendency towards increasing the power of children's courts is felt to be in the right direction.

Western Australia.

I.

In Western Australia there are, in about seventy towns, juvenile courts in which resident magistrates and justices of the peace are specially appointed as members of such courts under the provisions of the Child Welfare Act, 1907-1927. In the metropolitan area, a stipendiary special magistrate adjudicates in juvenile courts.

II.

1. Organisation.

The Governor may, by Order-in-Council, establish special courts to be called "Children's Courts", and may appoint a special magistrate for any particular court or courts, and may, by Order-in-Council, from time to time determine the area in and for which each court shall exercise jurisdiction.

The Governor may also appoint such persons, male or female, as he may think fit to be members of any particular juvenile court, and may determine the respective seniorities of members heretofore or hereafter appointed, and may appoint any person to be a clerk of any court.

2. Competency.

A juvenile court and the magistrate or members constituting such court:

(*a*) Shall exercise the powers and authorities which are possessed by resident magistrates or two or more justices under the Justices Act, 1902, in respect of children, and of offences committed by or against children; and

(*b*) Shall hear and determine all complaints and applications under this Act, and under Sections 10 and 12 of the Public Education Act, 1899, and Section 3 of the Public

Education Amendment Act, 1905, and Section 2 of the Public Education Amendment Act, 1907, and Section 2 of the Public Education Amendment Act, 1919; and

(*c*) Shall hear and determine all complaints and applications under Part V and Sections 128 and 129 of the Child Welfare Act, 1907-1927.

3. Procedure.

The juvenile court is held within the city of Perth and in such other places as the Governor may direct, in some building approved or appointed for the purpose by the Minister, and not in any police or other court house.

As provided, a juvenile court shall be held in some building or place approved of for the purpose by the Minister.

Provided that, if a court house or magistrate's office is so approved, the hearing shall not take place at an hour when the ordinary court business is being transacted

At any hearing or trial by a court under this Act, the court may order that any persons not directly interested in the case shall be excluded from the court-room or place of hearing.

It shall not be lawful to publish a report of the proceedings before the court, or of the result of any such proceedings, if such publication has been prohibited by the court.

Any child may be committed to an institution during the period for which he has been remanded by a court or any justice or justices, or during the period of his detention on committal for trial in the Supreme Court

1. Measures to be taken.

The court, upon complaint being made, and upon being satisfied that any child charged with being a destitute child or a neglected child is, in fact, such, may order the child to be :

(*a*) Committed to the care of the Child Welfare Department,

(*b*) Sent to some institution to be specified in the order,

(*c*) Released on probation.

If any child is brought before the court charged by its parent or near relative with being an uncontrollable or incorrigible child, the court, upon being satisfied that the charge is well founded, may :

(*a*) Order the child to be sent to an institution until 18 years of age, or during such shorter period as the court may think sufficient; or,

(*b*) If the child is a male under the age of 16 years, order him to be whipped; or

(*c*) Release the child on probation.

Provided that no order of committal of an uncontrollable or an incorrigible child on the application of his parent or near relative shall be made, unless

(*a*) Such parent or relative proves that he has not by neglect lost control of the child; and,

(*b*) Security is given to the satisfaction of the court for the making of such payment as the applicant is able to afford towards the maintenance of the child.

If any child is found guilty of any offence punishable by imprisonment, the court, instead of sending such child to imprisonment, may :

(*a*) Order such child to be sent to an industrial school until 18 years of age, or during such shorter period as the court may think sufficient; or,

(*b*) Order the parent to give security for the good behaviour of the child until the child attains the age of 18 years, or during such shorter peirod as the court may think sufficient, and, on being satisfied that such security has been given, the court may dismiss the charge ; or,

(*c*) Adjourn the case, on a near relative undertaking to punish the child in such reasonable and moderate manner as the court may approve, and, on being satisfied that such punishment has been duly inflicted, the court may dismiss the charge ; or,

(*d*) Release the child on probation until he attains the age of 18 years, or during such shorter period as the court may think sufficient.

Provided that no order for security shall be made against the parent unless such parent has been summoned to attend before the court, and has had an opportunity of being heard ; and provided that, in the case of a child committed to an industrial school, the Child Welfare Department, with the approval of the Minister, may be enabled to release the child on probation under the supervision of the probation officer or of another officer of the department.

No child shall be liable to imprisonment for failure to pay any penalty, compensation or sum of money or costs adjudged to be paid by conviction or order of any court of summary jurisdiction, but shall be liable to be detained in an institution for such period as he might have been in prison.

III.

The results achieved have been very satisfactory. Children have been rescued from conditions of neglect and have been given a much improved outlook on life.

Tasmania.

I.

Under the Children's Charter of 1918, which is administered by the State Children's Department, special courts have been established called " Children's Courts ".

II.

1. Organisation.

The children's court consists of one or more special magistrates, and has jurisdiction within the area named in the proclamation.

This court has jurisdiction even if the offence is committed or the case arises outside such area.

In the absence of a special magistrate or in places not within the area named in the proclamation, the jurisdiction of the children's court may be exercised by a police magistrate or any two or more justices of the peace, who shall be deemed to constitute a children's court.

2. Competency.

Children are within the jurisdiction of the children's court up to the age of 17.

1. A children's court and the magistrate or justices constituting such court, in addition to any other jurisdiction, powers and authorities conferred upon them by this Act :

(*i*) Have and may exercise all the powers and authorities for the time being possessed by police magistrates, courts of petty sessions, or justices in respect of children, and of offences committed by or against children ; and

(*ii*) Have and may exercise the powers and authorities of a court of summary jurisdiction, magistrate, justices or justice under :

(*a*) The Prevention of Cruelty to and Protection of Children Act, 1895, and the Education Act, 1895, and its amendments ; and

(*b*) The Deserted Wives and Children Maintenance Act, 1873, the Deserted Wives and Children Maintenance Amendment Act, 1898, and the Infant Life Protection Act, 1907,

(*iii*) May hear and determine all complaints, informations and applications under the Charter.

2. Any child brought before a juvenile court in pursuance of the provisions of Section 5 of the Prevention of Cruelty to and Protection of Children Act, 1895, may, in the discretion of the court, be dealt with under that Act, or may be treated as though charged under this Act as a neglected child, and an order can be made accordingly if the circumstances of the case would justify an order under the said Act ; but no order will be made under this Act if there is a relative of the child willing, and in the opinion of the court suitable, to take charge of the child.

3. Procedure.

The court is held in a separate room with closed doors, only those immediately concerned being present.

4. Measures to be taken.

Where a child over the age of 14 and under 17 is charged before a juvenile court with an indictable offence other than rape, homicide, attempt to murder, or wounding with intent to do grievous bodily harm, and is not dealt with summarily, the juvenile court may :

(1) Release the child on probation upon such terms and conditions and for such period of time as the court may think fit ; or,

(2) Commit the child to the care of the department ; or,

(3) Commit the child to an institution ; or,

(4) Commit the child to take his trial according to law.

In this last case, the Minister may, under certain conditions, commit the child to an institution.

Where a child is summarily convicted by a juvenile court of an offence other than an indictable offence punishable by penalty or imprisonment, the court may :

(*a*) Release the child on probation upon such terms and conditions and for such time as the juvenile court may think fit, or,

(*b*) Commit the child to the State Children's Department ; or,

(*c*) Commit the child to an institution, or,

(*d*) Upon convicting the child, discharge him conditionally on his entering into recognisances for a nominal sum with a surety or sureties to the satisfaction of the court to appear for punishment when called upon, and to be of good behaviour for a term of not more than twelve months ;

(*e*) Adjudge the child to pay a penalty not exceeding £5 ; or

(*f*) Sentence the child according to law.

Children deemed to be neglected children under the Act are committed to the care of the State Children's Department by the juvenile court and many are boarded out with families under supervision of the department

III.

It is considered that the method of dealing with delinquent children by the State department is, on the whole, satisfactory, and the legislation in Tasmania appears to provide adequately for the control, maintenance and education of neglected and destitute children.

Austria.

REPORT TRANSMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I

The Law of January 26th, 1919, on children's courts has been superseded by the new Federal Law of July 18th, 1928, on the treatment of juvenile delinquents. This law provides for the reorganisation of the criminal law in regard to minors and for the development of juvenile courts.[2]

[1] As the law has been altered since the publication of the report which appeared in the Commission's *Bulletin* for 1927, a revised report was submitted to the Commission for the first edition of the document by Professor Count Gleispach, the Austrian Government delegate In the second edition, an addendum has been inserted at the end of the report

[2] A summary of this law was given by the author of the present report in the " Recueil de documents et matière pénale et pénitentiaire ", published by the International Penal and Penitentiary Commission, Vol. I, Book 2

The expression " minors " (" Mineurs ") has been retained in certain cases in the report with a view to uniformity of the terminology. In the German text of the law, however, the expression " Jugendliche " (young people) is used in referring to offenders of 14 to 18 years of age

II.

1. Organisation.

In first instance, district tribunals and the courts of justice have ordinary criminal law jurisdiction. The former deal only with petty offences, the cases being heard by a magistrate sitting alone. The latter are benches and usually sit as a justices' court (consisting of two justices) (Schoffen). If the crime is a very serious one or is a political crime or offence, the case is tried by assizes with a jury of twelve.

In the case of young people, criminal and guardianship jurisdiction are combined, and the judges are selected with particular care; moreover, when educational measures have to be imposed, the court consults the Juvenile Welfare Office (Jugendamt) and the auxiliary services of the juvenile courts (Jugendgerichtshilfe).

Only persons having recognised pedagogic qualifications may be appointed judges for juvenile courts. It is considered desirable that they should have had previous experience of guardianship questions and should have received scientific training in psychology, psychiatry or pedagogy. Justices called upon to act as magistrates in cases where young people are involved – minors' justices – are selected with the greatest care. Their names are proposed by the education authorities, the Juvenile Welfare Office and other similar local bodies, and only persons possessing special qualifications are included in the list from which the minors' justices are chosen. Thus, the law may provide that any justices' court called upon to deal with minors' cases shall include a schoolmaster or retired schoolmaster and may recommend that a person who is or has been engaged in child welfare work should be among its members. If the accused is a girl, one of the justices must be a woman.

The duties of a minors' justice are somewhat similar to those of stipendiary judges. As a rule, a justice is only called upon to perform his duties for a five-day sitting; whereas in the case of minors' justices, the only condition is that they cannot be compelled to serve for more than twenty days unless they agree.

The Minister of Justice is authorised to take various measures to ensure that the same court shall deal both with offences committed by minors and guardianship questions. For this purpose, he may set up special district tribunals for minors. Minors' cases must always, when possible, be entrusted to the same representative of the Public Prosecutor.

There is a special court for minors at Vienna.

2. Competency.

The criminal jurisdiction of minors' magistrates attached to district courts (magistrates sitting alone) covers:

(*a*) All offences committed by minors — that is to say, by persons who, when the judicial proceedings are opened, have completed their fourteenth year, but have not yet reached the age of 18;

(*b*) The offences referred to in the decrees of the Minister of Justice, which have been committed by adults against a child or young person (Jugendschutzsachen) — in particular, indecent assault and offences endangering the life or health of, or causing physical injury to, a child or young person, if the offender is responsible for the protection, education or training of the victim, or if the victim is a member of his household.

When accused is a minor, the court of assizes only possesses jurisdiction in the matter of political crimes and offences. All other crimes and misdemeanours committed by young people are tried by the justices' court, assisted by minors' justices.

The powers of minors' justices also exceed those of the ordinary justices' courts in other important respects. In the latter courts, the justices act as magistrates only at the principal hearing, and in every case as judges at first instance. If, however, the judgment rendered by a minors' magistrate attached to a district tribunal is disputed, the tribunal, consisting of two judges and two minors' justices, is competent to deal with the appeal at second instance. If the judgment of a justices' court in a case involving a minor is appealed against, principally as regards the fixing of the penalty, the Court of Appeal decides the matter, with the assistance of minors' justices (the number of whom in such case is three). Lastly, the minors' justices also assist in deciding appeals lodged, not against a judgment, but against decisions prescribing or refusing a measure affecting the person of a minor.

If a child or young person commits a punishable act through lack of proper training, the court's primary task — whether a penalty is imposed or not — is to take suitable guardianship measures, such as the supervision of the child's education, placing him in a family or children's home, or arranging for his internment in a Federal educational reformatory. The very disputed point as to which court should be empowered to take such measures is decided by the law in favour of the criminal court, provided the case has been submitted to it and that criminal proceedings, including execution of the penalty, have not been completed. If the Juvenile Welfare Office or the organisation known as the " Jugendgerichtshilfe ", with which, as stated above, the court is required to get into touch, undertakes to assist the child or young person, the court may leave it to those institutions to take whatever further measures may be required.

The placing of both criminal and guardianship jurisdiction in the hands of minors' magistrates and of the justices' courts acting as minors' courts does not imply that, in every case, the judge or judges called upon to decide a criminal action against a minor are also empowered to take guardianship measures in regard to this same matter. Obviously, however, in this latter case only does the joint jurisdiction produce its full effects; in other cases, the courts concerned will have to come to an arrangement, which can never be regarded as anything more than expedient. The law lays down a special rule with regard to the court of the place where the offence was committed, before which criminal actions against minors must be brought; this rule provides, contrary to the general provisions, that, as a rule, the court responsible for the guardianship protection of the minor also has jurisdiction with regard to criminal proceedings.

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.

3. Procedure.

In order to prevent, as far as possible, the bringing of criminal actions against young people, the law has taken a decisive step and has laid down purely and simply that private actions are not maintainable. Neither is the *partie civile* (the injured party) allowed — as in other cases — to prefer a charge instead of the Public Prosecutor. If a young person commits an offence in respect of which, as a rule, proceedings can only be taken on a private action, the Public Prosecutor prefers the charge at the request of the injured party, if the educational or other legitimate interests of the latter justify such a procedure and he is not simply inspired by a desire for vengeance. In the case of offences in respect of which proceedings must necessarily be undertaken by the State, the Public Prosecutor is not bound to observe the legal principle

which is indispensable in all other cases. He may refrain from bringing an action in the case of petty offences, if guardianship measures have already been taken and other action is not required or there is reason to suppose that the court would merely reprimand the young person.

In the course of the proceedings, an enquiry is instituted into the family and social environment of the young person and all circumstances which will enable his physical and mental condition to be determined. The court may entrust these enquiries to the Juvenile Welfare Offices and to the organisation known as the " Jugendgerichtshilfe ". These bodies may also be asked to supervise the young person, to observe the effect of the measures taken and to assist him during the proceedings.

In the case of a crime or misdemeanour, the court must provide the juvenile delinquent with counsel for the whole duration of the proceedings, unless one has already been obtained for him. If he is not in a position to defray the cost of his defence, counsel will be appointed by the court and will give his services free of charge. In correctional cases, the intervention of counsel is required, in the principal hearing and procedure relating to an appeal, if the legal representative is involved in the punishable act or there are other serious grounds for a formal defence. In such cases, a person who is not a barrister may be appointed for the defence.

The charge, the judgment and other important decisions must be communicated to the young person accused and, if possible, to his legal representative as well. The latter may be present at the principal hearing and may formulate requests, as may also the accused ; the legal representative may likewise lodge an appeal, even against the will of the accused person.

Custody pending trial is only allowed if other measures, such as the placing of the young person in an institution or in a trustworthy family, are impracticable. When custody appears to be unavoidable the young person must, if possible, be placed in a special section of the court prison. He must not be isolated if this would be harmful to him and if he can be kept with other prisoners without danger to them Young people must be separated from adults, especially if there is reason to fear their bad influence. This separation is the rule, unless an exception has to be made owing to the condition of the young person. While they are in custody, young people must be kept occupied and given instruction.

In minors' cases, the principal hearing may not take place, under penalty of nullity, if the accused is not present. This is the general rule which also applies to the summary procedure of the " Strafbefehl ".

The presence of the accused at the hearing of the case is not, however, indispensable. If it appears to be in the interest of the accused, the judge may exclude him from certain discussions — for instance, when reference is being made to his physical and mental defects. A private sitting may be ordered in the young person's interest (whether he is accused of the offence, has been injured or threatened), even for the pronouncing of the sentence.

4. Measures to be taken.

The law on the treatment of juvenile delinquents now in force has completely changed the criminal law applicable to minors in the strict sense of the term. A primary place is given to education. In many ways it resembles the German law on minors' courts of 1923, but in some respects it goes even further than that law.

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, the educational measures already mentioned 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 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; penal internment (Kerker) is replaced by ordinary imprisonment (Arrest); imprisonment for life is replaced by imprisonment up to ten years; the maximum of all penalties involving temporary confinement is reduced to one-half; the disagreeable consequences which, according to law, usually follow on a conviction do not occur; the quashing of the sentence is facilitated, particulars of sentences (not yet quashed) in the judicial records are very brief; police supervision cannot be imposed; expulsion from the country or from different parts of the country — even if, as a rule, this is imperative, as, for instance, in the case of foreigners who have been found guilty of a crime — is excluded, if the removal of the young person from his habitual place of residence might be morally harmful to him.

Apart from these imperative rules, the law allows a great deal of latitude to the courts. In the case of very slight offences, the court may merely reprimand the young person. It may also place him — instead of imposing a small fine or short period of confinement — under the discipline of persons responsible for his education or of a school, if there is reason to suppose that his teachers will use their rights in a reasonable and effective manner. In such cases, the young person is convicted, but no penalty is imposed.

Moreover, the law has introduced deferred sentences. The young person is found guilty, but the fixing of the period of confinement or fine to be imposed is postponed for a trial period varying from one to five years. At the same time, instructions calculated to prevent a repetition of the offence may be given to the young person, who may be placed under protective supervision (Schutzaufsicht). Deferred sentences may also be combined with the educational measures referred to above. The court must take these measures if the fixing and enforcement of the penalty can be omitted without prejudice to the law or the young person or if they can be replaced as mentioned above. If the result of the trial period is satisfactory, the sentence is declared null and void. If, on the other hand, it is seen during the trial period that the young person cannot be reformed by other measures, the penalty must be fixed and carried out.

In addition to actual deferment of sentence, the minors' courts may suspend penalties under certain conditions. This procedure was already introduced by the Law of July 23rd, 1920, and can be applied to young people liable to fines or to imprisonment in any case where the court is of opinion that a simple threat of a penalty is more opportune than its actual infliction. In such cases, the actual sentence is fixed; the only effect of the satisfactory accomplishment of the trial period is that the penalty fixed by the judgment will not have to be carried out.

Lastly, the law has introduced sentences for a relatively indefinite period. The characteristic feature of these sentences is that a penalty involving confinement is imposed, the period of which cannot be determined, even approximately, in advance, since it depends on the time required for the young person's reform. In such a case the court merely fixes a maximum and minimum limit to the penalty, according to the rules laid down for the fixing of a definite penalty. As soon as the minimum period has expired, the young person may be released on probation, provided the other conditions stipulated have been fulfilled.

As regards the enforcement of penalties, the law requires persons to whom young people are entrusted to possess educational qualifications. It is desirable that they should have a knowledge of psychology, psychiatry and pedagogy. The object of enforcing penalties which involve confinement is to teach the young person to exercise self-control, to be industrious and to obey the law. If the length of the penalty permits, he will be given occupational training. The young prisoners must be treated with kindness and consideration; their self-esteem must be respected and efforts must be made to reform them. They will be given regular instruction, and their physical development will be ensured by means of gymnastic exercises, sports and games.

The necessity for separating young people from adults is met in different ways. In some cases the penalty is carried out in an establishment exclusively intended for young people or in a special section of a general penitentiary, or the prison of a court dealing solely with minors — a prison of this kind (Jugendgefangnis) is attached to the minors' court in Vienna — or in a general prison in which special provision is made for young people. The prisoners remain there until they have completed their twenty-first year and, in some cases, until they are 24. Instead of being carried out in a State prison, penalties involving confinement up to one month may also be carried out in other (even private) establishments which have been declared suitable for this purpose by the Federal Minister of Justice.

As a rule, there is no separate confinement. A young prisoner is only isolated when his condition or that of his fellow prisoners makes this necessary. When a prisoner requires special treatment owing to some physical or mental abnormality or for other reasons, a medical or medico-pedagogic examination is held, and suitable treatment is then given, especially as regards education and occupational training, open-air exercise and diet.

Under the Law of July 23rd, 1920, young prisoners may be released on probation if they have accomplished two-thirds of the penalty fixed by the judgment, provided this is not less than six months and that there is every reason to believe they will make good use of their liberty, and provided they have expiated their offence to the best of their ability. They must be placed under protective supervision if no provision has been made for their education and maintenance. Various measures may also be taken to prevent a repetition of the offence and to assist discharged prisoners to earn an honest living. This is another important field of activity open to the organisation known as the "Jugendgerichtshilfe".

The fact that punishment under the criminal law is being inflicted less and less frequently makes the application of adequate and effective educational measures essential. Experience has shown that education in a family and in the various regional establishments and communal institutions and also the work of private educational associations are inadequate. The results obtained have, in some cases, been far from satisfactory. It is therefore of the utmost importance that the law should provide for the establishment of federal institutions for juvenile delinquents. Federal institutions have, in fact, been established for children and adolescents, separate institutions being provided for each sex. These institutions are under the Minister of Justice and are required to receive child or young "offenders" who need to be educated and who cannot be admitted to, or allowed to remain in, other institutions, or whose admission to those institutions is, for certain special reasons, considered inadvisable by the court.

Children and young persons are interned in the institution for the period necessary for their education, but in no case after they have reached the age of 20. They must be employed to a large extent on horticultural and agricultural work.

III.

The new law on minors' courts came into force on January 1st, 1929. Barely three years have elapsed since that date. The period is too short to enable us to ascertain with any degree of accuracy the effects of the application of the Law. Official criminal statistics are only available for 1929 (*Zahlenmassige Darstellung der Rechtspflège*, published by the Federal Ministry of Justice, Volume 14). The following table gives an approximate summary for the years 1929 to 1934:

Year	Convicted	Number convicted: Young people	Number convicted: Adults	Number convicted: Total	Percentage of young people
1929	Crimes	1,128	13,727	14,855	7.5
	Misdemeanours	22	1,304	1,326	1.6
	Petty offences	3,909	94,553	98,462	3.9
	Total	5,059	109,584	114,643	4 4
1930	Crimes	1,307	14,221	15,528	8.4
	Misdemeanours	28	1,612	1,640	1.7
	Petty offences	4,210	97,311	101,521	4 1
	Total	5,545	113,144	118,689	4.7
1931	Crimes	1,271	14,180	15,451	8 2
	Misdemeanours	23	1,672	1,695	1.4
	Petty offences	3,176	95,717	98,893	3.2
	Total	4,470	111,569	116,039	3 9
1932	Crimes	1,140	15,656	16,796	6 8
	Misdemeanours	22	1,663	1,685	1 3
	Petty offences	2,873	99,472	102,345	2 3
	Total	4,035	116,791	120,826	3 3
1933	Crimes	904	16,296	17,200	5 3
	Misdemeanours	34	1,831	1,865	1.8
	Petty offences	2,595	95,714	98,309	2.6
	Total	3,533	113,841	117,374	3.0
1934	Crimes	766	18,642	19,408	3.9
	Misdemeanours	66	2,866	2,932	2 3
	Petty offences	2,391	82,195	84,186	2.7
	Total	3,123	103,703	106,826	2.9

The immediate comparison of these figures with those of previous years is not possible because, under the new law, delinquents who have not reached the age of 14 cannot be punished and are consequently left out of account. However, they show that the number of young people *convicted* has fallen. The Public Prosecutors appear to have made use in many cases of the authorisation to refrain from bringing an action for petty offences.

As shown by the table, misdemeanours play a very insignificant part in juvenile criminality. According to an analysis of juvenile criminality made in 1929, as regards crimes, theft comes first (73 per cent of convictions for crimes). The number of indecent assaults is comparatively high (15 per cent). If we take crimes, misdemeanours and petty offences together, the percentage is 46 per cent for theft and embezzlement, 10 per cent for homicide and bodily injury, and 5 per cent for offences against morals. There were very few cases in which the minor was simply reprimanded or placed under the discipline of persons responsible for his education or schooling. On the other hand, recourse was had fairly frequently to deferred sentences — for instance, in 61 per cent of cases

relating to offences against morals, in 48 per cent of cases of offences against propriety and in 33 per cent of minor offences. Resort was had in an even larger number of cases to the conditional suspension of the penalty. If we examine the proportion between cases in which a young person was sentenced to imprisonment without a suspension of the penalty (unconditionally) and the total number of young people found guilty, we find that one out of five young people found guilty of crimes and one out of six young people found guilty of petty offences were sentenced in this manner. Obviously, the official statistics cannot as yet enlighten us as to the effects of this practice of the courts.

According to the data furnished by the Senior Public Prosecutor attached to the Minors' Court of Justice in Vienna in 1929, the number of deferred sentences imposed by that court has fallen, as compared with the previous year, by about 10 per cent. It is to be feared that young people and their parents regard a deferred sentence too lightly and are disposed to look on it as an acquittal. During the two years that have elapsed since the promulgation of the law, revocation became necessary in 9 per cent of the cases. A deferred sentence is often combined with internment in a Federal educational reformatory. It is not yet possible to pronounce a final opinion. The judicious application of deferred sentences seems to promise well. However, preference is given to convictions for an indefinite period, which appear to produce good results. Cases in which a young person is declared irresponsible on grounds of immaturity are very rare. The provision to the effect that the guardianship judge shall also act as criminal judge in cases where young people are involved, either sitting alone or as a member of the bench, is of the greatest value.

In short, there is every reason to hope that the new law will give satisfactory results.

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Addendum. — To the report published in 1932 the competent Austrian authorities have added, for the new edition, the figures for 1930 to 1934 taken from the last published official statistics.

Belgium.

REPORT FORWARDED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

The Law on the Protection of Children (May 15th, 1912) relates to three classes of reforms; first, removal from parental control; secondly, the measures to be taken as regards the sending to court of young persons; thirdly, the punishment of crimes and offences against morality or against the weakness of children. The setting up of juvenile courts and the putting of young offenders on probation thus come under the second category.

[1] This report has been reprinted as prepared by M Collard de Sloovere, Advocate-General at the Court of Appeal at Brussels It was handed to the Commission by the Belgian Government's delegate, M. Ch. Didion, and was, except for one addition mentioned at the end, published in the Commission's *Bulletin* for 1927.

II.

1. Organisation.

Under Article 11 of the law, " the King appoints to each court of first instance a magistrate who, with the assistance of the Public Prosecutor, shall try young offenders' cases. This magistrate is appointed for three years ; he may be reappointed. " Article 12 provides for a similar specialisation among the Public Prosecutor's representatives and examining magistrates, laying down that one or more magistrates on the bench appointed by the Public Prosecutor, and one or more examining magistrates appointed by the President of the court shall be specially entrusted with young offenders' cases. Cases are brought before the examining magistrate only in exceptional circumstances and where absolutely necessary. The King appoints to each Court of Appeal a judge to hear appeals against decisions of " children's judges ". He holds office for three years and may be reappointed.

2. Competency.

The jurisdiction of the children's judge relates to four classes of cases :

(*a*) Begging and vagrancy by young persons under 18 years ;

(*b*) Acts regarded as offences (crimes, misdemeanours or petty offences) by the criminal law when committed by young persons under 16 ;

(*c*) Young persons under 16 accused of vice or prostitution or of making a living by gaming, or by a trade or occupation which exposes them to prostitution, begging, vagrancy or crime ;

(*d*) Children whose father, mother, curator or guardian ask the court to take action in the place of the parent, on account of serious misconduct or indiscipline.

The Law of 1912 therefore requires that a definite act should be charged against a young person before the judge can attempt the work of reformation. The Law on Education has extended the jurisdiction of the children's judge as regards compulsory education. The Law of 1919 establishing the National Child Welfare Organisation further extended the jurisdiction of children's judges, who must also take action to protect children boarded out or placed with foster-mothers, away from the domicile of their father, mother or guardian, against neglect by the latter persons.

3. Procedure.

Apart from the fact that the judge sits alone, the ordinary rules of procedure apply. During the investigation, the judge may order the child to be kept provisionally in custody ; but when, owing to the depraved nature of the child or the impossibility of finding an individual or institution willing to take charge of him, this is impossible, the children's judge may order the young person to be kept in a place of detention, provided that such preventive custody does not exceed two months' duration ; even so, the young person is accorded special and separate treatment.

The children's judge may obtain any necessary information as to the child and his surroundings ; if he has doubts as to the child's physical or mental condition, he may place him under observation and cause him to be examined medically. The child may be assisted by counsel.

The decisions of the children's judge are subject to appeal by the young person or the parents, guardians or persons having the custody of the child, whenever such decisions involve the removal of the child from their custody. An appeal will always lie on the application of the Public Prosecutor.

4. Measures to be taken.

The Criminal Code provides, in the case of young persons, for a reduced scale of punishment. By the Law of 1912, a young person of 16 can no longer commit offences ; he commits " an act amounting to an offence " — that is to say, an act which would be an offence in the case of an adult. The reduced punishments are consequently replaced by "measures of custody, education and preservations ".

The judge may reprimand the child and hand him over to the persons who had charge of him, ordering them to look after him better in the future. The reprimand *ipso facto* involves putting the child on probation (see below). The judge may also entrust him until his majority to a person, society or charitable or educational institution, whether public or private. Lastly, he may place him until his majority at the disposal of the Government ; in serious cases, the period may even be prolonged. This measure, which involves detention in a Government institution, may be ordered conditionally, subject to putting him on probation. The judge has a free choice of measures, with very few exceptions. A simple reprimand is not permitted in the case of begging or habitual vagrancy, or where the judge is asked to intervene on the ground of serious want of discipline. When a child under 16 has committed an act amounting to a crime or misdemeanour and is of extreme moral perversity, the judge must place him under discipline. If medical examination shows that the young person is mentally or physically so degenerate as to be unable to control his acts, the judge will order him to be placed at the disposal of the Government and detained in an asylum or special establishment suitable to his condition.

All measures are provisional ; the children's judge may modify them either on his own initiative or at the request of one of the parties concerned ; he must review his decisions every three years, where they have not ceased to be operative in the interval. The judge must therefore keep in touch with the life of his wards and observe the effectiveness of his sentences ; he will reduce these or render them more severe according to results.

Orders for boarding out made by children's judges are notified to the Ministry of Justice, which arranges for inspection. Any wages earned by young persons so employed are used as determined by the children's judge ; those of minors placed at the disposal of the Government, by the Ministry of Justice. The cost of maintenance and education following on measures pronounced by the children's judge is borne by the minor or persons bound to maintain him, if they possess funds ; otherwise, it is borne by the State. The judicial and administrative authorities, in availing themselves of the powers conferred by law, must respect the religious and philosophical opinions of the families to which the children belong.

The Law of 1912 provided, as a corollary to the above measures, *probation*. Article 25 lays down that " young persons who have not been placed in or who have been discharged from a State institution shall, until their majority, be placed under a system of probation ". The supervision is carried out by the children's judge through the intermediary of probation officers appointed by him. The purpose of probation being to make a good citizen of the young offender, the value of the system depends on that of the probation officers putting it into operation. They are selected, for preference, from societies for the protection of children or public or private charitable or educational institutions ; they receive no remuneration, except in special cases. During the enquiry by the magistrate, the probation officers are instructed to look into the conduct and morals of the child and his family surroundings. After sentence, their task is to assist him and watch over him during the period of probation and to bring him

before the judge if need be. For this purpose, they remain in contact with the young person, and, as circumstances arise, visit the parents or persons, associations or institutions looking after him. They keep under observation the surroundings, tendencies and conduct of the young person and make a report to the judge on his moral and material situation whenever they think necessary, and at least once a month. They propose to the judge such measures as they think advantageous for the young person. The period of probation varies according to circumstances.

III.

The establishment of juvenile courts has certainly helped to bring about the reduction in the number of young offenders that has occurred since 1919 (during the war, as far as figures exist, there was an increase). Experience has fully justified the experiment involved in the Law of 1912. It has overcome the doubts that arose, especially regarding the judge sitting alone, the revision of his decisions, the limitation of the right of appeal, the system of probation and the association of private enterprise with the action of the courts.

	Statistics for the years			
	1913	1920	1925	1930
Children's cases referred to Public Prosecutor .	17,177	16,597	10,584	9,735
Cases settled	16,670	16,717	10,557	9,892
No proceedings ordered	10,356	10,339	7,215	7,336
Children brought before examining magistrates	305	97	147	138
Children brought before children's judges . . .	6,009	6,281	3,195	2,418
Decisions by children's judges	4,722	3,794	2,616	2,082
Cases dismissed	599	332	196	178
Reprimand (with probation)	1,963	1,803	1,154	798
Boarded out with private persons	39	19	34	34
Placed with societies or institutions	681	721	334	342
Placed at the disposal of the Government :				
(*a*) Conditionally (probation)	669	533	503	351
(*b*) In a State institution	729	360	340	304
Sent to a special establishment	42	26	55	75

Statistics show a considerable diminution in cases coming before the Public Prosecutor or before the court, especially since 1920. The very large number of cases, generally not serious, in which no proceedings were ordered will be noted; in most of these, the Public Prosecutor instructed the police to caution the child. The largest reduction is in the cases placed under probation; this measure is, however, one of the most effective authorised by the law on the protection of children.

Further, many cases against young persons were dismissed (8 to 13 per cent of decisions).

The number of decisions modified was 2,539 in 1930. The modified decision is generally less severe than the original one. It normally serves to take into consideration the improvement of the child under the regime to which he has been submitted. Consequently, such decisions, in the majority of cases, must replace a severe measure by one more lenient. Thus, there are many cases of remission of sentence and also of putting on probation.

Appeals against decisions of children's judges are very rare. In 1922, for instance, there were 23 out of 4,104 young persons' cases brought before children's judges; in 1923,

22 out of 4,436. On January 1st, 1926, there were throughout Belgium 13,103 young persons on probation, 856 placed with private persons, 1,346 placed with societies or institutions, 1,119 placed in State institutions (652 in educational and 467 in special institutions) and 369 placed in establishments suitable for their case. On January 1st, 1931, there were 11,197 on probation, 757 placed with private persons, 1,157 with societies or institutions, 924 in State institutions (555 in educational and 369 in special institutions) and 486 in suitable establishments.

The appeal for probation officers was at first extremely successful, and, although enthusiasm in some cases quickly waned, the work accomplished by these officers is valuable and disinterested. One officer should not have supervision of more than two or three children, and it is hardly possible to allot to an officer children other than those residing close to him. In towns, officers are numerous; in the country they are less easy to obtain and often lack experience. It is observed that judges have a tendency to prefer paid officers; these, however, are not numerous (fourteen in all Belgium).

The curve of crime among children (based on the number of young persons reported to the Public Prosecutor) which until 1919 had been rising fell in a striking manner subsequently (17,931 in 1913; 18,893 in 1919, 10,584 in 1925, 9,735 in 1930). This decrease is partly due to post-war economic events, and partly to the effects of the Law of 1912, the influence of probation and education on young persons who have been or are becoming corrupted. It is also due to observation in establishments and special institutions, which leads to the discovery of a large number of abnormal cases. Finally, the excessive zeal of the Treasury in claiming repayment of the cost of maintenance deters certain parents from asking the judge to intervene.

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Addendum. — The statistics given for 1930, or as on January 1st, 1931, were inserted in the original report from information specially obtained by the author.

Brazil.[1]

I.

The measures of assistance and protection applicable to neglected or delinquent minors are embodied in as pecial Code (Decree No 17943 A, of October 12th, 1927). In virtue of this Code, ordinary criminal law is not applicable to minors. The Code makes no mention of " penalties ", but refers only to measures of education. Specially qualified judges are allowed a large measure of freedom in selecting such measures of security and protection as will be most likely to benefit the minor concerned.

[1] This report was prepared by the Secretariat on the basis of information supplied by the Brazilian Government for the document entitled " Institutions for Erring or Delinquent Minors " and the Brazilian Minors' Code The text has been revised by Professor Simon van der Aa, Secretary-General of the International Penal and Penitentiary Commission, and approved by M J C Muniz, Consul-General of Brazil at Geneva.

II.

1. Organisation.

Article 146 of the above-mentioned Code institutes for the Federal District[1] a court for the assistance, protection, defence, trial and judgment of neglected and delinquent minors or minors in moral danger, up to the age of 18.

The juvenile court consists, in addition to the judge, of the following officials : a curator (who also acts as Procurator of the Republic), a mental specialist, an advocate, a registrar, four sworn clerks, ten probation officers, four ushers, a doorkeeper and a messenger.

The curator acts as orphans' trustee in cases of abandonment and of the suspension or loss of paternal authority or destitution from guardianship. He also acts as Procurator of the Republic in proceedings against delinquent minors.

The mental specialist makes all medical examinations and visits the minor's family, as a medical officer, in order to investigate the minor's previous family and individual history. He is also medical officer to the home attached to the juvenile court.

The advocate's duty is to defend, in criminal cases, such minors as have no defending counsel of their own, and to assist indigent parties in civil cases

The probation officers make investigations in the minors' homes, take delinquent minors or minors in moral danger into custody and generally supervise minors who have been brought before the court

The registrar, the sworn clerks, the ushers, the doorkeeper and the messenger carry out the duties attaching to their posts as defined in the laws and regulations or as established by legal usage and custom.

The judge, the curator, the medical officer and the advocate are appointed by the President of the Republic ; the registrar and the sworn clerks by decree of the Minister of Justice and Internal Affairs, the first-named by competitive examination and the latter on the proposal of the registrar ; the other officials are appointed by the judge The judge of the juvenile court ranks as an administrative judge in the local judiciary. The procedure for the replacement of the judge or the curator is defined in the law on the organisation of the local judiciary in the Federal District

2. Competence.

The minors' judge presides over the discussions and takes decisions in the case of minors between the ages of 14 and 18 In the case of children under 14 who are presumed to have committed an offence, the judge collects information concerning the situation of the parents or guardians and returns their children to them or, if necessary, sends the children to an institution.

The minors' judge also exercises supervision over protective and reformatory institutions and over any other institution in which there are minors coming within his jurisdiction. A delinquent minor over the age of 18 is prosecuted in the same way as an adult would be, except that his age constitutes an extenuating circumstance.

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[1] The Federal District includes the city of Rio de Janeiro, its suburbs and neighbourhood It is the capital of the Republic, the seat of the Federal Government and of those central services which serve the whole of the country. Under the Federal Constitution, the organisation of courts and their procedure comes within the jurisdiction of the Governments of the various States Consequently, only the general part of the Minors' Code is valid throughout the whole Republic ; the particulars thereof depend on the legislation of each Federal State.

3. Procedure.

Delinquent minors are brought before the juvenile court. In addition to the police and administrative authorities, every citizen has the right to take into custody a child caught in the act of committing an offence and to bring him before the court. Similarly, information of any kind concerning a minor who has been brought before the court may be communicated or submitted to the judge through any channel.

When a minor has to appear before the court, the judge may order that he be kept in provisional custody and be subjected to a medical examination and intelligence tests before the preliminary proceedings are begun. In the case of neglected minors or minors in moral danger, the proceedings must be summary. They may be initiated *ex officio* by the guardian or at the request of a relative of the minor, or on the information of some other person. In these cases, the presence of an advocate is unnecessary. The parents or tutor are informed that they must come to court in order to be present at the discussion of the alleged facts, in the presence of the curator, and to submit their defence. These proceedings may in some circumstances remain purely administrative.

In the case of delinquent minors between the ages of 14 and 18 destined to be deferred to the juvenile court, the preliminary enquiries must be conducted by the competent police authority and the minor must be placed at the disposal of the juvenile court.

No minor under the age of 18 who has been arrested or taken into custody for any reason may be detained in an ordinary prison. The police are bound to keep him in suitable premises away from prisoners aged over 18, and to bring him without delay before the judge of the juvenile court. When the minor cannot be brought immediately before the competent authority, he may, on the responsibility of the interested parties, be entrusted to his family or to a person of good standing, or to an educational establishment or charitable institution. Only when it is absolutely impossible to find a person or institution willing to receive a minor provisionally may the latter be kept in provisional custody in a room in an ordinary prison, but apart from the adult prisoners

The whole procedure in the juvenile court is secret. No reports may be published in any form.

If there are any co-offenders over the age of 18, their cases are also heard by the juvenile court. When the judge has before him the report on the enquiry conducted by the police authorities, he may order a medical, mental and educational examination. He appoints defending counsel for the minor.

The sessions of the court are always held in camera ; only those persons whose presence is necessary and persons specially authorised by the judge may be present. The judge is entitled to decide whether the presence of the minor is necessary during the proceedings or whether he may be represented by his counsel. Minors under 18 years of age may only be present in court for so long as their presence is absolutely necessary. If minors under 18 and persons over 18 are involved in the same case, the minors must be examined separately.

During the hearing of the case, the judge may, according to the nature of the offence :

(1) Hand over the child to his parents or guardian, who must bring him before the court whenever the judge so orders ;

(2) Hand the child over to his parents or guardians against surety ;

(3) Place the minor in a home for minors or some other institution.

In the case of criminal offences, proceedings may be instituted either by the police authority or the judge, or by the minor's guardian or by the injured party.

Appeals lodged against the decision of the judge of the juvenile court are heard in conformity with the rules of the court of appeal.

4. Measures to be taken.

Children under 14 who have committed or are implicated in the commission of an offence cannot be prosecuted. The competent authority collects all useful information concerning the punishable offence, the physical, moral and mental condition of the minor and the social, moral and economic condition of the parents, guardian or person responsible for his care. If the minor is suffering from any form of mental disease or weakness, or if he is subject to epilepsy, or is deaf and dumb or blind, or if his state of health necessitates special treatment, the authority orders that he shall receive appropriate treatment. If the minor is neglected or perverted or in danger of becoming so, he is placed in a home, an educational establishment or a reformatory school or is handed over to a person of good standing for the period necessary to ensure his education, but only until such time as he shall have attained the age of 21. If the minor is not neglected or perverted or in danger of becoming so, or does not require any special treatment, he is handed over to his parents or tutor or the person responsible for his care, though the court may also subordinate this decision to such conditions as it may think fit.

If the delinquent minor is between the ages of 14 and 18, a special enquiry is conducted regarding his character, family and social surroundings, education, tendencies, previous morbid or pathological history, etc. It is consequently laid down that his personal file must contain a report on the police enquiries, a report on the intelligence tests, a medico-psychological report and a report concerning the results of the enquiries made by the probation officer appointed by the judge of the juvenile court.

If the minor needs special treatment, the judge so orders. If the minor is not neglected or perverted, or in danger of becoming so, or in need of special treatment, he is, if found guilty, placed in a reformatory for a period of from one to five years. If the minor is perverted or in danger of becoming so, he must remain in the institution for not less than three nor more than seven years.

If found guilty, and if there be no institution available for the application of the provisions of the Code, minors between the ages of 14 and 18 may be detained in ordinary prisons, but they must be kept entirely apart from adult prisoners. They are, moreover, subject to a disciplinary and educational but not to a penitentiary regime.

The Code makes similar provision for minors between 16 and 18 years of age accused of crimes regarded as serious, owing to the circumstances in which they were committed, or because the offender has shown himself to be a dangerous or morally perverted individual.

At the end of his internment, the delinquent minor serves his sentence, unless the judge, acting on information supplied by the Director of the establishment, allows him to go out on probation. The judge is also entitled, after consulting the Director of the establishment, to apply this system even before the end of the period of internment.

Release on probation consists in returning the minor to his parents or in entrusting him to a guardian or trustee — in which case these persons are responsible for him — or in placing him in a welfare association under the supervision of the judge in accordance with the following principles : Supervision is exercised by the person appointed, and in the manner indicated by the judge. The minor is bound to report to the judge at certain dates and times. Should the minor die, change his residence, or absent himself without permission, the parents, guardian or trustee must inform the judge without delay. Supervision may not be continued for more than twelve months. If the family or person responsible for the minor is not sufficiently trustworthy from a moral point of view, or cannot take charge of the minor, the minor is placed preferably in a workshop or in an industrial or agricultural establishment under the supervision of a person appointed by the judge or a willing employer approved by the judge.

In the case of a minor interned in a reformatory, the following conditions must be fulfilled before he can be allowed out on probation. The minor must be 17 and have served the

minimum legal period of internment. It must be proved that he has not committed any other offence, is regarded as morally regenerate and able to earn his livelihood by honest methods. Finally, the family or person with whom he will have to live must be thoroughly trustworthy.

III.

The report of the judge *ad interim* of the juvenile court contains the following general observations : " Brazil has begun to take up seriously the fundamental problem of childhood on the basis of Plato's ancient concept that the child belongs more to the State than to its parents. Nevertheless, much still remains to be done, except in São Paulo, where the problem seems at present to have been effectively solved by the creation of an Abandoned Minors' Settlement and, subsequently, a Department of Child Welfare."

Bulgaria.

REPORT FORWARDED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

There are no juvenile courts under existing law Offences by young persons are tried by ordinary courts, which observe the ordinary criminal procedure.

The Minister of Justice has, however, prepared a bill for the setting up of juvenile courts. This bill is about to be submitted to Parliament. It is largely modelled on the Belgian law of May 15th, 1912, for the protection of children, also on the French law concerning juvenile courts of July 22nd, 1912, the German law of February 16th, 1923 (Jugendgerichtsgesetz) and the laws or proposed laws of several other countries. Its principal features are the following.

II.

1. Organisation (Proposed in the Bill).

The King appoints a " children's judge " to each court of first instance ; his duties are to try cases concerning children less than 16 years of age. He holds office for three years and may be re-appointed. If the needs of the service so require, several children's judges are appointed. If the regular judge is unable to sit, a deputy is appointed by the President of the court.

The Public Prosecutor appoints one or more deputy Public Prosecutors and the President of the Court one or more examining magistrates, to deal specially with cases concerning young persons ; but disciplinary proceedings only take place when special circumstances so require.

To each Court of Appeal the King appoints a judge of appeal for children ; this judge also holds office for three years and may be re-appointed.

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[1] This report has been reprinted as submitted to the Commission by the delegate of the Bulgarian Government, Dr. D Minkoff, and published in the Commission's *Bulletin* for 1927.

2. Competency (Proposed in the Bill).

The children's judge has jurisdiction over all young persons under 16 years of age, who have committed an offence under the criminal law, and over those up to 17 years who are addicted to begging or vagrancy. Minors above these ages are tried under the usual procedure. The children's judge may further take measures in regard to young persons under 17 years of age whose misconduct gives serious grounds for discontent to their parents, guardian or other persons in charge of them.

3. Procedure (Proposed in the Bill).

There is no preliminary examination unless it is absolutely necessary. The examination leads either to a dismissal of the case or committal for hearing by the children's judge. Even if the child's case is connected with one concerning an adult, it is separated therefrom and referred to the children's judge. If the latter has doubts as to the physical or mental state of the accused, he may place him under observation or submit him to medical examination.

The children's judge is not bound by the formal rules of ordinary procedure. He verifies the identity and the age of the children brought before him. He enquires, not only into the act committed, but also into the social and moral conditions in which the child lives. He may take the opinion of local administrations, the family doctor, schoolmasters, welfare organisations, etc. During proceedings, he may leave the child with his parents or guardians, or remove him from harmful surroundings by entrusting him provisionally to a relative or other reliable person or society or charitable or educational institution.

Decisions by the children's judge are subject to appeal within fifteen days by the Public Prosecutor, the young person, or his parents or guardian or other persons in charge of him. The appeal is heard by the children's Judge of Appeal

4. Measures to be taken (Proposed in the Bill).

The children's judge cannot inflict ordinary penalties on children appearing before him. He has at his disposal only measures of protection, education and preservation. He may reprimand the child and hand him back to the persons in charge of him, instructing them to look after him better, or he may entrust him until his majority to an individual, a society or a charitable or educational institution which will be charged with his instruction. The Minister of Justice is informed of children so placed and has the supervision of them; he receives an annual report from the children's judge on the situation of each child so placed.

The children's judge may place any young person brought before him, whereas a simple reprimand is not applicable to cases of serious misconduct. The judge may at any time, spontaneously or on the application of the Public Prosecutor, or the young person, or his parents, curator or guardian, cancel or modify the measures taken.

Canada.

REPORT DRAWN UP ACCORDING TO INFORMATION SUPPLIED BY THE CANADIAN GOVERNMENT.

I.

There are in Canada juvenile courts and other institutions for dealing with minors who have committed an offence, or whose present situation is a danger for themselves of for society.

The treatment of juvenile delinquency is governed by the Juvenile Delinquents Act of 1929 (Canada) and by the Statutes of the provinces.

Under the Federal Act, juvenile courts may exist wherever they are locally requested, otherwise juvenile delinquents are brought before the ordinary courts :

By the Juvenile Delinquents Act, unless the context otherwise requires (Section 2) :

" (*a*) 'Child' means any boy or girl apparently or actually under the age of 16 years ; provided, that in any province or provinces as to which the Governor in Council by proclamation has directed or may hereinafter direct, ' child ' means any boy or girl apparently or actually under the age of 18 years ; provided further, that any such proclamation may apply either to boys or to girls only or to both boys and girls ; [1]

" (*b*) ' Court ' or ' juvenile court ' means any court duly established under any provincial statute for the purpose of dealing with juvenile delinquents, or specially authorised by provincial statute, the Governor in Council, or the Lieutenant-Governor in Council, to deal with juvenile delinquents ;

" (*c*) and (*d*) . . . . . .

" (*e*) ' The judge ' means the judge of a juvenile court seized of the case, or the justice, specially authorised by Dominion or provincial authority to deal with juvenile delinquents, seized of the case ;

" (*f*) ' Justice ', save in Section 5,[2] has the same meaning as it has in the Criminal Code ;

" (*g*) ' Juvenile delinquent ' means any child who violates any provision of the *Criminal Code* or of any Dominion or provincial statute, or of any by-law or ordinance of any municipality, or who is guilty of sexual immorality or any similar form of vice, or who is liable by reason of any other act to be committed to an industrial school or juvenile reformatory under the provisions of any Dominion or provincial statute ;

" (*h*) . . . . . .

" (*i*) ' Superintendent ' means a superintendent of neglected children, or of neglected and delinquent children, or a superintendent or director of child welfare, or a commissioner of the Bureau of Child Protection, or, in general, any officer, whatever be his designation, who is appointed by any provincial government to have the general charge or supervision of work in the province dealing with delinquent children, and also the lawful deputy of such officer."

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[1] The age has been raised in three provinces — British Columbia, Manitoba and Prince Edward Island.

[2] Section 5 gives the meaning of the term " justice " in relation with the proceedings of juvenile courts

II.

1. Organisation.

The constitution of juvenile courts depends on the various provincial Acts; but, under Section 43, if the Governor in Council is satisfied that proper facilities for the due carrying out of the provisions of this Act have been provided, the Juvenile Delinquents Act of 1929 may be put in force in any city, town or other portion of a province by proclamation, whether or not the Provincial Legislature has provided for the establishment of juvenile courts, detention homes, or named any existing courts as juvenile courts.

The Governor in Council may designate a superior court or county court judge or a justice, having jurisdiction in the city, town, or other portion of a province, in which the Act is so put in force, to act as juvenile court judge and to exercise all the powers by this Act conferred on the juvenile court (Section 43 [2]).

The creation and the organisation of juvenile court committees and the nomination of probation officers is also foreseen in the Juvenile Delinquents Act. Information relating to these services is available in the Report on the Auxiliary Services of Juvenile Courts, League of Nations, February 1931 (document C.P.E.238.1).

Newspapers are forbidden, without the special leave of the judge, to publish any report of the delinquency committed or said to have been committed, or of the trial or other disposition of a charge against a child or of a charge against an adult brought in the juvenile court, in which the name of the child or of its parent or guardian or of any school or institution which the child is alleged to have been attending, or to which it is alleged to have been an inmate, is disclosed, or in which the identity of the child is otherwise indicated. This applies to all newspapers and other publications published anywhere in Canada, whether or not the Juvenile Delinquents Act is otherwise in force in the place of publication (Section 12, sub-sections 3 and 4).

Sub-section 3 of Section 17 provides for service of processes in any part of Canada outside the jurisdiction of the issuing court; but the document to be served must be first endorsed or " backed " by some judge or deputy judge of a juvenile court within whose jurisdiction the service is to be made, or, if there be no juvenile court there, then by any justice having jurisdiction. A warrant so endorsed shall be sufficient authority for arresting the person named and bringing him before the issuing court. This is the procedure followed in the case of warrants issued out of a criminal court.

Where a child, who has been before a juvenile court and is still under surveillance, has been placed by the court outside of its territorial jurisdiction, either in a foster home or with a probation officer or in an industrial school, the court may act precisely as though the child was still within its territorial jurisdiction, and its processes may be executed, without the necessity of having them " backed " (Section 17, sub-section 5).

A penalty is provided for any person inducing or attempting to induce any child to leave any detention home, industrial school, foster home or other place where such child has been placed by the court, or, when the child has unlawfully left such custody, knowingly harbouring or concealing it without notice of the child's whereabouts to the court, the institution or the local police authorities (Section 34).

2. Competency.

The commission by a child of any of the acts enumerated in paragraph (*g*) of Section 2 of the Juvenile Delinquents Act of 1929 shall constitute an offence to be known as a " delinquency " and shall be dealt with according to the dispositions of this Act. The juvenile

court shall have exclusive jurisdiction in cases of delinquency, including cases where, after the committing of the delinquency, the child has passed the age-limit proclaimed in any province.

Every judge of a juvenile court in the exercise of his jurisdiction as such shall have all the powers of a magistrate (Section 6, sub-section 1), and all the powers and duties with respect to juvenile offenders vested in or imposed on a judge, stipendiary magistrate, justice or justices by or under the Prisons and Reformatories Act (Section 6, sub-section 2).

The discretion of the juvenile court judge as to the term for which a juvenile delinquent may be committed shall not be affected by this section.

Where the act complained of is an indictable offence, and the accused child is apparently or actually over 14, the court may, in its discretion, order the child to be proceeded against by indictment in the ordinary courts in accordance with the provisions of the Criminal Code in that behalf; but such course shall in no case be followed unless the court is of the opinion that the good of the child and the interest of the community demand it (Section 62, sub-section 3).

The court may, in its discretion, at any time before any proceeding has been initiated against the child in the ordinary criminal courts, rescind an order so made (Section 9, sub-sections 1 and 2).

3. Procedure.

Juvenile court procedure is not definite and formal, but as informal as is compatible with the laws of evidence and judicial procedure.

By Section 5 of the Juvenile Delinquents Act, all trials in the juvenile court, whatever the nature of the offence, shall be summary.

In no case, therefore, however serious, can a child be proceeded against by indictment, unless, of course, the case has been transferred to the adult court under Section 9. Prosecutions in the juvenile court are, *mutatis mutandis*, governed by the provisions of the Criminal Code relating to summary convictions, in so far as such provisions are applicable; but Sections 749 to 769, both inclusive, of the Criminal Code shall not apply to any proceedings in a juvenile court. These sections regulate appeals from summary convictions.

Section 5 further provides that Section 1142 of the Code shall not apply to any proceedings, other than against an adult, and that Section 1140 shall, *mutatis mutandis*, apply to all proceedings in the juvenile court. These sections of the Code relate to limitations of actions.

When any child is arrested, with or without a warrant, such child shall, instead of being taken before a justice, be taken before the juvenile court. If a child is taken before a justice, it shall be the duty of the justice to transfer the case to the juvenile court, and of the officer having the child in charge to take the child before that court. In any such case, the juvenile court shall hear and dispose of the case in the same manner as if the child had been brought before it upon information originally laid therein.

The above provisions do not apply to any justice who is a judge of the juvenile court or who has power to act as such, under the provisions of any Act in force in the province (Section 8, sub-sections 1 and 2).

Notice of the hearing of any charge of delinquency shall be served on the parent or parents or the guardian of the child, and, if there are none, or if their residence is unknown, then on some near relative living in the city, town, or county, and any person so served shall have the right to be present at the hearing.

The judge may give directions as to the persons to be served under this section, and his directions shall be conclusive as to the sufficiency of any notice given in accordance therewith (Section 10, sub-sections 1 and 2).

The clerk of the juvenile court must notify the probation officer or the chief probation officer, in advance, when any child is to be brought before the court for trial (Section 11, sub-section 2).

The trials of children take place without publicity and separately and apart from the trials of other accused persons, and at suitable times to be designated and appointed for that purpose.

Such trials may be held in the private office of the judge or in some other private room in the court-house or municipal building, or in the detention home, or, if no such room or place is available, then in the ordinary court-room. When held in the ordinary court-room, an interval of half an hour must elapse between the close of the trial or examination of any adult and the beginning of the trial of a child (Section 12, sub-sections 1 and 2).

No child, pending a hearing under the provisions of the Juvenile Delinquents Act, shall be held in confinement in any place in which adults are or may be imprisoned, but shall be detained at a detention home or shelter used exclusively for children or under other charge approved of by the judge, or, in his absence, by the sheriff, or, in the absence of both the judge and the sheriff, by the mayor or other chief magistrate of the city, town, county or place.

The previous provisions shall not apply to a child who is proceeded against by indictment in the ordinary court in accordance with the provisions of the criminal code in that behalf (sub-section 3), or to a child, apparently over the age of 14 years, who, in the opinion of the judge, the sheriff, the mayor or other chief magistrate, cannot safely be confined to any place other than a gaol or lock-up (Section 13, sub-sections 1 and 4)

Where a warrant has been issued for the arrest of a child, or where a child has been arrested without a warrant, in a county or district in which there is no detention home used exclusively for children, no incarceration of the child shall be made or had unless in the opinion of the judge of the court, or the sheriff, or the mayor or other chief magistrate, such course is necessary in order to ensure the attendance of the child in court.

In order to avoid, if possible, such incarceration, the verbal or written promise of the person served with notice of the proceedings as aforesaid, or of any other proper person, to be responsible for the presence of the child when required, may be accepted; and, in case the child fails to appear, the person or persons assuming responsibility shall be deemed guilty of contempt of court, unless in the opinion of the court there is reasonable cause for such failure to appear (Section 14, sub-sections 1 and 2).

When in a proceeding before a juvenile court a child of tender years who is called as a witness does not, in the opinion of the judge, understand the nature of an oath, the evidence of such child may be received, though not given under oath, if in the opinion of the judge such child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

No person shall be convicted upon the evidence of a child of tender years not under oath, unless such evidence is corroborated in some material respect (Section 19, sub-sections 1 and 2).

Where a child has been judged to be a juvenile delinquent, the court may at any time, before the child has reached the age of 21 years and unless the court has otherwise ordered, cause by notice, summons or warrant, the delinquent to be brought before the court, and the court may then take any action provided for in sub-section 1 of Section 20, or may make an order with respect to such child under Section 9 or may discharge the child on parole or release it from detention.

When a child is thus returned to the court, the court may deal with the case on the report of the probation officer or other person in whose care the child has been placed, or of the secretary of a children's aid society, or of the superintendent, or of the superintendent of the industrial school to which the child has been committed, without the necessity of hearing any further or other evidence.

The action taken shall, in every case, be that which the court is of opinion the child's own good and the best interests of the community require (Section 20, sub-sections 3, 4 and 5).

4. Measures to be taken.

(1) In the case of a child adjudged to be a juvenile delinquent the court may :

(*a*) Suspend final disposition ;

(*b*) Adjourn the hearing or disposition of the case from time to time for any definite or indefinite period ;

(*c*) Impose a fine not exceeding twenty-five dollars, which may be paid in periodical amounts or otherwise ;

(*d*) Commit the child to the care or custody of a probation officer or of any other suitable person ;

(*e*) Allow the child to remain in its home, subject to the visitation of a probation officer, such child to report to the court or to the probation officer as often as may be required ;

(*f*) Cause the child to be placed in a suitable family home as a foster home, subject to the friendly supervision of a probation officer and the further order of the court ;

(*g*) Impose upon the delinquent such further or other conditions as may be deemed advisable ;

(*h*) Commit the child to the charge of any children's aid society, duly organised under an Act of the legislature of the province and approved by the Lieutenant-Governor in Council, or, in any municipality in which there is no children's aid society, to the charge of the superintendent, if one there be ;

(*i*) Commit the child to an industrial school duly approved by the Lieutenant-Governor in Council.

(2) In every such case, the court may make an order upon the parent or parents of the child, or upon the municipality to which it belongs, to contribute to its support such sum as the court may determine. Where such order is made upon the municipality, the municipality may recover from the parent or parents any sum or sums paid by it pursuant to the order.

III.

As a rule, the results seem satisfactory, but experience has indicated that the social usefulness of the juvenile court as an institution depends very largely upon the personal qualifications of the judges and upon the development of an adequate system of probation.

IV. Short Notes concerning the Organisation of Juvenile Courts in the Various Provinces.

Ontario. — The Ontario Juvenile Courts Act is Chapter 33 of the Statute of 1927, as amended by Chapters 36 and 74 of the Statute of 1929. It establishes (Section 2), in every city, town and county in which the Juvenile Delinquents Act has been or may be proclaimed,

a court of record, to be known as the juvenile court, and the Lieutenant-Governor has power to extend the limits of any court and to establish a court for any municipality or portion thereof. By Section 3, the judge shall be appointed and may be removed by the Lieutenant-Governor in Council.

Section 3 further provides that, in the absence or illness of the judge, any person may act, upon the request of either the judge or the Attorney-General, and that any justice of the peace may, on the request of the Attorney-General, act in any specific case. This latter enactment is quite consistent with the provisions of the Juvenile Delinquents Act.

Section 14, as amended, requires the corporation to provide accommodation for the court and salaries for the judges and other officers. The Lieutenant-Governor in Council may fix the salary of the judge and also the amount to be appropriated for other salaries and for the expenses of the court. The amount, however, which a municipality can be compelled to appropriate for salaries and expenses, exclusive of the cost of providing court room, offices and detention home, must not exceed the limit set down in the Act.

British Columbia. — The British Columbia Juvenile Courts Act is Chapter 20 of the Statutes of 1918. Its provisions are substantially the same as those of the Ontario Act, from which it was evidently taken. One of the chief differences is that power is specifically given to appoint women judges (Section 3).

Alberta. — The Alberta Juvenile Courts Act is Chapter 77 of the Revised Statutes (1922). It is taken from the Ontario Act, but with some important differences. One of these is with respect to the appointment of judges. Section 4 provides as follows :

> " 1. Commissioners appointed under the Children's Protection Act shall be judges of the juvenile court of the place to which they are appointed.
>
> " 2. Police magistrates and district and supreme court judges shall be *ex-officio* judges of their respective districts. Provided that the supreme and district court judges shall not be required to act unless willing to do so, and that, where there is a commissioner, no other person shall act, unless in his absence or illness or on his written request, or on the request of the Attorney-General or of the superintendent of neglected children.
>
> " 3. Any justice of the peace may act in a specific case, upon the request of the Attorney-General or of the superintendent."

It will be seen that, in Alberta, voluntary and pre-existing machinery are taken advantage of, and the juvenile courts are thereby conducted at a minimum of expense. In consequence, the Act contains no provision imposing any financial obligation on the municipalities.

Saskatchewan. — The present Saskatchewan enactments regarding juvenile courts are contained in Part III (Sections 56 to 73) of the Child Welfare Act, being Chapter 60 of the Statutes of 1927, a consolidation of all legislation in any way affecting neglected, dependent or delinquent children. The provisions of Part III of this Act are practically identical with those of the Alberta Juvenile Courts Act, save in the following respects :

By Section 57 (2), the Lieutenant-Governor in Council has power to appoint special magistrates to act as juvenile court judges, whose salaries are presumably to be paid by the province. There is no reference to commissioners appointed to deal with neglected children. (In practice, a justice of the peace is rarely authorised to act.) One juvenile court judge has been appointed, who holds a session of the court in any locality, anywhere in the province, where there are cases to be disposed of, thus constituting a travelling juvenile court for the province.

By Section 59, every judge of the juvenile court is required to forward, at the close of each sitting, a report to the Commissioner of Child Protection, giving a full report of the

cases brought, the disposition or order made in each case, the parentage, age and religion of each child and such other information as may be required.

Manitoba. — In Manitoba, the provisions with respect to juvenile courts form Part II of the Child Welfare Act (Consolidated Amendments), 1924, comprising Sections 11 to 18 inclusive. Section 11 provides that there shall be established and constituted in the province a court or courts for the purpose of dealing with juvenile delinquents under the provisions of the Juvenile Delinquents Act, and that these courts shall have power to deal with all cases involving children under the Child Welfare Act, except as otherwise required by the provisions of that Act. The Lieutenant-Governor in Council may appoint the judge of any such court (who shall hold office during pleasure) and may define the territorial limits and the jurisdiction of any such judge (Section 12). The court shall be called the juvenile court of the place for which the judge is appointed (Section 13). The judge may, with the approval of the Attorney-General, appoint a deputy judge (Section 14).

The province pays all expenses connected with the maintenance of the juvenile courts, including salaries.

Quebec. — The legislation in force in the province of Quebec is embodied in Division VI of Chapter 145 of the Revised Statutes of 1925, dealing with provincial courts. It consists of fourteen sections, Nos. 252 to 266 both inclusive. There is established, for the city of Montreal, a court of record called the juvenile delinquent court (Section 253). The judge is to be appointed and his salary (payable by the province) determined by the Lieutenant-Governor in Council (Sections 254 and 255). Section 256 provides that the court and the judge shall have the powers conferred on them by competent authority. This presumably refers to the Juvenile Delinquents Act. In case of absence, the judge may be replaced by a police magistrate (Section 257), or by the clerk or deputy clerk (Section 260) The sheriff and all constables and peace officers must obey the orders of the court (Sections 262 and 263).

Nova Scotia. — In Nova Scotia, the provisions respecting juvenile courts form Part I, consisting of Sections 2 to 7 inclusive, of Chapter 166 of the Revised Statutes of Nova Scotia (1923), entitled " Of Juvenile Delinquents and the Protection of Children ". It establishes a court for the purpose of dealing with juvenile delinquents under the provisions of the Juvenile Delinquents Act, and provides that the county court judges, and such other persons as may be necessary, may be appointed judges and the territorial limits of their jurisdiction defined, and that, within these limits, they shall have and exercise all the powers and duties conferred or imposed by the Juvenile Delinquents Act, in so far as the Legislature can confer or impose the same (Section 3). While it is apparently intended to utilise, wherever possible, the services of the county court judges, there is, in fact, at present in Halifax a special juvenile court judge. The court shall be called the juvenile court of the place for which the judge is appointed (Section 4). The judge may, with the approval of the Attorney-General, appoint a deputy judge (Section 5) and the Lieutenant-Governor in Council may appoint probation officers to perform such duties as are determined (Section 6).

The expense is apparently to be borne entirely by the province.

Prince Edward Island. — There is no Juvenile Court Act in force in Prince Edward Island, but the Juvenile Delinquents Act has nevertheless been proclaimed, under Section 43, in both Charlottetown and Summerside. The Children's Protection Act is Chapter 15 of the Statutes of 1910. By an amendment to this Act, passed in 1922 (Chapter 14), the age has been raised from 16 to 18. It is also provided (Section 29 as enacted by Section 2 of the amending Act) that a judge of the county court or stipendiary magistrate for the city of Charlottetown or town of Summerside or a justice of the peace appointed as a commissioner for the trial of juvenile offenders for any county or district in the province shall have jurisdiction under the

Act in the locality for which he holds office. Also (Section 30) that the Lieutenant-Governor may appoint commissioners to hear and determine complaints against juvenile offenders apparently under the age of 18 years. It is, no doubt, under these sections that the juvenile courts of Charlottetown and Summerside operate.

New Brunswick. — What references there are to the juvenile court in the legislation of New Brunswick are contained in the Children's Protection Act of 1919, being Chapter VI of the Statutes of that year. Section 4 provides for the appointment, at the request of a municipality, of a " commissioner to be a juvenile court judge ", the municipality to provide his salary and, on his recommendation, to appoint and pay probation officers. The Commissioner is given power to appoint one or more deputies.

The Juvenile Delinquents Act has, however, been recently put in force in the city of Moncton, by proclamation under Section 43.

V. Related Legislation.

While the Juvenile Delinquents Act is by far the most important Dominion Act affecting juvenile delinquents, it is, of course, not the only one. The others are the Prisons and Reformatories Act and the Criminal Code Many sections of the Criminal Code have an important bearing on juvenile delinquency, particularly in the matter of offences of adults with respect to children.

Children's Protection Acts.

Apart from the Juvenile Courts Acts, there are many provincial statutes which vitally concern the work of the juvenile court. Of these, the most important are the various Children's Protection Acts. To discuss these in detail would require a separate pamphlet. A mere enumeration of them may, however, prove useful. They are as follows :

Ontario.

Statutes of 1927, Chapter 78, amended 1929, Chapter 23, Section 15.

Alberta.

Revised Statutes Act, 1922, Chapter 217, amended 1924, Chapter 44, the Child Welfare Act (not yet proclaimed), 1925, C.4.

Saskatchewan.

The Child Welfare Act, 1927, Chapter 60, amended 1928, Chapter 76, and 1929, Chapter 65.

Manitoba.

Consolidated Amendments, 1924, Chapter 30, entitled the Child Welfare Act. Amended 1926, Chapter 4; amended 1927, Chapter 3; amended 1928, Chapter 4; amended 1929, Chapter 6.

Nova Scotia.

Revised Statutes, 1923, Chapter 166, amended 1927, Chapter 7.

Prince Edward Island.

1910, Chapter 15.

New Brunswick.

1919, Chapter 6, amended 1920, Chapter 22.

Other Acts.

Other important provincial Acts are the Industrial School Acts, the Minors' Protection Acts, the School Attendance Acts, the Adoption Acts, the Children of Unmarried Parents Acts, the Desertion Acts, the Mothers' Allowance Acts, and the Infants Acts.

Chile[1]

I.

Chilian legislation provides for the organisation of juvenile courts for delinquent or abandoned children. The relevant provisions are contained in Law No. 4447, of October 23rd, 1928.

II.

1. Organisation

A juvenile court is set up by the above-mentioned law in the jurisdictional district of the Santiago Court of Appeal. The President of the Republic has power to establish, if necessary, a juvenile court within the jurisdictional district of each court of appeal and fix the town in which it is to sit. Once a juvenile court has been set up under the provisions of the above-mentioned law, it may only be abolished by a new law.

Children's magistrates are appointed by the President of the Republic on the proposal of the competent court of appeal, which must submit a list of three names The three candidates are selected from among judges who have offered themselves as candidates for the post and have stated their qualifications and proved that they possess the knowledge statutorily required. Children's magistrates must have the same qualifications as the departmental presiding magistrates and possess a knowledge of psychology

To each juvenile court is attached a clerk of the court, who is a qualified lawyer and who is also appointed by the President of the Republic. The clerk of a juvenile court takes the place of the magistrate when the latter is unable to discharge his duties and he himself can be replaced by a deputy.

Children's magistrates exercise the same functions and possess the same powers as departmental presiding magistrates ; they may, however, be removed from office by the President of the Republic at the request of the Director-General for the Protection of Minors.

2. Competency.

Juvenile courts have power to try minors over sixteen and under twenty years of age who have acted without due understanding and are accused of a crime, a misdemeanour or an ordinary breach of the law.

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[1] This report was prepared by the Secretariat on the basis of information contained in the documents : " Auxiliary Services of Juvenile Courts ", " Institutions for Erring and Delinquent Minors " and the Law for the Protection of Minors of Chile. The text has been revised and approved by M. E. Gajardo, Chief of the Permanent Office of Chile to the League of Nations.

3. Procedure.

In principle, proceedings in juvenile courts are verbal and without legal formalities.

The preliminary investigation must ascertain whether the child has or has not acted with due understanding. For this purpose, the children's magistrate must first hear the Director-General for the Protection of Minors or the official appointed by him.

The children's magistrate exercises the powers conferred on him by law at the request of the Director-General for the Protection of Minors, or of any other person or *ex officio*.

Under the law, before the court gives a decision, the child must be examined by a social welfare worker and also by the medical officer, the psychologist and the teacher of the institution, who draw up a report on the child from their respective standpoints — social, medico-anthropological, psychological and pedagogical ; the magistrate thus possesses full particulars regarding the child's character.

For the purposes of this enquiry, the school authorities are asked to supply any information that may be required of them regarding the child

If the offence committed by the minor does not involve any official procedure, the children's magistrate must himself make investigations without compromising the reputation of the persons involved in the case.

Should a children's magistrate learn that an offence has been committed which imperils the health, education or morals of a minor, and if the case comes under the jurisdiction of another court, he must give the latter the relevant information.

Before or during the proceedings, the children's magistrate may, *ex officio*, or at the request of one of the parties concerned, provisionally adopt the measures laid down by law.

The summonses are served either by the clerk of the court himself or by registered letter.

The hearing may be held on any day and in any place.

If the parents or guardian object to the measures adopted by the juvenile court, the matter must be dealt with under the rules of summary procedure ; the proceedings will not be continued according to the rules of ordinary justice. In cases tried in the Department of Santiago, the Director-General for the Protection of Minors must appear as a party either personally or by proxy. In the other departments, he must be represented by the Counsellor for Minors, failing the appointment of another person.

The decisions of the juvenile court are final subject only to appeal to the competent court of appeal.

The technical or scientific findings of a children's magistrate based on the reports of the experts may not be upset by the court of appeal.

Requests and judicial or administrative proceedings concerning the enforcement of this law are exempt from fiscal or municipal taxes.

4. Measures to be taken.

Under the law, children's magistrates may adopt any of the following measures :

(1) Return the minor to his parents or guardians with a warning ;

(2) Place the minor under the supervision of the General Directorate for the Protection of Minors ;

(3) Entrust the minor to a special educational establishment ;

(4) Place the minor in a family where he will be under the care of a trustworthy person. The latter is really tantamount to release on probation.

When sentence has been passed, if the child is released on probation as a measure of protection, he is put under the supervision of a social welfare worker appointed for the purpose, who is almost always the official who examined the child from the sociological standpoint. When a child is put in a public or private institution, the head of this institution must make a monthly report on the child.

The period for which these measures are adopted is fixed by the children's magistrate, who may modify the term after hearing the opinion of the General Directorate for the Protection of Minors.

The law provides for the creation, at the seat of each juvenile court, of a minors' home to which the magistrate may send minors before they appear before the court and also those minors who have been arrested. These establishments must include an observation and classification centre and have facilities for the medical and psychological examination of minors. The President of the Republic fixes the period of detention in such homes of minors under 20

Colombia

REPORT DRAWN UP ACCORDING TO INFORMATION SUPPLIED BY THE COLOMBIAN GOVERNMENT.

I.

There are at present four juvenile courts in the Republic of Colombia , one at Bogota, the capital of the Republic, and one at Medellin, Bucaramanga and Manizales, the capitals of the Departments of Antoquia, Santander and Caldas respectively.

The Bogota court was set up under Article 2 of Law 98 of November 26th, 1920, establishing the courts and reformatory for minors.

The other three courts were set up in virtue of Article 30 of that Law — that of Medellin by Decree 1312 of 1923, and those at Bucaramanga and Manizales by Decree 1418 of 1926.

The decisions of the court are to be regarded as educative measures and not as sentences entailing any civil or other disability. Further, Law No. 98 of 1920 is to be interpreted in the manner best suited to the physical and moral condition of the minor, and this is the criterion which must be taken in solving any doubts which may arise with regard to its application. The magistrate and his assistants must approach their duties in a paternal spirit and without any misplaced judicial formalism, which is contrary to the spirit of Law 98 of 1920 (Article 22 of the Law).

II.

1. ORGANISATION.

The juvenile court is composed of a magistrate, a doctor, a secretary, two clerks and a doorkeeper. Each magistrate has two assistants. The same qualifications are necessary for a magistrate of a juvenile court as for a circuit judge ; further, magistrates of juvenile courts must be married and fathers of families, and have a good reputation.

The doctor must be versed in children's diseases and must possess special knowledge of infantile psychopathy.

The secretary must be a reputable person and be familiar with the law.

The children's magistrate is appointed by the Supreme Court of the judicial district to which he belongs and for the same period as circuit judges. The doctor is appointed by the Government, and the secretary, the employees and the doorkeeper are appointed and dismissed by the magistrate.

None of the persons attached to the court may hold any other public position, and they are all required to devote their whole time to the study and solution of the cases referred to the court (Articles 3, 4, 5, 6, 7 and 9 of Law 98 of 1920).

Article 8 of the Law relates to the salary to be received by members and employees of the court.

2. Competency.

Minors under 17 and over 7 years of age who commit acts described in the Penal Code as misdemeanours or punishable under the Police Code as minor offences come under the jurisdiction of the children's magistrate and are not subject to the systems of investigation and punishment applicable to adults in any cases where these systems are at variance with the provisions of Law No. 98 of 1920 (Article 1 of the Law).

The children's magistrate may act on his own authority in all cases in which a minor to whom the provisions of the present law apply is implicated. Police inspectors, magistrates and courts must refer to the children's magistrate all cases and charges coming within his competence.

Furthermore, the judge must act in the following cases, when they affect minors under 17 years of age :

(*a*) Cases where such minors are in a state of physical or moral neglect or are accused of wandering, prostitution or begging ;

(*b*) Cases where the father or mother, or both parents, are in prison or undergoing penal servitude, and the children are consequently deprived of education or support (Articles 10 and 11 of Law 98 of 1920).

3. Procedure.

Judgment is given orally in a brief and concise form and after the necessary enquiries have been concluded.

The case is conducted and the decision given at a private meeting ; the proceedings are not published.

The doctor's opinion is requested in all cases. The magistrate must also make careful enquiry into the social and the moral environment of the minor and his means of subsistence, and must ascertain whether the persons with whom he lives are addicted to drunkenness, etc. (Articles 12 and 13 of Law 98 of 1920).

4. Measures to be taken.

The juvenile court may take the following measures :

(*a*) Simply discharge the accused ;

(*b*) Discharge him and caution him or his parents or guardians ;

(*c*) Allow him to reside at home under the supervision of the court ;

(*d*) Take him away from his parents or guardians and place him in a family or in an industrial or agricultural institution ;

(*e*) Place him in a reformatory for an indefinite period.

Further, the judge may, if necessary, send minors of 15 to 17 years of age to an agricultural colony.

The magistrate may reconsider or modify his decision if the circumstances change—the offender may have attained his majority or may have reformed, etc. (Articles 17, 18 and 19 of Law 98 of 1920).

The magistrate must always bear in mind that it is not his business to punish but to develop the moral sense of the minor by educative measures, which may, however, involve disciplinary action (Article 16 of Law 98 of 1920).

III.

The results of the system of special courts for minors seem largely to depend on the character of the institutions entrusted with the execution of the decisions of the courts; these institutions do not at present seem to be sufficiently numerous to meet the requirements of the juvenile courts.

Denmark

REPORT TRANSMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

Denmark has no special juvenile courts. In accordance with the Penal Code of April 15th, 1930, no penalties are imposed when punishable acts are committed by children under 15. In such cases, only educative measures may be taken by the Child Welfare Commissions (Børnevaernsudvalg) mentioned below.

Minors between 15 and 18 who have committed offences may be discharged by the Public Prosecutor provided they comply with the decisions of the Child Welfare Commission. In the case of persons placed in the charge of the Child Welfare Commission and sent to an educational establishment or released on probation, the Public Prosecutor may refrain from taking proceedings when the application of the provisions of the social welfare law regarding education and apprenticeship is deemed to be sufficient in the circumstances, even if the persons concerned are over 18.

Lastly, the Penal Code provides that persons between 15 and 21 may be sentenced to imprisonment in prisons for young persons if they have committed offences which reveal a tendency towards crime, vagrancy or the frequenting of bad company, and the court considers that permanent measures for their education and training are required. In Denmark, young persons between 15 and 18 are rarely sentenced to imprisonment. The vast majority of adolescents between those ages who commit punishable acts are dealt with in accordance with the child welfare regulations.

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[1] The report printed in the first edition of the document as it appeared in the Commission's *Bulletin* in 1927 is replaced by the present text submitted to the Commission by Procurator-General A Goll, delegate to the Commission, which takes into account the various alterations in Danish Law on the subject

II.

1. Organisation.

Children displaying a criminal tendency (difficult children) and children and young people who are morally neglected are dealt with in Denmark, under the Law of May 20th, 1933, on Social Welfare, by the children's commissions. These are municipal commissions appointed by the municipal council in each commune, with the exception of Copenhagen. The law provides that the Child Welfare Commission shall be described as a sub-commission of the Social Commission, which, in each commune, is responsible for administering on behalf of the municipal council the law on social welfare, but the Child Welfare Commission is actually more like an independent commission, in view of the degree of autonomy which it enjoys.

The Child Welfare Commission must consist of at least three members. The majority of the members must belong to the municipal council; however, persons who are not on that council but are appointed by it and who possess a special knowledge of child welfare questions may also serve on the Commission.

At Copenhagen, the law on social welfare is administered by the third section of the Municipal Administration and a special Children's Commission has been set up for that town However, its work is confined to the protection of children who have been removed from their families by the Commission's decision, and it does not take part in the work described below, which, outside Copenhagen, is done by special child welfare commissions. The Children's Council consists of the mayor of the third section of the Municipal Administration, a Vice-President, three times as many district guardians as there are juvenile areas (at the present time sixteen), plus six members. These six members, with the President and Vice-President, constitute the Bureau of the Commission. Each question is discussed by the Bureau and the three guardians of the district concerned.

2. Competency.

The duties entrusted to the Child Welfare Commission by the law on social welfare are as follows .

(*a*) Supervision of children under 14 placed in families or in day nurseries, of illegitimate children living with their mothers, of children (whether legitimate or not) for the maintenance of whom the Administration makes a grant under Section III of the law, and of children who have lost one or both parents and to whom the Administration also makes a grant under Section III;

(*b*) Preventive measures not involving the removal of the child from his family — for instance reprimand, recommendation in respect of the child's education, and placing in the care of the probation officer;

(*c*) Protection of children removed from their families on the Commission's decision, either on account of their difficult character or of unsatisfactory family circumstances;

(*d*) Removal from their homes of children who are abnormal and hence require special protection — for instance, feeble-minded children — when the parents do not look after them properly themselves;

(*e*) Protection of neglected children or children whose parents are temporarily unable to look after them properly — for instance, on account of illness — and who are therefore entrusted by the parents to the Commission.

At Copenhagen, the tasks mentioned under (*a*), (*b*) and (*e*) are performed by the third section of the Municipal Administration and the others by the Children's Council.

The decision to remove children from their homes and to apply preventive measures may be taken in respect of children under 18.

Protection may last until the minor reaches his twenty-first year, but in most cases a special decision by the Child Welfare Commission is required if the protection is to be extended beyond his eighteenth year.

3. Procedure.

The Child Welfare Commission may not take a decision to apply preventive measures or to remove a child from his home until the child's family circumstances have been investigated. These enquiries may be carried out by the members of the Commission or by specially authorised persons. If the child is attending or has attended school, the school authorities must make a statement As a rule, statements must also be made by the minister, employer or teacher of the minor in question. The decision finally to remove the child from his home may not be taken until he has been examined by a doctor, who must make a statement on a form approved by the Ministry of Social Affairs. The Commission may summon to appear before it and question any person domiciled in the commune who is familiar with the child's circumstances and may require such persons, before the meeting is held, to make a statement on the matter, supported by witnesses. The child's parents or the persons replacing them must, if their domicile in the district is known, be requested to appear before the Commission in order to explain the situation, reasonable notice being given them. The consent of the civil judge of the court of first instance is required when the Commission decides finally to remove a child from his home. Moreover, at least two-thirds of the members of the Commission must be present when such a decision is to be taken, and must vote in favour of it.

In the case of complaints regarding the removal of children from their homes or the refusal of permission for them to return, appeals against decisions taken by the Child Welfare Commission are brought before the Supreme Child Welfare Commission; in the case of questions relating to the supervision of children or preventive measures, appeals are brought before the Prefecture or the Ministry of Social Affairs.

The Supreme Child Welfare Commission consists of five members, including a President, who must possess the qualifications required of judges of the Court of Appeal, a member appointed by the Minister of Social Affairs, and the Inspector-General for Child Welfare

The Supreme Commission supervises the work of the child welfare commissions and takes special care to see that no expenditure is incurred that does not expressly relate to child welfare.

The Inspectorate-General of Child Welfare supervises on behalf of the State the application of welfare measures and inspects, *inter alia*, educational establishments and child welfare institutions engaged in preventive work.

4. Measures to be taken.

The measures which can be taken by the Commission in respect of children who are removed from their homes are as follows :

If the child is under 14, and there is no reason to suppose that he has a particularly difficult character and his conduct has not been particularly reprehensible, he may be entrusted to a family. If it is feared that the placing of the child in a family may give rise to difficulties on account of special circumstances — *e.g.*, his state of health — and it is thought to be specially desirable, the child may be placed in a children's home. Children whose physical or moral development is below the normal but who do not need special attention — *e.g.*, feeble-minded children — are placed as far as possible in homes intended for children of this category.

Children under 14 (or, in exceptional cases, 15) are placed in a special educational institution if it is feared that, owing to their particularly difficult character or reprehensible conduct, they may exert a bad influence on the other pupils of an ordinary school. Children over 14 whose character does not appear to be particularly difficult and whose conduct has not been particularly reprehensible are usually apprenticed to some trade, sent out to service, or otherwise employed with a view to developing their character, abilities, etc. Children over 14 whose physical or moral development is below the normal but who do not need special care — *e.g.*, feeble-minded children — are placed as far as possible in homes intended for children of this category. Children over 14 whose character is particularly difficult or whose conduct is exceptionally bad are usually placed in an institution for young persons, or, if a short period of internment is considered to be sufficient, in an observation home or a home or institution for apprentices, with a view to their education and apprenticeship. If the Commission is uncertain as to what should be done with the child, it can place him under observation in a suitable observation home.

The cost of placing children outside their homes is charged to the ordinary welfare fund, while the cost of placing children over 15 in educational establishments or establishments for young persons and placing children under 14 in establishments for the feeble-minded is borne by the State. The State also pays the expenses of children who have been placed in these various establishments. The cost of placing children in a special welfare institution (*e.g.*, an establishment for mental defectives) is borne by the State.

III.

There are no complete statistics of the results of the welfare work done by the child welfare commissions. However, the conduct of a large number of children in respect of whom preventive measures were taken but who were not removed from their homes has since been irreproachable. The results are equally satisfactory in the case of children placed outside their homes, especially in cases where this measure was taken at a sufficiently early stage before the child had been exposed for too long to the influence of bad surroundings. As regards the results of the education of the most difficult children in children's institutions (schools and institutions for young persons), it should be noted that the conduct of about 50% of the pupils leaving these institutions and sent out to service or apprenticed to some trade, etc., or who have returned to their own homes, is quite satisfactory. In about 20% of cases, their conduct leaves something to be desired, and in another 20%, the results obtained are clearly unsatisfactory. No information is available regarding the remaining 10%, except in cases where it has been necessary to place the children in the care of some institution. The foregoing results are the outcome of enquiries followed up for about five years after the children left the institutions. They show the importance of vocational training, which gives the child a greater chance of making good. In the case of girls, marriage is of chief importance. Most girls who married within five years after the welfare measures had ceased have led an irreproachable life.

Free City of Danzig

REPORT DRAWN UP ACCORDING TO THE INFORMATION SUPPLIED BY THE GOVERNMENT OF THE FREE CITY OF DANZIG.

I.

There are attached to the magistrates' courts of the Free City of Danzig :

(*a*) Ordinary juvenile courts ;
(*b*) The Grand Juvenile Court of the Danzig magistrates' court.

II.

1. Organisation.

The juvenile courts are composed of a magistrate (children's magistrate), who presides over the court, and two assessors, one of whom must be a woman.

The Grand Juvenile Court is composed of two magistrates, including the children's magistrate who presides over the court, and three assessors, one of whom must be a woman.

2. Competency.

The juvenile courts and the Grand Juvenile Court deal with misdemeanours committed by adolescents over 14 and under 18 years of age at the time proceedings are instituted.

The Grand Juvenile Court deals with all misdemeanours which, under the provisions of the ordinary law, come within the province of the " Obergericht " (treason and high treason) and of the court of assize (in accordance with Article 17 of the Law of November 25th, 1927, on Juvenile Courts, *Gesetzblatt*, page 562, and Sections 110, paragraph 2, and 80 of the Law on Judicial Organisation).

3. Procedure.

Procedure is governed by the provisions of the Code of Criminal Procedure and of the Law on Juvenile Courts. Judgment is given after oral discussions and the accused is notified on the conclusion of the discussions and informed of the main reasons for the judgment. He is at the same time informed of the legal means at his disposal for appealing against the judgment.

The discussions before the juvenile courts and before the Grand Juvenile Court, including the announcement of sentence, are not published.

4. Measures to be taken.

Judicial proceedings against minors are heard by the juvenile courts and by the Grand Juvenile Court. These courts may inflict a penalty on the accused, but need not do so if the court considers educative measures sufficient (Section 6 of the Law on Juvenile Courts).

Section 7 of the above-mentioned law allows of the following educative measures :

(1) Warning ;

(2) Placing the minor in the custody of the person responsible for his education, or sending him to school ;

(3) Laying down of special obligations ;

(4) Placing in a home or charitable institution ;

(5) Measures of supervision ;

(6) Placing in the charge of the public relief authorities.

The Senate of the Free City of Danzig may also authorise other educative measures.

In the case of a penalty being inflicted, the juvenile court has the right to suspend execution of a sentence involving loss of liberty, so as to give the accused a chance of earning the remission of his sentence by good conduct during a fixed trial period.

The children's magistrate supervises the execution of sentences, and the same applies to the execution of educative measures ordered by the court, except in the case of the education of a minor by the public relief authorities or of measures of supervision (Section 36 of the Law on Juvenile Courts).

The execution of sentence passed on a young offender must be designed to have a good influence on his education. When serving a term of imprisonment, young offenders must be kept entirely apart from adult prisoners.

Minors under 18 years of age may also be handed over to the public relief authorities, by a decision of the guardianship court :

(1) If the conditions laid down in Section 1666 or Section 1838 of the Civil Code are fulfilled and if it is necessary, in order to prevent the minor becoming morally neglected, to remove him from the environment in which he has hitherto lived, provided that the guardianship court considers that there is no other suitable place to put him ;

(2) If education by the public relief authorities is necessary in order to remedy the consequences of moral neglect due to defective education.

When education by the public relief authorities seems to offer a prospect of success, this may also be ordered in the case of minors over 18 and under 20 years of age. In these cases, the authority responsible for public relief education (that is to say, the Senate, Social Section) must be heard before the measure in question is ordered (Section 53 of the Child Welfare Law of July 8th, 1927, *Gesetzblatt*, page 269).

The decision, accompanied by a statement of the reasons on which it is based, must be notified to the competent youth office (Jugendamt), to the minor's legal representative, to his parents, to the authority responsible for public relief education, and also to the minor himself, if he is 14 years of age or over, and if, in the opinion of the guardianship court, there is no educational objection to his being informed.

Education by the public relief authorities is given in institutions specially organised for the purpose.

III.

The results obtained in proceedings taken against minors have been satisfactory, especially in cases where suspension of sentence has been accorded and where the judgment has at the same time provided that the youthful delinquent should be subjected to measures of supervision in the interests of his education (freedom on probation). In such cases, the court is informed periodically of the behaviour of the young delinquent (usually every six months), and is thus able immediately to cancel the suspension of the sentence if he behaves badly or commits a fresh misdemeanour. Nevertheless, youthful delinquents usually behave so well during the period of probation, thanks to the supervision to which they are subjected, that their penalty is remitted after the expiration of this period.

Very rarely do they behave badly or commit a further misdemeanour during the period of probation. If they do, it is then for the juvenile court to decide whether there shall be a further suspension of sentence and a further extension of the period of probation formerly fixed, or if a further suspension should be refused and the respite originally accorded be cancelled.

Judging from the results obtained hitherto, it seems a good plan always to accord a respite to minors sentenced for the first time, so as to give them an opportunity of earning the remission of their sentence by their good behaviour.

The results obtained by public relief education are very varied, and depend in most cases on the natural disposition of the minor in question. At the educational institution at Tempelburg, boys are given an opportunity of learning a trade on the spot, so that they may be able, when the time comes for their release, to earn their living as craftsmen.

Egypt

REPORT DRAWN UP ACCORDING TO INFORMATION SUPPLIED BY THE EGYPTIAN GOVERNMENT.

I.

There have been two juvenile courts in Egypt since 1905 — one in Cairo and the other in Alexandria. These courts were set up by Decrees of the Minister of Justice of March 28th and May 8th, 1905. It has not, up to the present, been deemed necessary to extend these courts to other towns, as, outside these two centres, juvenile offenders are rare.

II.

1. Organisation.

The juvenile courts have no particular organisation, but are special sittings of the "courts of summary jurisdiction". These sittings are presided over by a magistrate specially chosen and appointed by decree of the Minister of Justice.

2. Competency.

The juvenile courts deal with misdemeanours and minor offences in which children over 7 and under 15 years of age are involved. Further, the acts alleged must have been committed in the cities of Cairo or Alexandria and come within the province of the magistrate of the court of summary jurisdiction. According to our Penal Code, misdemeanours are offences punishable with a term of imprisonment varying from eight days to three years or a fine exceeding £E1, while minor offences are offences punishable with imprisonment varying from twenty-four hours to seven days or a fine of from five piastres to £E1. Moreover, a law of October 19th, 1925, regarding the transfer of certain crimes to a lower court, provides that certain crimes accompanied by extenuating circumstances shall also come within the province of the magistrate of the court of summary jurisdiction. Apart from these cases, juvenile offenders are brought before the ordinary courts.

Children who are a danger to themselves or to society, but have not committed specific offence coming under the category of a misdemeanour or minor offence, may be sent to a reformatory as vagrant children within the meaning of Law 2 of 1908.

3. Procedure.

The procedure adopted at the special hearings of the juvenile courts is the same as that adopted at the ordinary hearings of the courts of summary jurisdiction. There exist, however, certain practical " Instructions " issued by the Public Prosecutor to his assistants entrusted with the conduct of cases in the juvenile courts.

4. Measures to be taken.

After dealing in Article 60 with the penalties which may be inflicted for crimes upon offenders over 7 and under 15 years of age, the Penal Code (Article 61) provides that :

> " If the accused, being over 7 and under 15 years, has been guilty of any offence, the magistrate may, instead of inflicting any of the penalties provided by law for misdemeanours or minor offences or enumerated in the preceding article for crimes, order :
>
> " (1) The restoration of the offender to his parents or guardian, if the said parents or guardian, who are present, undertake in writing to be responsible for his good behaviour in the future, or
>
> " (2) The corporal punishment of the offender, if a boy.
>
> " The judge may also, in the case of misdemeanours or crimes, order the accused to be sent to a reformatory or other institution appointed by the Government. In such a case, the magistrate may, in addition, order the corporal punishment of the offender, if a boy."

The implications of the undertaking given by the parents or the guardian are governed by Article 62 of the Penal Code. Article 63 provides that corporal punishment must be inflicted with a cane and fixes at twelve the maximum number of strokes for minor offences and at twenty-four the maximum for misdemeanours or crimes. Finally, Article 64 provides that the period during which a juvenile offender may be kept in a reformatory or other institution for a misdemeanour or crime shall be not less than two years or more than five years.

The existing institutions are : (1) the reformatory at Gizeh, which has a section for girls ; and (2) the farm-school at Khanka. Both are situated in the neighbourhood of Cairo.

III.

Extract from a Report by His Excellency the Public Prosecutor for the Native Courts.

Experience has shown that the setting-up of juvenile courts has, among other results, had this advantage : it has made it possible specially to detail a number of magistrates and members of the Public Prosecutor's office for the study and settlement of cases in which children are implicated. These magistrates have devoted themselves to the work and, acting in the spirit of the system, have done their utmost to ensure the moral reform of youthful offenders, their removal from temptation and the combating of their criminal inclinations. In consequence, there are fewer juvenile offenders, fewer young persons coming before the courts a second time, and also fewer sentences of imprisonment passed on juvenile offenders. By inflicting forms of punishment provided by law, other than imprisonment, and by giving advice to juvenile offenders and to their parents or guardians, the magistrates and members of the Public Prosecutor's department attached to the juvenile courts have done much for the morals of these unfortunate children, who would have run the greatest danger if they had been brought into contact with adults in prisons.

The foregoing is sufficient to justify an increase in the number of reformatories and vocational schools where juvenile offenders, instead of being sent to prison, may be detained and reformed by work.

In short, juvenile courts may be regarded as one of the best means hitherto employed of combating crime.

Spain

REPORT FORWARDED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

The Law of November 28th, 1918, on juvenile courts, modified by a decree of the Military Directorate of July 15th, 1925, and the Law of August 26th, 1932, referring solely to the Madrid Juvenile Court, provides for the setting-up of a special court for cases against children " in all provincial capitals and chief towns of districts that have a special establishment for the protection of neglected children and young offenders ". Actually, these courts have been set up only in the large towns, and no province has more than one. Existing courts are (in chronological order of establishment) at Bilbao, Tarragona, Barcelona, Saragossa, San Sebastian, Vitoria, Murcia, Valencia, Almeria, Pampeluna, Granada, Palma in Majorca and Madrid.

II.

1. Organisation.

Young persons are not tried by a single judge but by a bench, except in Madrid, where a stipendiary magistrate sitting alone possesses all the powers previously attributed to the court. The law provides that the judge of the court of first instance shall preside, but it also lays down that the Minister of Justice, on the proposal of the higher Council for the Protection of Children, may call on other persons to preside. The reason for this rule is that the juvenile court does not have to decide points of law, but rather educational problems which call for special knowledge. So far, only one ordinary judge has been appointed president of a juvenile court ; all the others are specialists. The two assistant advisers and the two deputies are appointed by the Minister of Justice on the proposal of the provincial Committee for the Protection of Children,which selects them from among persons residing in the locality and suitable owing to their experience with children, their professional knowledge or to special circumstances. The secretary is one of the secretaries of the court of first instance. Members of the juveniles' courts are unpaid, as are also the delegates or visitors who, by child welfare work, supplement the courts' activities. Children's courts are supervised by the Minister of the Interior.

2. Competency.

Children's courts have jurisdiction over all young persons under 16 years, not merely offenders handed over to them by the ordinary courts, but also children who are neglected and have need of their protection. They may, either directly or through their delegates (welfare visitors), inspect the families and institutions in which children are placed. They also have jurisdiction over parents — *e.g.*, can deprive them of their paternal power.

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[1] This report has been reprinted as submitted to the Commission by Dr. F. Cadalso, former delegate of the Spanish Government, and published in the Commission's *Bulletin* for 1927. According to a communication from the delegate, M. C. Garcia de la Barga, a Royal Decree of February 3rd, 1929, made certain changes in the organisation and working of juvenile courts ; but it was abrogated by a Decree promulgated by the Government of the Republic, dated June 16th, 1931

In the second edition, certain insertions concerning the Law of August 26th, 1932, have been added

3. Procedure.

As the essential idea is not to punish but to protect and educate the young, the procedure is simple and truly of a family character. Custody pending the hearing of the case is not allowed; if necessary, it is replaced by provisional internment in a protective institution (see 4 below). Children's courts act *ex officio* and not on complaints or denunciations; there is no Public Prosecutor. The official most resembling the Public Prosecutor, because he must report on the child's situation and see to the enforcement of the court's resolutions, is the delegate. The delegate, however, is not regarded as an accuser, but as representing the children's interests. The examination of children by the court is in the nature of a family conversation rather than of a judicial interrogation, in order that they may be convinced that there is no desire to punish, but only to protect them, and that only the most suitable solution for the present (and most profitable for the future) is being sought.

4. Measures to be taken.

The measures that children's courts may take are all directed towards the protection and education of the young persons concerned. They are applied partly to the young persons themselves and partly to their parents or guardians. If the latter are accomplices in the offences committed by young persons, the court may fine them or send them before the ordinary court, suggesting that they should be fined or imprisoned according to circumstances. The court may further deprive of their power parents who are unfit to exercise it.

As regards the children themselves, the court may simply reprimand them and hand them over to their parents, or to another honest family that will take charge of them, or send them to one of the establishments set up for the purpose. The handing over of a child to his family or to another family is combined with a kind of welfare supervision — *i.e.*, the child's conduct is watched over by the delegates of the court. The State has issued regulations governing protective institutions. Most of the existing institutions were established and are directed by religious bodies; but they work with the children's courts, which send to them children whom it is not desirable to send to a family. They are called " industrial schools ", or " reformatory schools ", or, often, " houses of fatherly correction ", because they also receive boarders sent to them for correction by their parents. The State and the local authorities contribute to the maintenance of children ordered by the court to be so placed, when parents cannot pay the cost.

III.

Considering the limited funds at the disposal of children's courts, the results obtained are very satisfactory. There is a noteworthy diminution in the number of young offenders and particularly of those with previous convictions. Experience shows that such offences are almost always due to neglect or bad example at home, and that they may be prevented by an effective protection of childhood. An endeavour is being made to increase the number of children's courts and intensify their activities. Their jurisdiction has already been extended; it was first limited to children under 15 (age below which the child is regarded by the Penal Code as not criminally responsible, failing proof to the contrary). At the present time, the advantages of the system are granted to those under 16. But it is desirable in the interests of young persons that the age should be raised to 18 (age of attaining majority under the Criminal Law).

United States of America

REPORT DRAWN UP ACCORDING TO INFORMATION SUPPLIED BY THE UNITED STATES DEPARTMENT OF LABOUR, CHILDREN'S BUREAU.

Introductory Note.

The questions submitted in the questionnaire cannot be answered in a practical manner for the United States, as the juvenile courts are organised on a *local basis*. We present only information concerning the principal features of specialised procedure in children's cases.

I.

All but two States, Maine and Wyoming, have enacted legislation establishing juvenile courts as independent courts or branches of other courts, and these two States have adopted some of the features of juvenile court legislation. No special organisation has been developed in Federal courts, which have jurisdiction over persons violating Federal laws. Children are tried in Federal courts for such offences as violation of postal and inter-State commerce laws.

II.

1 ORGANISATION.

(a) *Extent of Juvenile Court Organisation.*

If one takes, as a means of determining the extent to which specialised procedure in children's cases has been developed, the fact that the courts have separate hearings for children, officially authorised probation service and provision for recording social information, it seems that, up to twelve years ago (in 1918), all the courts serving cities of 100,000 and over, 71 per cent of those serving areas containing cities of from 25,000 to 100,000 population, 16 per cent of the courts serving areas containing only small cities, and only 4 per cent of those serving only rural areas were especially organised according to the above definition.

Within the last twelve years, considerable progress has been made in extending the juvenile court to new localities The increased activities of State departments of public welfare, other State departments having supervisory powers over juvenile court work, and county boards of child welfare or public welfare, which have been organised in a number of States, have greatly improved the juvenile court situation, especially in small communities and rural areas.

In nearly all the plans for county public welfare activities, probation work is made a function of the county board or department. Much of this development has come within the last ten years.[1]

(b) *Court System.*

Independent juvenile courts, not parts of other court systems and not family or domestic courts with juvenile jurisdiction, have been established in the district of Columbia and part or all of nineteen States. The largest group of States has vested juvenile jurisdiction in courts with county-wide jurisdiction. Family courts with both juvenile and domestic relations jurisdiction have been established in part or all of nine States, and in a number of other States juvenile courts have been given jurisdiction in certain domestic relations cases.[2]

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[1] " The County as a Unit for an Organised Programme of Child-caring and Protective Work " United States Children's Bureau Publication No 169, Washington, 1926.

[2] "Analysis and Tabular Summary of State Laws relating to Jurisdiction in Children's Cases and Cases of Domestic Relations in the United States " United States Children's Bureau Chart 17, Washington, 1930.

(c) *The Judge.*

Authorities in the United States have agreed that the judge of the juvenile court should hold office for a term sufficiently long to enable him to become expert in children's problems. Six years, for example, is regarded as a reasonable term. In many States, however, the judge holds office for a shorter period, though he is frequently re-elected or reappointed. The salary of the judge is frequently inadequate, and comparatively few judges have had special training or experience in dealing with children previous to their selection.[1]

The use of women referees for girls' cases is a practice obtaining in a few courts, mainly in large cities. In some courts, women judges hear both boys' and girls' cases.[2] Among the courts with women referees hearing girls' cases are those of San Francisco and Los Angeles, California; Cincinnati and Cleveland, Ohio; and Detroit, Michigan.

(d) *Probation Staff.*

The ways of appointing probation officers vary. In some States they are appointed from eligible lists established after competitive examinations held by civil service commissions or other agencies. Laws passed in New York State in 1928 provide that probation officers shall be selected because of definite qualifications as to character, ability and training, and appointments are made under the civil service system.

Salaries of probation officers vary considerably for cities of comparable size — *i.e.*, for cities having populations of 500,000 or over, the salaries of chief probation officers in 1927 ranged from $2,400 to $7,500, the lowest salary being in Buffalo and the highest in Chicago. In courts serving cities of 100,000 population and over, the salary of the probation officer directly responsible for investigations and supervision of children ranged from $1,000 to $2,700.[3]

The number of probation officers employed also varies greatly even in communities of approximately the same population. For example, in cities of 500,000 or over, for which information was obtained by the National Probation Association in 1927, the number of probation officers, including the chief probation officer, was from 5 to 100, the smallest numbers being in Buffalo and Baltimore (5 in each), and the largest in New York City and Chicago (New York 69 and Chicago 100). Differences in jurisdiction must be taken into consideration in connection with the number of probation officers employed. For example, the New York City Court has jurisdiction only up to 16 years and does not administer mothers' allowances, while the Chicago court has jurisdiction up to 17 in the case of boys and 18 in the case of girls and administers mothers' pensions.

In three of the ten courts included in the Children's Bureau study made in 1920 and 1921, the average number of cases under the care of a probation officer was more than 100, and in only four courts did it approximate fifty or less.[4] In only five or six of the twenty-six courts included in the Children's Bureau study of family courts, all but five of which had juvenile jurisdiction, did the case-loads even approximate the standard generally accepted (in theory) of fifty cases per officer, and two of these courts were serving rural counties. In addition to heavy case-loads, many of the probation officers made investigations and served as bailiffs or court attendants.

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[1] "The Child, the Family and the Court", Part I, page 36 United States Children's Bureau Publication No 193, Washington, 1929. — "Juvenile Courts at Work", pages 19-21 United States Children's Bureau Publication No. 141, Washington, 1925

[2] Among the courts served by women judges are those of Cook County, Ill, the District of Columbia; Dade County, Florida; Memphis, Tenn; Clarke County, Virginia, Danville, Virginia, Lake County, Ohio; Clinton County, New York; and Muskegon County, Michigan

[3] "Salaries of Probation Officers in Cities of 25,000 or More Population", compiled by the National Probation Association, October 1927. Probation officers serving both juvenile and other courts or courts of which the juvenile court is a branch are shown on the chart, but are not included in the analysis here given

[4] "Juvenile Courts at Work", page 171. United States Children's Bureau Publication No. 141, Washington, 1925

In January 1931, according to information compiled by the National Probation Association, twenty-one States had some kind of State supervision of juvenile court or juvenile probation work. In a majority of these States, this supervision is a function of the State welfare department. In four of the States, such departments have State supervisors of probation or of juvenile probation, and in four, State probation officers or supervisors connected with other State departments or separately established are found. In two more of the twenty-one States, direct administrative responsibility for all probation work in the State is vested in the welfare department, which has a staff of probation officers under the direction of a chief probation officer.

The extent of supervision varies from mere co-operation and advice to prescribing the qualifications of probation officers, certifying probation officers for appointment or approval of their appointments, prescribing record forms, requiring reports and (in New York) formulating rules which have the force of law. In some States, supervision has been well developed, whereas in others it is merely nominal.

2. Competency.

(a) *Nature of Jurisdiction.*

The theory that juvenile court procedure should be chancery or equity and not criminal in nature has been adopted in nearly all the States. The early juvenile court laws of some of the States, especially in the east, provided for criminal or quasi-criminal procedure in children's cases, but New York, in 1922, abandoned this form of juvenile court organisation for the chancery or equity form first developed in Chicago. In a few jurisdictions, Massachusetts, for example, and the District of Columbia, the court proceeding still has some of the characteristics of criminal procedure.

(b) *Delinquency Jurisdiction.*

In twenty-one States and parts of two others, the delinquency jurisdiction of the juvenile court covers both boys and girls up to the age of 18 years or a higher age, and, in five additional States and parts of a sixth, girls up to the age of 18 years. In many States, however, the juvenile court does not have exclusive jurisdiction.

In thirty-seven States and parts of another, the juvenile court had exclusive jurisdiction over cases coming within the age-limits specified, subject, however, to exceptions or modifications with reference to seriousness of offence or other considerations. In four other States, which have high age-limits, jurisdiction is exclusive under a specified age and concurrent above that age. In three States and parts of another, jurisdiction in cases of delinquent children is concurrent with that of criminal courts. In one State, jurisdiction is exclusive if a child is arrested without a warrant, but concurrent if arrested on a warrant.

The juvenile court in twenty-three States and parts of two others has jurisdiction of juvenile offenders without regard to the seriousness of their acts, although possible exceptions are provided for in all but two of these (Connecticut and New Jersey). In four additional States the juvenile court has juvenile jurisdiction without regard to the type of offence, but in these States criminal courts also have jurisdiction and may try children under criminal procedure, without giving the juvenile court an opportunity to pass on such cases. Twenty-seven of the twenty-nine States in which the juvenile court may deal with serious offences grant to criminal courts concurrent jurisdiction of certain offences (sometimes limited with respect to the age of the child), or allow the juvenile judge, in certain cases at least, discretion to permit trial under criminal procedure. Offences punishable by life imprisonment or death are excluded altogether from the jurisdiction of the juvenile court in twelve States (except one county in one State), although, in one of these (California), this exception applies only to

children 18 years of age and over. Six States and the District of Columbia have withheld from the juvenile court jurisdiction over certain other of the more serious offences.

(c) *Other Jurisdiction.*

Practically all the States give the juvenile court jurisdiction over neglected children. Practice differs somewhat with reference to dependent children. In certain States — for example, Massachusetts — dependent children may be received for care by public agencies without court commitment, while in other States public care is given only on court commitment. It is the opinion of many social workers in the United States of America that children in need of care because of poverty alone should not come within the jurisdiction of the juvenile court.

Contributing to the delinquency or dependency of a child, including in some States offences closely allied thereto, such as neglect or abuse of child by parent or other custodian, is made a specific offence in the District of Columbia and in forty-three States. The juvenile court or the family court of juvenile jurisdiction hears cases of contributing to delinquence in sixteen States, parts of ten additional States and the District of Columbia. Non-support or desertion cases come within the jurisdiction of the juvenile court or the family court with juvenile jurisdiction in eight States and parts of nine others and the District of Columbia. In a few jurisdictions the juvenile court hears cases for the establishment of paternity and the support of children born out of wedlock, and in a small number it hears cases of annulment of marriage and divorce. Adoption jurisdiction is very infrequently given to juvenile courts. In a few States the juvenile court has power to commit mentally defective children to institutions.[1]

3. PROCEDURE.

(a) *Preliminary Processes.*

Statistics for ninety-three courts reporting statistical information in delinquency cases to the Children's Bureau in 1929 showed that 55 per cent of the delinquency cases were referred by the police, 9 per cent by parents or relatives, 16 per cent by other individuals, 11 per cent by school departments, 8 per cent by probation officers or social agencies, and 1 per cent by others. The proportion of delinquency cases in which arrests are made varies in different cities. Petitions or complaints alleging that the child comes within the jurisdiction of the court may be filed by any person having knowledge of the circumstances. In some courts the police file petitions in practically all cases in which an arrest is made ; in others, arrangements between the police and the court permit the court to use discretion as to whether or not a petition is filed. In some courts, an investigation is made before the petition is filed, to determine whether or not court action is needed. All juvenile court laws provide for some form of notice to the parents or other persons having custody of the child.

Opinions differ with reference to the extent to which the police should make investigations, assume responsibility for decisions as to whether or not court action is desirable and supervise unofficially children not brought to court.

In some communities, special police officers are detailed to work with juvenile courts. Where women's bureaux of police departments have been organised, their work concerns both children and women.

(b) *Detention.*

Although one of the main objects of the juvenile court movement was to remove children from jails and criminal courts, some children are still detained in jails and police-stations each year. In 1929, ninety-three courts reporting to the Children's Bureau reported 1,896 cases of

[1] "Analysis and Tabular Summary of State Laws relating to Jurisdiction in Children's Cases and Cases of Domestic Relations in the United States". United States Children's Bureau Chart I7, Washington, 1930

delinquent children, in a total of 46,312 delinquency cases, detained in jails or police-stations. Of these children, 168 were under the age of 14 years and 545 more under the age of 16 years.

In 56 per cent of the delinquency cases reported to the Children's Bureau in 1929, the children were not detained in detention homes, jails, or other places, but were allowed to remain in their own homes pending hearing, or their cases were disposed of on the day the complaint was made. Detention was not used to any extent in most of the smaller courts. In the larger courts, the practice varied considerably. A number of courts sometimes used boarding-homes for children who were not left in their own homes pending hearing, but the number of children thus cared for was very small, less than 1 per cent in 1929. Detention homes and other institutions were used in more than one-third of the delinquency cases in which place of care was reported.[1]

Aside from jail detention, the principal methods of temporary care used by juvenile courts are two — the detention home and the family boarding-home. The former is suitable only for communities in which there will be at least a few children requiring detention at all times of the year. The boarding-home plan is especially adapted to the needs of small cities and rural districts, though it is being used in some large cities, notably in Boston. Many detention homes fall short of generally accepted standards of physical equipment, personnel and programmes for occupying the time of the children in a wholesome way.[2]

(c) *Unofficial Adjustment of Cases.*

Juvenile courts receive many complaints which are regarded by some judges as not requiring formal judicial treatment or official determination of the status of the child. In six of the ten courts studied by the Children's Bureau in 1920-21, a considerable proportion of cases were adjusted without the filing of a petition or complaint. Great variation from court to court was found in the types of cases handled informally and the methods used. In Denver, in 1920, 72 per cent of the delinquency cases were adjusted without official court action ; in Seattle, 76 per cent ; in the District of Columbia, 45 per cent ; and, in San Francisco, 50 per cent.[3]

(d) *Social Investigation.*

Investigation prior to hearing of all official cases is not the rule in all children's courts. The investigations in some of the courts conform in general to the standards developed by family relief and child-caring agencies. In other courts they are not carefully planned or supervised.

In most of the family courts having juvenile jurisdiction included in the Children's Bureau study, all or practically all the juvenile cases were investigated. Sometimes investigations were not made in unofficial delinquency cases. The investigations varied from a few items entered on a small card to complete investigations reviewed by the chief probation officer or other supervisory officer. Juvenile cases were usually cleared with the social service exchange, though in some courts this practice was not followed as a matter of routine.[4]

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[1] "Juvenile Court Statistics, 1929 ". United States Children's Bureau Publication (in the press).

[2] " Juvenile Courts at Work ", pages 52-87. United States Children's Bureau Publication No. 141, Washington, 1925. — " Progressive Methods of Care of Children Pending Juvenile Court Hearing ", by Katharine F. Lenroot. Reprinted from *Hospital Social Service*, Vol 15. No. 1 (January 1927, page 46). — " Juvenile Detention Homes ", by William Healy, M D , and Augusta F Bronner, Ph.D. — " The Annals of the American Academy of Political and Social Science ", September 1930. — " Post-War Progress in Child Welfare ", page 180, Philadelphia, 1930.

[3] " Juvenile Courts at Work ", pages 109-111. United States Children's Bureau Publication No 141, Washington, 1925

[4] " The Child, the Family and the Court ", Part I, page 40 United States Children's Bureau Publication No 193, Washington, 1929.

(e) *Physical Examinations and Psychiatric and Psychological Study.*

It is not yet the general rule for children's courts to have provision for well-rounded study of all important cases, including social, physical and mental factors.[1] Few of the family courts having juvenile jurisdiction have made adequate provision for physical and mental examinations of either children or adults. Many of the courts utilise community child guidance or mental hygiene clinics, but these are usually able to accept only a limited number of juvenile court cases. Much information is being assembled and a technique developed which will be increasingly used in the future.

(f) *Hearings.*

The practice with reference to privacy of hearings varies from strictly private hearings in the judge's chambers, much of the time with not even the officers of the court present, to hearings in which the room is crowded with children and their parents, witnesses and others. Jury trials either in the juvenile court itself or on transfer to another court are permitted in twenty-two States and parts of two others and in the District of Columbia. Many of the laws provide specifically that the disposition of a child in the juvenile court shall not be lawful evidence against him in proceedings in another court.

The determination of the facts of the offence constitutes in most courts the least important part of the hearing. In some courts it is said that at least nine-tenths of the children admit the commission of the offence. The more important function of the judge is to determine whether the child is in need of protection or care, and to decide what treatment is best adapted to his needs.[2]

4 Measures taken and Resources available.

From eighty-nine courts reporting delinquency cases to the Children's Bureau in 1929, information concerning the disposition of the cases was obtained for 26,566 official boys' cases and 5,240 official girls' cases. In 23 per cent of the boys' cases and 21 per cent of the girls' cases, the case was dismissed or continued indefinitely. In 40 per cent of the boys' cases and the same per cent of the girls' cases, the child was placed on probation. In 14 per cent of the boys' cases and 27 per cent of the girls' cases, the child was placed in an institution; and 8 per cent of the boys' cases and 1 per cent of the girls' cases were disposed of through payment of restitution, fine or costs. In 7 per cent of the boys'cases and 11 per cent of the girls' cases, other dispositions were made.

Of the 14,754 official dependency and neglect cases for which the disposition was reported in 1929, 19 per cent were dismissed or continued indefinitely, 31 per cent placed under supervision, 49 per cent committed to a board, child-placing agency or institution, and 1 per cent disposed of otherwise.

The courts showed wide variations in the extent to which different types of dispositions were used, depending partly upon differences in policies and partly upon the resources available. For example, the extent to which cases are adjusted without official court action affects the proportion of official cases dismissed — where cases are weeded out before hearing, a small percentage are dismissed. Moreover, the percentage placed on probation is affected by the extent to which unofficial probation is used. The institutional facilities available affect the percentage of commitments to institutions.

The information received about some of the resources available to the courts dealing with children's cases is as follows :

In the Children's Bureau's study of ten juvenile courts it was found that the number of probation officers in most courts was recognised as inadequate. In all but two of the courts

[1] " Juvenile Courts at Work ", page 88. United States Children's Bureau Publication No 141, Washington, 1925.
[2] " Juvenile Courts at Work ", pages 123-136. United States Children's Bureau Publication No. 141, Washington, 1925.

emphasis was placed on the need of more adequate provision for delinquent children who did not require commitment to the State institutions available. For all but one court it was reported that State institutional provision for delinquent children seemed to be inadequate in one or more respects, such as overcrowding (which made proper segregation impossible), inadequate parole work, refusal of institutions to accept certain types of children, and location of a State institution too far from the city in which the court was located. Inadequate provision for the care of mental defectives created difficult problems in nearly all the courts.[1]

In the study of family courts, it was found that facilities for caring for children who had to be provided for outside their own homes usually were inadequate in some respects, as were the resources for constructive supervision of probationers at the disposal of most of the courts.[2]

Although the policy of special institutional care for juvenile delinquents, with the possible exception of those committing the most serious crimes, is generally accepted in this country, every State and many localities having established institutions for juvenile delinquents, there are still many boys and some girls under the age of 18 committed to prisons and reformatories for adults, jails and workhouses. The United States census of children under institutional care in 1923 showed that 7 per cent of those under 18 committed to institutions as delinquents during the first six months of the year were sent to prisons and reformatories, and 19 per cent to jails and workhouses. Some 200 children under 16 were committed to jails and workhouses to serve out sentences and not merely to await trial. Of the coloured children committed during this period, 51 per cent were sent to penal institutions. In the southern States, the percentages of children under 18 committed to jails and workhouses were very high. For example, in Georgia 65.5 per cent of all commitments of persons under 18 years were to jails and workhouses; in South Carolina, 39 per cent; in Texas, 30.1 per cent. No children were committed to this type of institution during the six-month period in New Hampshire or Vermont.[3]

With regard to probationary supervision, it was found in the study of ten juvenile courts made by the Children's Bureau in 1920-21 that failure to make definite plans for meeting the needs disclosed in each case was one of the most serious weaknesses in most of the courts studied. Periodic review of cases was somewhat more frequent, but in four of the courts supervision of case work consisted mainly in consultations with the chief probation officer or other supervisor when special difficulties arose, and other occasional conferences In several of the courts, the judge or the probation officers stated that much better results could be obtained if the officers had fewer cases under supervision.[4]

For twenty of the twenty-one courts with juvenile jurisdiction included in the Children's Bureau study of family courts, information was obtained concerning methods of probationary supervision in children's cases. In four of these courts little attempt was made to give intensive supervision. In only five of the twenty was fairly intensive case work done, including the formulation of a plan which was reviewed at intervals by the judge or a probation officer, frequent home visits, and enlistment of the co-operation of outside agencies to meet the needs of the children and their families. Some of the remaining courts with juvenile jurisdiction were doing the most thorough case work possible in view of the large number of cases under supervision of each probation officer. In nearly all the courts it was stated that the aim was to make home visits monthly, and some of them attempted to visit more often, but pressure of work prevented frequent visits in many instances.[5]

[1] "Juvenile Courts at Work", pages 159 and 160. United States Children's Bureau Publication No 141, Washington, 1925.

[2] "The Child, the Family and the Court", Part I, page 42. United States Children's Bureau Publication No. 193, Washington, 1929.

[3] "Children under Institutional Care, 1923", pages 303-308 United States Bureau of Census, Washington, 1927.

[4] "Juvenile Courts at Work", pages 188-191, 198 United States Children's Bureau Publication No. 141, Washington, 1925

[5] "The Child, the Family and the Court", Part I, pages 34-44. United States Children's Bureau Publication No 193, Washington, 1929.

The information relating to the standards of institutional and foster-home care for delinquent children will be introduced in the report on institutions for erring or delinquent minors in all countries, which will be published subsequently by the Secretariat of the League of Nations, with the collaboration of the International Prison Commission.

France

REPORT FORWARDED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

This matter forms the subject of the Law on Children's and Young Person's Courts and on Probation, of July 22nd, 1912 — amended by the Laws of March 24th, 1921, and March 26th, 1927 — and by the Decree of August 31st, 1913 — amended by that of February 15th, 1930 — which came into force on March 5th, 1914, and the Decree of January 15th, 1929. This law is mainly noteworthy for three innovations : provisions relating to children under 13, special examining magistrates and courts, and free supervision. The law further affects all the provisions of the Penal Code concerning offenders who are under 18 years and who, by reason of their age, are presumed to be irresponsible.

II.

1. Organisation.

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. In courts which have several divisions, the President decides which division shall deal with cases concerning children under 13.

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 courts sit specially as " children's and young persons' courts ". Where courts have several divisions such cases are assigned to a special division. Appeals are heard by the Court of Appeal at special sittings held in the same way as for the first hearing.

Cases are never brought directly before children's and young persons' courts, but are always referred to them by the examining magistrate or by the chamber for examining charges. Where a court has several examining magistrates, one of these deals specially with charges against persons under 18 years.

Thus, as regards the examination and the hearing, persons under 18 come before special magistrates with particular experience of young offenders' problems and the methods of dealing therewith.

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[1] In the first edition of the document, this report was reprinted as submitted to the Commission by M. André Danjoy, first delegate of the French Government, and published in the Commission's *Bulletin* for 1927. In the second edition, certain changes have been made as suggested by M. A. Mossé, the present representative on the Commission, and an addendum inserted at the end of the report.

2. Competency.

The civil tribunal sitting in council chamber hears cases of children under 13 who have committed a crime, a misdemeanour or minor offence not being a first offence (minor offences come before the *juge de paix* sitting in chambers as a police magistrate in the presence of the parents or guardian). The courts having jurisdiction are those of the place where the offence was committed, or where the parents or guardian reside or where the child was found; the first and last of these may, if need be, send the case before the court of the parents' or guardian's residence.

Children's and young persons' courts have jurisdiction over children between 13 and 16 years who have committed a crime or misdemeanour and young persons between 16 and 18 who have committed a misdemeanour. 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.

The children's and young persons' court intervenes only when the child has committed a punishable offence. Other signs of perversion are dealt with by the parents; but, in serious cases, the father may apply to the President of the civil court, who will issue a warrant of arrest against the child (Article 375 *et seq.* of the Civil Code). The child is then kept in a special part of the house of detention for a period not exceeding one month in the case of children under 16, and six months in the case of those between the ages of 16 and 21.

3. Procedure.

Where a crime or misdemeanour is committed by a child under 13 years, the Public Prosecutor informs the examining magistrate, who may take measures either for placing the child provisionally with a person of good repute, a charitable institution recognised by the State or appointed by decree of a prefect, or with the public relief authorities, or for having him kept in a hospital or institution or such other place as he may appoint, at the seat of the court. The magistrate must inform the parents or guardian without delay. For the prevention of crime only, the child may be kept in the house of detention separately from the other inmates.

The magistrate informs the President of the Committee for the Legal Defence of Young Offenders. He appoints counsel for the accused. The examination relates, not only to the offence with which the child is charged, but also to the material and moral situation of his family, his character and antecedents, the conditions in which he has lived and been brought up, and the measures suitable for his reform; the enquiry is completed, if necessary, by a medical examination. The examining magistrate may entrust the non-legal part of the enquiry to a rapporteur chosen from the list drawn up by the court sitting in council chamber. The rapporteur proceeds to the investigations referred to and makes a report to the examining magistrate.

If the examination does not warrant a dismissal of the case, the magistrate forwards the papers to the Public Prosecutor and commits the young person for trial before the court sitting in council chamber. The court, before its decision, hears the child, the witnesses, parents and guardian, the rapporteur if any, the Public Prosecutor and the defence. The hearings are not public, but with the approval of the court the representatives of welfare and other charitable institutions dealing with children may be present. The decision and the reasons on which it is based are read in public. Within ten days, the young person, his counsel, the father and mother, the guardian and the Public Prosecutor are informed of the decision.

The decisions of the court sitting in council chamber are subject to appeal. Procedure in the Court of Appeal is the same as in the court of first instance. The sentence is suspended pending appeal unless otherwise ordered.

The Public Prosecutor is instructed to see the decisions of the court carried out.

In children's and young persons' courts having jurisdiction to try persons between 13 and 18 years of age, the examination is the same as before the court sitting in council chamber. The case may not, however, be handed over to a rapporteur in the sense mentioned above. The examining judge, after hearing the prosecution, may order the young person to be handed over to his family, a relation, a responsible person, a charitable institution recognised by the State or appointed by a decree of the prefect, or to the public relief authorities. This order may always be withdrawn. It remains in force until the dismissal of the case after examination, or, if the accused be committed for trial, until the final judgment. If the child is left provisionally with his family, a relation or a private individual, the magistrate may provide for supervision by a person of good repute. If the order of the examining magistrate be appealed against, the court sitting in council chamber decides.

Children's and young persons' courts try each case separately without other accused being present. Publicity is limited, and the publication of an account of the proceedings and of the portrait of accused or illustrations concerning the acts with which he is charged is forbidden. The judgment or order is delivered at a public sitting and may be published; but the name of the young person may only be indicated by an initial. All these rules help to preserve young persons from the moral dangers of contact and example.

4. Measures to be taken.

The decisions of the court sitting in council chamber with regard to children of 13 years have, as a rule, no penal consequences, for they are taken without the question of due understanding being raised. The measures that the court sitting in council chamber may order are: (1) handing the child back to his family; (2) placing him till his majority either with a person of good repute or in a suitable institution or boarding establishment, or in an establishment for abnormal persons or a charitable institution recognised by the State or appointed by decree of the prefect; (3) handing over to the public relief authority.

If the young person is handed back to his family or to an individual or charitable institution, the council chamber may place him under the supervision of a probation officer (see below). The chamber decides what part, if any, of the cost of maintenance and placing shall be paid by the family. These expenses are recovered as criminal law costs.

If the child is placed outside his family, the parents or guardian may, after not less than one year, request that the child be returned to them, on the ground of his improvement and of their capacity to train him. The council chamber may at any time, on its own initiative, or on the application of the Public Prosecutor or at the request of the child, give a reasoned decision ordering the child to be sent back to his family or modifying the terms of his placing out, subject to appeal to council chamber of the Court of Appeal.

When a child of 13 years commits a minor offence, the *juge de paix*, sitting as a police magistrate, reprimands the child or the parents and warns them of the consequences of a second offence; this reprimand is entered in a special register.

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; in such case, the President explains to the young person and to his parents, curator or guardian the nature and purpose of the measure ordered. This form of probation causes suspension of proceedings, but the actual liability to proceedings continues until the person in

question attains his majority. The final decision depends on the results of the text, and the signs of repentance and improvement shown by the young person during the suspension of proceedings.

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. In the case of a simple misdemeanour, the punishment may not exceed half that to which the offender would have been liable if he had been of full age. In the case of a crime, the amount of the reduction varies. 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 parents, to an individual or to a charitable institution, or be sent to a supervised educational establishment to be educated, and kept there for a number of years specified in the decision, but not after attaining 21 years ; during this time, the court may modify its decision. If the young person is handed over to his parents, to an individual or to a charitable institution, he may further be put on probation for a period to be determined by the court, at the end of which period the court, on the application of the Public Prosecutor, will again give a decision. Even when probation is only additional to the final decision, the order may be revoked in case of misconduct or moral danger, or where supervision is systematically hindered.

The measures are thus the same as for children of 13 years, save for handing over to the public relief authorities. In addition, there is the placing in a supervised educational establishment. These measures already existed under former legislation, but the Law of 1912 completed them by providing for probation with a view to placing the young offender under constant control and holding him at the disposal of the court. This supervision is of a two-fold nature ; it may be additional to a final decision (if such decision is not the handing over to the public relief authorities or sending to a supervised educational establishment) — *i.e.*, a mere guarantee for the system of placing the child out ; or it may be an independent but entirely provisional measure leading to a further judgment.

The organisation is the same in both cases. Supervision is carried out by a probation officer appointed in the judgment A list is drawn up beforehand of probation officers selected preferably from members of welfare societies, committees for the defence of young offenders and charitable institutions approved by the court. During the period fixed, the officer visits the young person on probation as often as necessary ; he takes note of the child's conduct and work, looks into the material and moral conditions to which he is subject, and sees that the persons in charge of him are in every way worthy of the confidence placed in them. The probation officer keeps in touch with the President of the children's and young persons' court, to whom he sends reports on his work. The measure may be revoked ; in the cases mentioned above, the President of the court may have the young person and the persons in charge of him summoned to a future sitting for the court to take a further decision.

If the court decides that the young person acted with due understanding, no special measures are adopted within the scope of this enquiry, but the penalty imposed by law is reduced.

III.

The results of the Law of 1912 are seen when we compare statistics before and after its coming into force. In the following table, the average figures from 1909 to 1913 are compared with those from 1920 to 1925.[1]

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[1] During the war, no statistics were compiled ; for 1919, figures are not yet complete and are exceptionally high, the influence of the war being still much felt In order to assist comparison, the figures given do not include Alsace and Lorraine.

Accused	Number		Per cent	
	1911 to 1913[1]	1920 to 1925	1911 to 1913[1]	1920 to 1925
Children of 13 years	3,732	2,354	15.3	11 3
Children from 13 to 16 years	8,004	7,537	33.0	36.3
Young persons from 16 to 18 years	12,590	10,882	51.7	52.4
Total	24,326	20,773	100	100

The percentage of girls was 14 from 1909 to 1913 and between 16 and 17 from 1920 to 1925.

Of the above cases	Number		Per cent	
	1909 to 1913	1920 to 1925	1909 to 1913	1920 to 1925
No proceedings taken	8,091	5,107	33.5	24.6
Cases dismissed	2,660	1,709	11.0	8.2
Cases decided by court	13,430	13,962	55.5	67.2
Total	24,181	20,778	100	100

The diminution is considerable as regards cases where no proceedings were taken and cases dismissed, but the number of cases decided by court has slightly increased. This is due to the fact that, since 1912, all crimes committed by young persons of 16 are tried by courts of first instance, whereas formerly a certain number came before assizes, and do not appear in these statistics. Thus, since the better organisation of the jurisdiction over young persons, public prosecutors and examining magistrates are less reluctant to send cases for trial. Under the former law, they endeavoured, as far as possible, to save young persons from appearing in a criminal court, by abstaining from further proceedings or by dismissing cases, sometimes on a very extensive scale.

[1] The special heading for children of 13 years was not made till 1911 The statistics are therefore those from 1911 to 1913, and the total differs from that of statistics for 1909 to 1913

Of young persons taken to court, there were:	Number		Percentage	
	1909 to 1913	1920 to 1925	1909 to 1913	1920 to 1925
Unreserved acquittals	735	845	5.5	6.0
Acquitted as having acted without due understanding :				
Handed over to parents.	3,718	4,636	27.7	33.1
Sent to an individual or a charitable institution	479	1,881	3.5	13.5
Handed over to the public relief authority	607	131	4.5	1.0
Placed in a reformatory.	1,748	1,098	13.0	7.9
Sentenced to imprisonment or a fine . .	6,143	5,371	45.8	38.5
Total	13,430	13,962	100	100

The proportion of acquittals has hardly changed. The number of sentences has decreased as compared with educational measures. Handing over to the public relief authorities is much less frequent because it was limited to children of 13 years. Whereas sending to a supervised educational establishment (a measure no longer applicable in the case of children under 13) has become a less frequent practice of the courts, the system of handing back the children to their parents is on the increase ; while the proportion of offenders sent to an individual or to a charitable institution has increased four-fold. Since 1912, these two last measures may be combined with probation ; this is ordered in 20 per cent of cases handed back to parents and in 68 per cent of those handed over to an individual or a charitable institution. Public prosecutors state that the system of probation cannot be applied by courts as often as would be desirable, owing to the difficulty in finding officers to act as supervisors. For the same reason, putting on probation as a provisional measure has not been as successful as had been hoped. Owing to the lack of properly qualified probation officers, magistrates prefer to give a definite decision at the outset. Thus, in 1920, the measure was applied to 8 per cent of children committed for trial ; but the proportion gradually fell to 4 per cent in 1925.

Speaking generally, and in spite of this reservation, the Law of 1912 — owing to the latitude allowed to the courts to judge more liberally the responsibilities of the children brought before them, and the possibility of varying the punishment according to the possibilities of reform — marks a considerable improvement on former legislation and has given satisfactory results which are to be seen, as a whole, in the reduction of juvenile criminality.

United Kingdom of Great Britain and Northern Ireland

REPORT SUBMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

The Children Act of 1908 deals with the protection of children under 14 and of young persons from 14 to 16 and also with juvenile delinquents. Article 111 provides for the setting up of juvenile courts. The existing legislation is the same for England and Scotland, but the question of its revision has been examined separately in the two countries.

II.

1. Organisation.

The courts of summary jurisdiction which decide cases concerning children or young persons are constituted as juvenile courts. As such, they sit in different buildings or premises in London and other large towns, but in other places they sit on different days or at different times from the ordinary courts, arrangements being made to prevent contact between the young delinquents and adult offenders. In London, the juvenile courts consist of a president (a stipendiary magistrate) who is assisted by two justices of the peace, one of whom must be a woman. All three are chosen for their special experience and for the genuine interest which they take in problems affecting young people The courts are assisted by a clerk, who is also specially chosen. Outside London, the organisation is similar, though, as a rule, the court is presided over by justices and not by stipendiary magistrates. Increasing interest is being shown in the work of the juvenile courts both by men and women justices.

2. Competency.

The juvenile courts deal with children and young persons *(a)* who need protection (vagrant or neglected children, children of criminal or drunken parents, those who are in moral or social danger or who are beyond the control of their parents, etc.); *(b)* children and young persons who have committed offences or crimes, with the exception of murder or attempted murder or certain grave crimes outside the competency of a court of first instance; *(c)* cases of adoption or guardianship (see Adoption Act, 1926, and Guardianship of Infants Act, 1926).

3. Procedure.

In the case of children and young persons, the enquiry is not confined to the offence committed, but extends to the previous conduct and character of the young person, his environment and progress at school. The court usually obtains this information through a probation officer, who submits a report on these matters, or from a report made by an officer of the education authority. If the offence appears to have been partly due to some physical or mental abnormality, the enquiry may be supplemented by a medical examination. During the enquiry, the young person may either remain at home or be kept in a place of detention

[1] In the first edition, this report was printed in the form in which it had been submitted to the Commission by the British Government delegates, Sir Maurice Waller and Lord Polwarth, and published in the Commission's *Bulletin* for 1927 with certain changes mentioned at the end. In the second edition, the addendum has been amplified.

(see below). In a few rare cases, on the production of a special certificate to the effect that their difficult character renders other measures inadequate, adolescents from 14 to 16 may be detained in prison pending enquiry.

The court does not sit in public; access is allowed to the parents or guardians and to voluntary workers interested in the delinquent, to the probation officer and to the representative of the local education authority, who report on the previous history of the delinquent. Representatives of the Press are not excluded, but an agreement has been made with the newspapers that the names and addresses of the delinquents shall not be published. The police-officers present do not usually wear uniform.

Children — with the exception of the actual delinquent — are excluded from all courts of justice, except in cases where their presence is required as witnesses or for some other reason. The juvenile courts do not give a decision at the first hearing, except in cases of very slight offences; as a rule, the child is remanded for a week, or longer if necessary, until sufficient information has been obtained for a satisfactory decision.

4. Measures to be taken.

In the main, the ordinary methods of treatment applied to adults are not applied to children or young people.

In place of the ordinary penalties, the juvenile court may apply a number of special measures, several of which are of an essentially educational character.

Imprisonment is not allowed in the case of children; and, in the case of young persons, it is only allowed on production of a special certificate to the effect that their difficult character renders other measures inadequate (these exceptions are very rare); it is replaced by the measures indicated below, and, in particular, those mentioned under *(b)*, *(d)* and *(e)*.

The measures in question are as follows:

(a) Dismissal with a caution or with the obligation to reappear before the court;

(b) Placing on probation;

(c) Handing over to a relative or other person fitted to bring up the child;

(d) Placing in an industrial school to which only children under 14 are admitted and where they can remain until they are 16;

*(e)** Placing in a reformatory for not less than three nor more than five years. Young persons under 16 are admitted, but may not be detained after the age of 19;

*(f)** The penalty of whipping;

*(g)** A fine and damages;

(h) A security to be furnished by the parents;

*(i)** Detention in a place of detention for not more than one month

Whipping and detention are now infrequently resorted to.

The measures marked with an asterisk entail convictions, while the others do not. Treatment in reformatories, although consequent on conviction, is to-day of a purely educational character and differs very little from that which the children undergo in industrial schools; the latter are mainly used for younger children and also serve as homes for neglected and vagrant children. These two kinds of establishments are known as "Home Office schools" and are certified by the Home Office, which in 1923 drew up model regulations for them both.

In the rare cases of murder committed by young persons, the death penalty is replaced by detention (for an indeterminate period) in some establishment specially designated by

the Home Secretary. The Home Secretary may release such offenders at any time, imposing such conditions as he thinks fit. As cases of the above nature are very infrequent, no special establishment has been provided; the young person is sent to a reformatory or, if too old for a school, he is sent to a suitable penal establishment.

III.

Experience shows that the juvenile courts, assisted by the probation system and by training schools, have not failed in their purpose, which is to combat criminality by means of education. Instead of punishing the young offenders, active efforts are made to convert them into good citizens.

Generally speaking, the two most successful methods employed in dealing with young offenders are supervision in the home (probation system) and residential schools (Home Office schools). In recent years, these two branches of reformative effort have worked in close co-operation. If the home surroundings of the child are not unfavourable, probation is usually effective. Where, however, the home influences are adverse, a period of training in a school is found necessary. Both systems are supervised by the central authority (Home Office for England and Wales, and for Scotland the Scottish Office).

* * *

Addendum. — At the request of Mr. A. Paterson and Lord Polwarth, the representatives of the British Government on the Commission, the report has been revised by Miss J. I. Wall, Inspector of Reformatory and Industrial Schools, Home Office.

Attention is now drawn also to the Children's Act of 1933.

Greece

REPORT DRAWN UP ACCORDING TO INFORMATION SUPPLIED BY THE GREEK GOVERNMENT, SUPPLEMENTED BY THE DATA FORWARDED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

The question of the setting up of special courts for juvenile offenders has been temporarily settled through the administrative channel by the Minister of Justice who, by circular of December 23rd, 1924, addressed to the judicial authorities, issued provisional regulations providing for a certain degree of specialisation on the part of magistrates and of the procedure to be followed in criminal cases in which minors are involved.[2]

Subsequently, on July 7th, 1931, a new Law, No. 5098, on Juvenile Courts was promulgated. It should have come into force in 1932, but its entry into force has so far been adjourned.

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[1] This report has been reprinted as it appeared in the first edition, except for the information regarding postponement of the entry into force of Law No. 5098

[2] The principal points in these regulations have been indicated in a report submitted to the International Penal and Penitentiary Commission by the delegate of the Greek Government, M. P Scouriotis, and published in the Commission's *Bulletin*, new series, No. 3, December 1927, pages 55 and following.

II.

1. Organisation.

Every three years the Minister of Justice, after having consulted each court of first instance at a plenary meeting thereof, appoints one of the magistrates of such court to be a " children's magistrate ". After the expiry of three years, the same magistrate may be re-elected ; children's magistrates retain their title and functions when promoted to be President of the court or adviser to the Court of Appeal. The Minister of Justice may also choose legal experts who have made a special study of juvenile psychology and delinquency and appoint them children's magistrates ; these magistrates are treated on the same footing as magistrates of courts of first instance and form part of the ordinary judiciary.

The principle of having one judge only has been adopted, and the same judge is therefore entrusted both with the preliminary investigation and with the duty of giving judgment. A representative of the Public Prosecutor is specially appointed to act in such cases.

2. Competency.

The children's magistrate is competent to deal with four categories of minors :

(a) Minors under 16 at the time the act was committed ;

(b) Minors charged with wandering or begging and those minors under 18 who live an irregular life likely to lead to criminality or immorality ;

(c) Girls under 18 who engage in prostitution ;

(d) Minors under 18, in cases where settlement by " family adjustment " can be applied.

The new law makes 12 years the age below which minors incur no criminal responsibility when they commit an offence.

3. Procedure.

The enquiry covers not only the acts with which the minor is charged before the juvenile court, but also the character and previous history of the minor, the surroundings in which he has lived and been brought up, his material and moral environment and that of his family. The law authorises the children's magistrate to apply for information to representatives of children's protection or welfare societies. The latter may apply to the doctor and teaching staff of the school attended by the child. These auxiliary services may suggest to the judge any measures which seem best calculated to ensure the moral and physical reformation of the child.

During the enquiry, the magistrate may place the minor under the responsible supervision of his parents or hand him over provisionally to a trustworthy private prison, while in every case appointing a representative to follow closely the life of the child ; in more serious cases, the minor may be detained in a home for delinquent children.

The sittings of juvenile courts are not public ; the hearing takes place behind closed doors. Representatives of child welfare societies and members of the Bar may be present. The minor is always allowed counsel to defend him, the child welfare societies defending him when he has chosen no counsel. The parents or the persons in charge of the child may, during the hearing, make any suggestions and supply any information regarding the general circumstances of the child's life.

As regards minors between 12 and 16, the question whether they acted with due understanding is always first raised.

4. Measures to be taken.

If the minor between 12 and 16 is found to have committed an offence without due understanding, or if the act with which he is charged is relatively trivial, and especially if the minor is not in danger of becoming morally neglected, the magistrate may merely reprimand him and hand him over to his parents or guardians; or, if the latter are not in a position to fulfil their duties with regard to him, may place him in a trustworthy family, hand him over to a child welfare society or place him in a public or private charitable institution. These measures can always be revoked, and automatically cease to be operative upon the minor reaching the age of 21.

The same educative measures may be applied to children under 12, who are regarded as not responsible, and are treated in every way on the same footing as children between 12 and 16 who have committed an offence without knowing that it was wrong.

If a minor of over 12 but under 16 is charged with committing an offence with due understanding, he may be sentenced to detention in a special reformatory for minors. The period of detention may not be less than six months or more than ten years. If, however, the act would, in the case of an adult, involve the death penalty or penal servitude for life, the minimum period of detention is five years and the maximum twenty years. The minor may be placed outside the institution for a trial period.

If the magistrate considers that a psychiatrical or medical examination is indicated, he appoints one or more experts. Defectives, backward children and, in general, all mentally abnormal minors are placed in suitable institutions.

Suspension of sentence and conditional release may be applied to minors. They may be accorded by the management of the institution or by a special commission, the composition and competence of which will be defined in a subsequent decree. During the period of suspension of sentence, the magistrate may order educative measures.

All such minors who are not placed in a State institution or have left such institution are subject to the system of probation, the period of which is fixed by the magistrate. The period cannot, however, be extended beyond the age of 21. Supervision is exercised through the representatives of the child welfare institutions, who keep in constant touch with the minors. These representatives submit a report to the magistrate every month on the conduct and condition of the minor, and, if necessary, indicate any change which they consider should be made in his treatment.

III.

The experience gained from the application of the 1924 provisional regulations has been utilised in drafting the new law, and it is therefore to be hoped that the putting into operation of the latter in the near future will give satisfactory results.

Hungary

REPORT FORWARDED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

The organisation of juvenile courts and the criminal procedure in regard to them are laid down in Law VII of 1913. Law XXXVI of 1908 had already prescribed certain rules of criminal law to apply to persons under age.

[1] In the first edition of the document, this report was reprinted as submitted to the Commission by Dr. Ph. Rottenbiller, the delegate of the Hungarian Government, and published in the Commission's *Bulletin* for 1927. In the second edition, an addendum has been inserted at the end of the report

II.

1. Organisation.

All courts administering the criminal law, including police courts with a fairly wide radius of jurisdiction, are bound to set up a special division for children's and young persons' cases. There is also a special Public Prosecutor for persons under age. The Minister of Justice appoints one or more " protectors " of both sexes, possessing a certain experience in the matter, to apply the protective (welfare) measures indicated by the judge.

2. Competency.

As a rule, all offences committed by children (under 12 years) or by young persons (from 12 to 18) are tried by children's courts. Only crimes committed by young persons over 15 and punishable by death or penal servitude, together with offences committed through the Press, come before the ordinary courts — *i.e.*, sitting with a jury.

Offences committed by a person in childhood which are only tried at the same time as crimes committed by that person when an adult come before the ordinary courts. The same applies to offences connected with crimes committed by an adult, but only if the children's judge consents. Otherwise, the trials are taken separately and the child comes before the juvenile court.

The juvenile court also deals with children or young persons who have not committed offences, but who appear to be of unsatisfactory moral character, and with the neglect of such children by parents or guardians, and offences committed against such children.

3. Procedure.

Proceedings begin with a preliminary enquiry by the judge, assisted by the official protectors, on the proposals (if any) of the Public Prosecutor. The enquiry relates, not only to the act committed, but also to the individuality of the child, his age, and surroundings, the life he is leading and his degree of intellectual and moral development.

During proceedings, the judge may order various measures of protection to replace remand in custody as far as possible. The latter is permitted only in case of strict necessity, and then the child is kept separate from adult offenders. The provisional measures are : appointment of a special protector, separation of the child from its customary surroundings, and placing with a trustworthy person or temporarily in special institution ; such procedure is called " welfare".

When the preliminary enquiry is complete, the Public Prosecutor proposes that the prosecution should continue or be abandoned ; a dismissal of the case does not prevent the court from ordering educational measures. The child is questioned by the court and the decision is taken either after a formal hearing or without a hearing. In the latter case, the judge does not find the child guilty or pronounce sentence but merely orders educational measures. Formal proceedings, on the other hand, when the facts have been established, may end in the infliction of punishment as well as in educational measures.

All decisions are subject to appeal on points of fact within certain limits, as well as on points of law. A special division of the court hears appeals, and cassation appeals are taken by a special division of the Court of Appeal. The Public Prosecutor may appeal in cassation where essential principles of law have been violated ; the protector or legal representative of the child may do so if the court orders the child to be sent to a house of correction, local prison, or State prison.

4. MEASURES TO BE TAKEN.

Juvenile courts may order :

(a) Educational measures :
Punishment at home or at school ;
Placing on probation ;
Supervision at home or in an institution ;
Detention under arrest from three to twelve hours ;
House of correction.

(b) Sentences :
Reprimand ;
Fine ;
Judicial supervision ;
Detention ;
State prison *(custodia honesta)* from one day to two years ;
Imprisonment from fifteen days to fifteen years.

The object being the reform of the child, the seriousness of the offence committed is not the decisive factor which determines the measure adopted, but rather the individuality of the accused, his degree of intellectual and moral development, the conditions of life, and other similar considerations. Sentences of deprivation of liberty are served in special children's prisons. Imprisonment is the last resort in cases where the offence committed by the child shows serious depravity or a special obstinacy of a character which necessitates rigorous intervention by the State.

III.

The provisions of the Law on Juvenile Courts have had good results, as is shown by a reduction in crime and in the number of second offences amongst children, in spite of the temporary increase due to exceptional circumstances prevailing during and after the war. This is demonstrated by the following statistics of cases brought before the juvenile court at Budapest :

Year	Number of cases	Year	Number of cases
1914	4,749	1924	4,252
1915	6,067	1925	3,907
1916	7,347	1926	3,418
1917	9,669	1927	3,536
1918	9,353	1928	3,819
1919	4,720	1929	4,139
1920	6,542	1930	4,541
1921	5,598	1931	4,566
1922	4,793	1932	4,069
1923	5,622	1933	4,122
		1934	4,604

Unfortunately, owing to the war, the revolutions and the burdens imposed by the Peace Treaty, the State has not sufficient funds to establish and maintain the necessary institutions for putting the provisions of the law into practice.

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Addendum. — For the second edition of the document, the competent authorities have added to the report as published in 1927 and 1932 the figures for 1927 to 1934 taken from the last official statistics published.

British India

REPORT TRANSMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

There are special juvenile courts in the towns of Madras, Bombay and Calcutta ; another is to be set up at Nagpur. Special laws concerning the arrest and treatment of delinquents under 21 are in force in Madras, Bombay, Bengal, Burma, the Punjab and the Central Provinces but have not yet been introduced elsewhere. The following particulars therefore apply solely to the above-named provinces.

II.

1 and 2. Organisation and Competency.

The towns of Madras, Bombay and Calcutta have appointed special magistrates to try juvenile delinquents ; each case is dealt with by a magistrate sitting alone. These magistrates are empowered to deal with any offence committed by a child under 16 ; they are also allowed to intervene whenever a child below that age has no fixed home, is obliged to earn his own living or keeps bad company. Protective measures may be applied under these conditions even in provinces which do not possess any juvenile courts.

3. Procedure [2]

4. Measures to be taken.

As a rule, these children are placed in " special schools ", sub-divided into two grades according to the age of the inmates. Children under 14 are given general education only ; those from 14 to 16 are taught a trade.

The probation system has been introduced for the purpose of keeping young people out of prison as long as there is a chance of reforming them by other means. Delinquent children may be entrusted either to their parents or to other persons, under the supervision of certain welfare officers to whom this task is specially assigned.

Adolescents between 16 and 21 who have committed misdemeanours are sent to Borstal institutions, from which they may be released on probation after two years.

III.

All these provisions are too recent to make it possible for us to say anything about the results. When introducing modern institutions in India, precipitancy has to be avoided, because in most cases the authorities are dealing with people much below the level of European civilisation.

Addenda. — During the past four years, there has been considerable advance in the methods of dealing with juvenile crime.

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[1] This report, which has been reprinted in the form in which it was submitted to the Commission by the Government delegate for British India, Lt.-Col. W. J. Powell, and published in the Commission's *Bulletin* in 1927, has been supplemented by a communication from the author in the form of *addenda*

[2] The report contains no special indication with regard to Procedure.

Acts concerning children have been passed and are in working order in Madras, Bengal and Bombay. In the Central Provinces, the Act is not yet working, though passed three years ago.

In Madras, children's courts with specially trained magistrates are working in many centres. Junior and senior certified schools have been established to receive young persons sentenced by these courts. In the city of Bombay, the Act is being fully worked, and a special institution with a lady in charge has been receiving young persons for some years.

In the Central Provinces and elsewhere, special magistrates have been appointed to try cases brought against young persons.

Acts concerning children differ from ordinary penal laws, in that young persons can be arrested and brought before tribunals without any specific crime having been committed. It is sufficient to prove that they have no fixed home, are keeping bad company and are probably graduating in crime to secure a conviction and retention in a certified school for a period of years.

For children and adolescents between 16 and 21 years of age, all provinces have now Borstal institutions or juvenile gaols run on Borstal lines. In these institutions, the minimum sentence is two years, and sentences of five years are common. Here trades can be adequately taught and very hopeful results are being obtained. In dealing with young persons who have been sentenced to periods in certified schools and Borstal institutions, some sort of after-care association is necessary to look after them after release. Particularly in Madras, considerable progress has been made in this respect.

Italy

REPORT TRANSMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

In Italy, the movement for the prevention and punishment of juvenile crime recently resulted in the promulgation of Royal Decree No. 1404, of July 20th, 1934, which became law on May 27th, 1935, under No. 835.

Under Law No. 2277, of December 10th, 1925, amended by Law No. 239, of January 5th, 1928, a powerful State organ — the National Mothers' and Children's Protection Society— was set up. This organ co-ordinates and regulates the work of the various child welfare institutions and associations already in existence and also protects and assists minors under 18 who are physically or mentally abnormal, materially or morally neglected, who are erring or show criminal tendencies (Article 4 of the above-mentioned Law of 1925 and Article 122 of the relevant Regulations No. 718, of May 15th, 1926).

The preventive and protective measures instituted by the above-mentioned law, in the execution of which the magistrates play an important part as members either of the communal welfare committees (comités de patronage) or of the governing bodies of the provincial federations, logically required to be supplemented by similar measures in the domain of criminal law and procedure.

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[1] In the first edition, a revised report taking into account the changes that had occurred in the law since the publication of the report in the Commission's *Bulletin* for 1927 was submitted to the Commission by the Italian Government delegate, Professor U. Conti. In the second edition, owing to further changes in the law, this text has been replaced by the present report prepared by M Conti and submitted by M G Novelli, delegates to the Commission

These measures had already been adopted under the new Penal Code and the new Code of Criminal Procedure, and previously under Circular No. 2236, of September 24th, 1929, introduced by Professor Alfredo Rocco, Minister of Justice and Keeper of the Seals, which provided for the Institution in certain towns of special courts to try cases in which minors under 18 are involved. Later, by the above-mentioned Royal Decree No. 1404, of July 20th, 1934, the regulations for these juvenile courts were unified and completed. A Royal Decree was afterwards published on September 20th, 1934, concerning rules for application and interim measures relating to Royal Decree No. 1404, of July 20th, 1934.

The new legislation concerning minors came into force on October 29th, 1934. The provisions of the Penal Code, the Code of Criminal Procedure, and the laws and regulations in force continue to be observed, unless modified by the new law or unless otherwise provided therein.

II.

1. Organisation.

Wherever there is a court of appeal or division sitting as a court of appeal, a juvenile court is set up consisting of a law officer having the rank of counsellor of the court of appeal as president, a law officer having the rank of judge and a citizen with long experience in social assistance, chosen from among experts in biology, psychiatry, criminology and education.

The juvenile court has jurisdiction over the whole area of the court of appeal or division thereof in which it is situated.

Attached to each juvenile court is an independent section of the Public Prosecutor's Office, under the direction of a law officer holding the rank of Deputy Procurator Royal or Deputy Procurator-General to a court of appeal.

The Procurator Royal attached to a juvenile court is responsible for instituting and maintaining criminal prosecutions for all offences committed by minors under 18 in the area of the court of appeal or division thereof in which the juvenile court is situated ; all reports, whether general or technical, complaints, informations, procedural acts and petitions concerning offences committed by minors under 18 are communicated to him.

The Procurator Royal also possesses, in all matters coming within the competence of the juvenile court, all the powers conferred by law on a Public Prosecutor's Office attached to an ordinary court of law.

On appeal from decisions in the juvenile court, when such appeal is allowed by law, the case is heard by a division of the court of appeal, which is specified at the beginning of the judicial year by the Royal Decree approving the cause lists (tabelle giudiziarie).

The division sits with the addition of a private citizen having the same qualifications as those stipulated for the private members of the juvenile court. This member takes the place of one of the regular law officers of the division.

In so far as the exigencies of the service permit, the president and members of the division are law officers who have already served in juvenile courts.

The private members of the juvenile court and of the division of the court of appeal for minors are appointed by Royal Decree on the proposal of the Minister of Justice and Keeper of the Seals. They bear the title respectively of justice in the juvenile court or counsellor of the division of the court of appeal for minors.

Before assuming office, they take the oath before the first President of the court of appeal.

They are appointed for a period of three years, on the expiry of which their term of office may be renewed.

In case of need, one or more substitutes are appointed.

No remuneration attaches to the office.

The functions of supervisory judge and counsellor delegate for minors are exercised by one of the ordinary members of the juvenile court or of the division of the court of appeal for minors.

The functions of the justice appointed as guardian of war orphans, as prescribed by Law No. 1397, of July 26th, 1929, on the institution of the National Society for War Orphans, are exercised by a law officer who is an ordinary member of the juvenile court, appointed at the beginning of each judicial year by the first President of the court of appeal.

The President and Procurator Royal of the juvenile court are *ipso facto* members of the Welfare Committee attached to the central tribunal of the court of appeal or division thereof.

In every locality where there is a court of appeal or division thereof, there exists, in one single building, a reformatory, a rehabilitation institution for minors, a prison for minors and an observation centre for minors, organised by the National Mothers' and Children's Protection Society.

These institutions as a whole are known as the " minors' rehabilitation centre ".

The juvenile court and the division of the court of appeal for minors sit in the same building.

In various establishments or different parts of the same establishment, provision is made for the rehabilitation of homogeneous groups of minors graded according to age, physical condition and intelligence.

These rehabilitation institutions for minors and reformatories are organised with a view to adapting the systems of rehabilitation to the minors' social status.

Accordingly, different institutions vary according to the predominance given therein to agricultural, industrial or scholastic training.

2. Competency.

The juvenile court has criminal, administrative and civil jurisdiction.

A. *Competence in Penal Matters.*

The juvenile court has jurisdiction in all criminal cases concerning offences committed by minors under 18 which, under the existing laws, come within the jurisdiction of the courts.

This provision is not applicable when persons over 18 are also implicated in the case, unless the Procurator-General in the court of appeal decides that separate proceedings shall be taken against accused over 18 ; this decision is final.

This right may be exercised only up to the opening of the proceedings.

When the minor is charged with offences which, under the existing laws, come within the jurisdiction of the " pretore ", the Procurator Royal at the juvenile court may, in cases which are exceptional by reason of the type and nature of the offence, or the difficulty of bringing the minor from the place where he is to the place where the court is sitting, decide — his decision being final — to transfer the case to the " pretore ".

This right may be exercised only up to the opening of the proceedings.

B. *Competence in Administrative Matters.*

Such jurisdiction is exercised in the case of minors up to 18 who, by reason of the habits which they have contracted, are manifestly erring individuals in need of moral correction (Article 25).

C. *Competence in Civil Matters.*

The court has civil jurisdiction in cases in which minors stand in need of physical or moral protection.

3. Procedure.

Penal Matters.

Article 246 of the Code of Criminal Procedure provides that when a child under 14 is arrested he shall be handed over (as not responsible for his actions from the point of view of criminal law) to the public security authority, who shall take the necessary administrative measures, and that a minor between 14 and 18 may be interned in a reformatory (riformatorio giudiziario). This internment also takes the place of arrest (mandato di cattura) in the case of minors between 14 and 18 (Article 257).

A minor arrested otherwise than by order or under warrant of the judicial authorities in a place other than that of the juvenile court is handed over to the " pretore " or to the Procurator Royal in the locality of his arrest, who examines him under Article 245 of the Code of Criminal Procedure, takes the measures prescribed in Article 246 and forwards the papers in the case to the Procurator Royal attached to the juvenile court.

In the case of proceedings against minors, special enquiries must be conducted to ascertain the previous personal and family history of the child from a physical, mental and moral standpoint and from the standpoint of his environment.

The Public Prosecutor's Office, the juvenile court and the division of the court of appeal may collect information and hear experts, without any formalities of procedure, in order to determine the minor's personal characteristics and the causes of his irregular conduct.

The defence of individuals brought before the juvenile court or the division of the court of appeal for minors may be undertaken only by professional counsel duly entered on a special panel drawn up every two years by the heads of the court of appeal.

Those selected should be advocates who, by reason of their social training and activities, may be expected to enter into the spirit of the State's rehabilitation work among minors, as conducted parallel to the ordinary processes of criminal law.

During the preliminary stage of the proceedings, when all the persons concerned have been interrogated, the Public Prosecutor's Office may authorise defending counsel to confer with the accused minor After summons to attend court has been served, defending counsel need no longer obtain special permission to confer with accused.

Offences coming within the jurisdiction of juvenile courts are invariably dealt with by summary procedure.

When necessary, an enquiry may be ordered by the Public Prosecutor's Office. This enquiry is conducted according to the rules of ordinary procedure as far as these are applicable.

Should it become necessary to take one of the measures prescribed in Article 301 of the Code of Criminal Procedure or should it appear expedient to suspend the proceedings, the Public Prosecutor's Office submits a request to the juvenile court, which takes its decision sitting in council.

The juvenile court also decides in council on such other steps as, in the ordinary course of law, the Public Prosecutor's Office would ask an examining magistrate to take, and pronounces on objections admitted against decisions given by the " pretore " during the preliminary stage of the proceedings.

The Procurator Royal or the Procurator General, if he considers that the case should not be proceeded with, either because a reprieve might be granted or for any other reason, communicates the papers in the case, together with the requests to this effect to the juvenile court, which takes its decision in council.

The court, if it agrees with the request, makes an official order that proceedings be discontinued ; if it thinks that further action is necessary, it hands the matter over to the Public Prosecutor's Office ; if it considers that the minor ought to be brought to court, it issues a summons to attend.

The rehabilitation order is made out by the court sitting in council, without counsel for the defence, after hearing the provincial police authority, the Public Prosecutor's Office, the person exercising paternal authority or guardianship, and the minor.

The division of the court of appeal for minors, sitting in council, hears objections admitted against acquittals pronounced in council by the juvenile court.

The division of the court of appeal also has the same powers as the division for preliminary investigations, when doubt has arisen as to the identity of the accused during the hearing of the appeal, and also in matters of extradition, the enforcement of the sentences of foreign criminal courts and letters of request.

The proceedings of the juvenile court and of the division of the court of appeal for minors take place in camera. There may be present, besides the accused, the injured party, witnesses and defending counsel, the immediate relatives of the accused, his guardian and trustee, and the representative of the local Welfare Committee of the National Mothers' and Children's Protection Society, and also representatives of committees for the welfare and protection of minors whose standing and usefulness is recognised by the President.

The President may decide that accused shall not be present during the taking of certain evidence or the discussion of the case.

When a minor under 18 is summoned to appear in court, the summons is also communicated to the person exercising paternal authority or to the guardian.

When the juvenile court or division of the court of appeal decides, under the terms of Article 498 of the Code of Criminal Procedure, to try the accused by default, it may sentence the person exercising paternal authority or the guardian to whom the minor's summons was communicated to payment into the Fines Fund of a sum of from 100 to 2,000 lire, unless it be proved that the person concerned was unable to prevent the non-appearance of the minor.

If, during the proceedings, an expert examination is found necessary, or if further information is required concerning an expert examination already carried out during the preliminary proceedings, the expert is immediately convened and must give his opinion there and then.

If it is not possible for him to give his opinion immediately, the court adjourns the hearing, and, if the investigations to be carried out concern the person of the minor, it decides, if necessary, to send the latter to a reformatory, a mental institution or an observation centre; it prescribes the time-limits within which the examination shall be carried out and fixes the date on which proceedings shall be resumed.

The parties have the right to supply their own expert, though the exercise of this right has no influence whatsoever on the course of the proceedings.

At the hearing, on the resumption of proceedings, the expert of the court and those of the parties submit their conclusions and observations in writing and supply the explanations requested by the Court.

Administrative Matters.

The measures to be taken are decided in council without counsel, after the provincial police authority, the Public Prosecutor's Office, the minor and the person exercising paternal authority or the guardian have been heard (Article 25, paragraph 1).

4. Measures to be taken.

Penal Matters.

Under Article 97 of the Penal Code of October 19th, 1930, which came into force on July 1st, 1931, a child who, at the time the offence was committed, was under 14 is held to be not criminally responsible, while, under Article 98, a person who, at the time the offence was committed was over 14 but under 18, is held to be criminally responsible, if he was capable of understanding what he was doing and committed the offence intentionally, but the penalty

is mitigated. If a minor under 14 has committed an offence and is a danger to society, the magistrate, taking into account the gravity of the offence and the moral conditions of the minor's family, may order him to be interned in a reformatory or put on probation; this also applies to a minor over fourteen but under eighteen if he is found to be not criminally responsible (Article 224 of the Penal Code). If the minor is found to be criminally responsible, the magistrate may order him to be interned in a reformatory or put on probation after he has served his sentence, if the above-mentioned conditions are present (Article 225); this internment is always imposed in the case of a minor who is an habitual or professional offender or who has criminal tendencies (Article 226).

If the juvenile court is of opinion that it could not, for the offence committed by a minor under 18, impose a term of imprisonment of more than two years or a fine of more than 15,000 lire, even if both these penalties be imposable concurrently, it may grant a reprieve.

Conditional suspension of sentence may be granted in convictions for offences committed by minors under 18, when the court could not impose a term of imprisonment of more than three years or a fine of more than 15,000 lire.

Minors under 18 are detained in establishments separate from those intended for adults, or in separate sections of those establishments, in accordance with Article 142 of the Penal Code. There are numerous provisions concerning the serving of sentences by minors and measures of security applicable to minors · serving of sentences, Articles 24, 28, 29, 141 and 213 to 224; measures of security, Articles 256 to 258 of the Regulations governing institutions for the Prevention and Punishment of Crime, approved by the Royal Decree of June 18th, 1931.

The conditional release of persons under 18 sentenced for an offence may be ordered by the Minister at any time during the serving of the sentence of imprisonment, whatever the duration of the term.

The Minister may in such case order that, instead of release on probation, the individual conditionally released shall be placed in a reformatory if still under 21, or be sent to an agricultural settlement or labour establishment if over 21. If the individual conditionally released is sent to a reformatory, agricultural settlement or labour establishment, the time spent in these establishments counts as part of the term of sentence.

When the minor is released from prison (even conditionally) or from a penal or protective institution, the Public Prosecutor must inform the juvenile court, in order that the latter may consider whether the individual should be handed over to a rehabilitation institution for minors (see Competence in Administrative Matters).

The juvenile court keeps a list of persons and social assistance institutions prepared to accept responsibility for educating and assisting minors on probation (Article 23).

Before including such persons or institutions in the list, the court makes enquiries as to their reputation, disinterestedness and economic situation.

When it is decided to entrust the minor on probation to his parents or to those responsible for educating or assisting him, to his guardians or to persons or institutions included in the above-mentioned list, the supervisory judge does not hand over the police record mentioned in Article 649 of the Code of Criminal Procedure, and supervision over the minor is carried out by the persons or institutions to whom or to which he is entrusted, under the immediate control of the supervisory judge.

When the minor is handed over, written instructions are prepared in which the supervisory judge indicates the type of assistance and supervision of which the minor stands in need.

The conditions prescribed must be reconsidered and, if necessary, revised, according to the results obtained; the minor must be questioned by the supervisory judge at frequent intervals.

If the results are not satisfactory, the supervisory judge orders the minor's internment in a reformatory.

When a previously convicted minor reaches the age of 18 and is not, at that time, subject to any penalty or protective measure, the juvenile court of the minor's habitual place of residence, at the request of the Public Prosecutor's Office or of the individual concerned, or even *ex proprio motu*, sitting in council, examines the minor's whole previous history, takes note of his official record and obtains information concerning his conduct at home, at school and at work, in public or private institutions, in organisations such as the National Balilla Association, the Fascist Youth Combat Associations, the National Dopolavoro Association and the athletic associations.

If it concludes that he has entirely mended his ways and is worthy to be admitted to all the activities of social life, it declares him to be rehabilitated.

Rehabilitation puts an end to accessory penalties and to all the other penal effects of a sentence inflicted on the minor under the penal, civil and administrative laws and regulations, subject to such restrictions as may be specified for the granting of the conditional suspension of sentence or a reprieve.

If there is inadequate evidence of an improvement of character, the court may adjourn the enquiry until the minor has reached the age of 21

The fact of rehabilitation is noted on the court's record or records of conviction and is entered in the police records A copy is communicated to the police authority in the minor's place of birth and habitual residence.

Once rehabilitation has been pronounced, no mention is made of the minor's previous criminal record in his conduct certificate (certificato penale), even if the request comes from a public administration, unless this request is made in connection with criminal proceedings.

The provisions of Articles 180 and 181 of the Criminal Code are applicable.

A rehabilitation order is cancelled in conformity with the terms of Article 600 of the Code of Criminal Procedure.

Administrative Matters.

When the habits contracted by a minor under 18 clearly prove that he is depraved and in need of moral correction, the police authorities, the Procurator Royal, the parents, guardian, trustee, National Mothers' and Children's Protection Society, or National Balilla Association, may bring the facts to the notice of the juvenile court which, after making the necessary enquiries, issues a final and reasoned order to the effect that the minor shall be interned in a rehabilitation institution for minors.

The Ministry of Pardons and Justice hands over the minor to a State reformatory or to a reformatory administered by a public institution with which it has concluded special agreements.

The court, before deciding to send a minor to a reformatory, may hand him over to one of the persons or institutions included in the list mentioned in Article 23, to take charge of his education. In that case, the minor is questioned every three months by a member of the court appointed to follow the progress of the work of rehabilitation.

The Public Prosecutor's Office may ask for the minor to be sent to a rehabilitation institution for minors, even if penal proceedings are in progress against him, provided he is not liable to or is not in custody pending trial. This measure may also be asked for if the minor has been acquitted on the grounds that he acted without due understanding and intention, and no police measure has been taken.

The juvenile court must consider whether the aforesaid measure is necessary when, in criminal proceedings, a reprieve or conditional suspension of sentence has been granted.

If the minor's depravity is due to the state of neglect in which he is living, or if the minor has a bad reputation under the terms of Article 165 of the Law on Public Security, the court, before taking the measure above mentioned, may, on the strength of a police report,

order that the minor shall be handed over to his father, to an ascendant, or to the guardian, making such person responsible for the education of the minor and for supervising his conduct, on pain of a fine not exceeding 2,000 lire to be paid into the Fines Fund.

In case of persistent neglect, the Public Prosecutor's Office asks for the adoption of the measures laid down in Articles 233, 269, No. 3, and 271 of the Civil Code.

The court may, on the other hand, decide to entrust the minor to one of the persons or institutions included in the list referred to in Article 23.

Every year, and even during the course of the year, at the request of the Public Prosecutor's Office, the director of the reformatory gives the court detailed and precise information concerning the conduct of the minor, his progress at work and at school, his attitude of respect towards his superiors, his relations with his family, his dealings with his companions, and, if necessary, any facts such as to show a change in or persistence of the habits which led to his being sent to the reformatory.

The court, through one of its members, questions the minor at frequent intervals, in order to obtain exact information as to his condition and the results of the work of rehabilitation.

When the director of a rehabilitation institution considers that the minor is no longer in need of correction, he applies immediately to the Public Prosecutor to take the necessary measures.

When the court considers that the minor is no longer in need of correction, it orders him to be released from the reformatory, this measure is ordered in any case when the minor has reached the age of 21.

If his release is to be ordered when the minor is still under 18, the court, before giving the order, ascertains that the minor can be properly assisted by his family or by other persons or institutions included in the list mentioned in Article 23.

Until it has obtained such an assurance, the court suspends the order for the minor's release. The suspension of the order may not be extended beyond the date on which the minor reaches the age of 18.

When a minor who has already been interned in a rehabilitation institution for minors but has never been convicted of an offence reaches the age of 18, he may apply to the court to be declared completely rehabilitated.

The court, before pronouncing, obtains the information already referred to concerning the measures of rehabilitation. If it considers the proof insufficient, it may adjourn the examination of the request until the minor has reached the age of 21.

The decision by which the court declares the minor to be completely rehabilitated is communicated to the Public Security Authority in the minor's place of birth and habitual residence.

Civil Matters.

The juvenile court, or the President of the court, possesses competence in regard to measures which the law has placed within the competence of the court, or of the President, in the case of the matters explicitly mentioned in Article 32 (paternal authority, guardianship, prohibition, etc.).

III.

As the Law on Juvenile Courts only came into force on October 29th, 1934, it is not yet possible to give definite information as to its results, but there is reason already to anticipate that these will be found to be most satisfactory.

Japan

REPORT TRANSMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

A law relating to minors came into force in Japan on January 1st, 1923. With a view to the protection and reform of minors in danger of corruption or who have committed offences, this law establishes special juvenile courts and special rules for cases in which minors have to be tried by the ordinary courts. Two juvenile courts have been established, one at Tokio and the other at Osaka.

II.

1. Organisation.

The juvenile court does not form part of an ordinary civil or criminal court; it is a special, independent institution, subject solely to the supervision of the Minister of Justice. It consists of magistrates, welfare officers and clerks. The magistrate alone renders decisions; if there are several magistrates, they divide up the cases, and the senior magistrate acts as president. The welfare officers assist the magistrates in investigating the case and help the delinquent, under the magistrate's supervision. Like the latter, they may apply to the organs of public administration for assistance in carrying out their duties.

2. Competency.

The juvenile court is competent to deal with young persons between 14 and 18 who have committed or shown tendencies to commit infringements of the Penal Code.

The following are, however, *excluded* from its jurisdiction :

(*a*) Young persons who have committed the crimes referred to in Articles 73 and 75 (high treason) and 77 and following articles of the Penal Code (attempt to destroy the independence of the State);

(*b*) Young persons liable to punishment under the Code of Criminal Procedure;

(*c*) Young persons who have committed a crime involving the penalty of death, hard labour or imprisonment for life or for not less than three years.

With these exceptions, the juvenile court is competent to deal with all young offenders from 14 to 16; it is competent to deal with minors from 16 to 18 (and also the former in the cases mentioned under (*c*), if the case has been referred to it by an ordinary court or a Public Prosecutor.

At the special request of the prefectoral governors, the juvenile court also tries delinquent children under 14.

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[1] In the first edition of the document, this report was reprinted in the form in which it was submitted to the Commission by Dr S Motoji, the former delegate of the Japanese Government, and his successor, M Matsui, and published in the Commission's *Bulletin* for 1927 For the second edition, an addendum has been inserted at the end of the report

3. Procedure.

The juvenile court investigates the offence and the character, history, physical and mental condition and degree of education of the offender ; if possible, the child is ordered to be medically examined. The enquiries are carried out by a welfare officer, who may call in the assistance of the persons responsible for the minor, of child protection institutions or experts. The welfare officer accompanies the minor to the court. If circumstances make this necessary, the court may order the following provisional measures pending the final decision : the minor may be entrusted to a protector, a temple (Buddhist) or a church, or to a welfare institution, or he may be placed under the supervision of a probation officer or in a reformatory or penitentiary ; one of these measures may be replaced by another.

For the hearing of the case, the person responsible for the minor (unless his presence appears to be absolutely unnecessary) is summoned to appear in addition to the minor himself. The welfare officer, his assistants and other persons authorised by the court may give evidence. As a rule, the public is excluded, but the court may allow the minor's parents, persons engaged in protection work and other persons whose presence it considers advisable to attend the hearing. The publication of the proceedings is forbidden under penalty of imprisonment up to one year or a fine up to 1,000 yen (nearly £100 sterling).

In the ordinary courts, the preliminary examination of minors' cases is subject to the same rules and the same provisional measures are applied. Imprisonment pending the hearing of the case is only allowed in cases of strict necessity, and the accused minor must be isolated or, in any case, separated from adult prisoners. Minors' cases are dealt with separately as far as possible, even if adults are implicated. The principle of protecting minors from the influence of a criminal atmosphere is carried so far that the court may even have the minor removed during the depositions of witnesses and the pleadings of counsel, if this appears to be to his moral interest.

3. Measures to be taken.

If the juvenile court decides that no measures are necessary, it simply closes the proceedings. If it finds that a penalty should be inflicted on the offender, it refers the case to the Public Prosecutor of the ordinary court competent to deal with it. In all other cases, protective measures appropriate to the character of the offender and the circumstances of the particular offence are ordered.

The court may adopt any of the following measures :

(*a*) Reprimand the minor ;

(*b*) Instruct a school-teacher to reprimand him ;

(*c*) Require the minor to take a written oath to the effect that he will mend his ways ;

(*d*) Return him under certain conditions to his guardian ;

(*e*) Entrust him to a temple or church, to some welfare institution or to an individual capable of reforming him ;

(*f*) Place him under the supervision of a probation officer ;

(*g*) Place him in a reformatory ;

(*h*) Place him in a house of correction ;

(*i*) Send him to a home.

Several of these measures may be combined if necessary, and the execution of those mentioned under (*e*) to (*i*) may be prolonged until the delinquent has reached the age of 23 ; during this time, one measure may be substituted for another, or they may even be suspended. The court may ask the person or institution to whom the minor has been entrusted to furnish

reports on his progress. It may require the whole or part of the cost of his maintenance to be borne by the minor himself or the person responsible for his maintenance; the remainder is borne by the State.

The ordinary courts which try minors may apply the above-mentioned measures if they think fit; the Public Prosecutor may appeal against their decision. As a rule, the penalties laid down in the Penal Code, reduced as provided for by the law relating to minors, must be imposed. The penalty of death or imprisonment for life is not applicable to minors under 16, and is replaced by imprisonment for from ten to fifteen years. Instead of imprisonment for more than three years, an indefinite sentence is rendered; shorter penalties are not reduced. Penalties are carried out in separate establishments or, in any case, in special sections of the ordinary prisons until the young offenders have reached the age of 23. Release on probation may be granted after one-third of the minimum period fixed in the case of an indefinite sentence, after three years in the case of imprisonment for between ten and fifteen years, after seven years in the case of imprisonment for life (minors over 16). On completion of the period of probation, the penalty is regarded as executed. The conviction of minors does not lead to any judicial consequences.

III.

As juvenile courts have been in operation for so short a time, it is difficult to judge of the results obtained. Public opinion takes the greatest interest in this system and is eager for its development.

The statistics relating to juvenile courts since they came into force are as follows:

1. Number of Cases dealt with by the Juvenile Courts.

Year	Total	Cases reported from the year before	New cases
1925	15,450	483	14,967
1926	16,486	512	15,974
1927	14,534	486	14,048
1928	13,498	654	12,844
1929	13,365	459	12,906
1930	13,833	376	13,457
1931	14,156	392	13,764
1932	14,556	352	14,204
1933	17,372	405	16,967
1934	25,204[1]	489	24,715

2. Cases submitted by:

Year	Total	Public Prosecutors	Ordinary courts	Prefectoral governors	The other juvenile courts	Private individuals	Action taken *ex officio*
1925	14,967	6,778	21	137	37	142	7,852
1926	15,974	7,072	7	95	33	170	8,597
1927	14,048	6,914	9	135	24	295	6,671
1928	12,844	6,116	10	133	22	306	6,257
1929	12,906	6,598	11	182	18	234	5,863
1930	13,457	6,316	2	171	19	249	6,700
1931	13,764	6,529	3	183	25	185	6,839
1932	14,204	6,974	6	135	32	224	6,833
1933	16,967	7,588	—	177	32	168	9,002
1934	24,715	10,202	1	206	69	251	13,986

[1] The chief reason for the larger number of cases in 1934 is the opening of a new Court at Nagoya in January of that year.

3. Measures taken.

Year	Total	None	Measures of protection	Referred to the Public Prosecutor	Referred to the other juvenile court	Cases outstanding
1925	15,450	10,729	4,154	20	35	512
1926	16,486	11,078	4,885	6	31	486
1927	14,534	9,052	4,803	4	21	654
1928	13,498	8,405	4,605	9	20	459
1929	13,365	8,325	4,636	2	26	376
1930	13,833	8,893	4,528	3	17	392
1931	14,156	9,127	4,647	7	23	352
1932	14,556	9,148	4,984	1	18	405
1933	17,372	11,557	5,306	–	20	489
1934	25,204	16,900	7,326	2	88	888

4. Measures of Protection.

Year	Total	Reprimand	Reprimanded by school-teacher	Written oath	Returned to guardian under certain conditions	Entrusted to an institution or individual	Placed under supervision of welfare officer	Placed in a reformatory	Placed in a house of correction	Placed in a hospital
1925	4,154	296	1	195	1,845	652	1,129	5	31	–
1926	4,885	514	1	233	1,957	875	1,223	1	77	1
1927	4,803	350	1	217	1,987	963	1,226	3	55	1
1928	4,605	334	–	153	1,899	1,002	1,116	3	98	–
1929	4,636	262		102	2,006	967	1,213	–	86	–
1930	4,528	261	–	78	2,108	954	1,079	–	48	–
1931	4,647	336	–	61	2,175	1,000	1,005	1	69	–
1932	4,984	321	–	92	2,352	1,101	1,045	–	73	–
1933	5,306	342		91	2,676	1,176	955		66	–
1934	7,326	600	–	90	4,005	1,253	1,259	–	119	–

Addendum. — For the second edition of the document, the competent authorities have added to the report published in 1927 and 1932 the figures for the years 1925 to 1934 taken from the last official statistics published.

Luxemburg.

REPORT TRANSMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

Luxemburg has as yet no special courts for children, but the question of establishing them is under consideration. Meanwhile, young offenders are tried by ordinary courts. The

[1] This report has been reprinted as submitted to the Commission by the former delegate of the Luxemburg Government, the late M. J. P. Bruck-Faber, and published in the Commission's *Bulletin* for 1927.

Criminal Code of 1879, however, contains certain special rules applicable to children under 16 (at the time of committing an offence). Provisional measures have also been ordered for the purpose of ensuring the necessary protection for children during a prosecution.

II.

1 and 2. Organisation and Competency.

See I.

3. Procedure.

Each month a special sitting of the police court (correctionel) is held for young offenders. Their parents or guardians are also instructed to attend and are informed that counsel for the accused will be appointed free of charge if they have not themselves selected counsel. The papers in the prosecution of young persons under 16 must include all necessary information as to the character of the parents, their means of subsistence, the children's upbringing, etc.

4. Measures to be taken.

The court must first decide whether or not the child acted with due understanding. If the answer is in the affirmative, the child is condemned to the reduced penalties provided in Articles 73 to 75 of the Criminal Code (the death penalty in the case of young persons aged from 16 to 18 being replaced by penal servitude for life). If a child is not criminally responsible, he is acquitted ; but he may be placed at the disposal of the Government for any period not extending beyond the moment of his attaining 21 years. In this case, he will be placed in a house of correction or in a reformatory or charitable institution. The Government may subsequently hand him back to his parents or apprentice him, if his subsequent moral character warrants this.

Mexico

DOCUMENTATION TRANSMITTED BY THE SUPREME COUNCIL FOR SOCIAL PROTECTION AND PREVENTION OF THE UNITED STATES OF MEXICO.

I.

There are, in the Federal District and the Federal Territories, courts for juvenile offenders which were set up four years ago and have recently been dealt with in the Code of Criminal Procedure and Enquiry (Codigo de Competencia, Organización y Procedimientos en Materia Penal) promulgated in 1929.

II.

1. Organisation.

Each court is composed of three members : a psychiatrical expert, an educational expert, and a third member who acts as President and must be a qualified lawyer who has practised for at least five years in the criminal courts. A woman must be attached to each court and must be present at all cases where female minors are involved (Article 55).

Magistrates of juvenile courts are appointed by the Supreme Council for Social Protection and Prevention on the advice of the medical and legal institutions and of the National Federation of Teachers. Members of the court may not be removed save in the case of responsibility as provided for in the law (Article 56).

2. Competency.

The court is competent to deal with all misdemeanours and crimes committed by minors under 16 years of age, whatever be the penalty provided by law for such offences (Article 59).

3. Procedure.

When a minor is brought before the court, the court appoints the member who is best qualified by sex and functions to investigate the case (Article 505). This member is not bound by any special rules in his investigations, which comprise, not only the enquiries which he deems necessary in order to prove the offences or the guilt of the accused, but also an enquiry into the latter's education and physical and mental condition, and as to whether he is in a state of physical or moral neglect (Article 506).

The law leaves the choice of the best manner of conducting these enquiries to the discretion and wisdom of the investigating member (Article 507).

In the case of misdemeanours committed jointly by adults and minors, two distinct procedures are followed, and the two courts must send one another copies of the documents relating to the case (Article 521).

When the investigation is concluded, the court in plenary session pronounces judgment. Only those adults who have been authorised by the court may be present, on production of a card specially issued for the purpose (Article 508).

4 Measures to be taken.

Different measures are taken in the cases of minors under 12 years of age and minors between 12 and 16

Children under 12. — If the child is in a state of moral neglect, has been or is in danger of being perverted, the court must hand him over to an educational institution or to a trustworthy family, where he can receive a suitable education and be supervised by the person appointed by the Supreme Council for Social Protection and Prevention. The court may, if it thinks fit, restore the child to its family, but it continues to supervise his education (Article 512).

If the child requires special treatment, if he is suffering from a mental disorder, or is feeble-minded, blind, deaf and dumb, or epileptic, the court prescribes the necessary treatment on the advice of a doctor (Article 513).

If he is not morally neglected, or perverted, or in danger of becoming perverted, and if he does not require special treatment, the court simply admonishes him or inflicts a period of school detention, and at the same time addresses a warning to his parents and gives them suitable advice (Article 514).

Children between 12 and 16. — If the child is morally neglected, or if he has been or is in danger of being perverted, the court sends him to a reformatory, where he must remain for as long as this may be necessary for his education. The court may, if it deems this desirable, place the minor with a trustworthy family, who looks after his education. If this measure is, in the opinion of the Supreme Council for Social Protection and Prevention, inadequate, the court places the minor in a reformatory, or a workshop, or on a farm, or in a training-ship (Article 515).

On the expiry of the minimum period of his detention, the minor may be released conditionally, if he has shown by his conduct that he has really reformed. Such conditional release is decided by the court after consultation with the Supreme Council for Social Protection and Prevention. The Council provides for the maintenance, education and supervision of the

child on his release and requires him to conform to the instructions given; he may, for example, have to learn a trade, reside in a particular place, or abstain from the use of alcohol. If, within a year of his release, the minor has disregarded the instructions given him, or has abused his liberty in any way, the Supreme Council for Social Protection and Prevention places him once more in a reformatory. Otherwise, his release becomes final (Article 516).

When a child between the age of 12 and 16 requires special treatment, or is suffering from a mental disorder, or is feeble-minded, blind, deaf and dumb, epileptic, alcoholic or addicted to drugs, or if he is backward mentally or morally, the court orders suitable treatment (Article 517).

If the minor under 16 is not morally neglected, or perverted, or in danger of becoming so, and if he does not require special treatment, the court simply admonishes him or sentences him to a period of detention of from three days to five months, if it regards him as responsible for his acts. During this period, the minor is required to work according to his ability (Article 518).

The court may ask the Supreme Council for Social Protection and Prevention not to carry out the sentence immediately, but to fix a probationary period of from six months to one year if, having regard to the character and antecedents of the minor, it appears likely that this measure will bring about his reformation and prevent him from committing fresh offences. The Council may impose upon the minor particular rules of conduct which it deems suitable for his case If, during the probationary period, the minor disregards these rules or in any way fails to justify the confidence which has been placed in him, the Supreme Council carries out the sentence pronounced If not, the sentence is regarded as not having been pronounced (Article 519)

If a child between 12 and 16 commits a serious offence or is considered as dangerous for any reason, the penalty provided for such an offence is inflicted upon him, though the court may, at its discretion, mitigate the penalty in any way which is compatible with the law (Article 520).

The Supreme Council for Social Protection and Prevention must take steps to ensure that juvenile offenders under 16 are always separated from adults (Article 522).

III.

The cinematograph, the freedom of the Press, and the various factors contributing to a loosening of morals, which has been noticeable since the war, make it very difficult to draw any comparison, whether numerical or causal, between the results obtained by the various juvenile courts, these having existed in our country only for a few years.

Nevertheless, their existence is fully justified, inasmuch as many parents take their children before these courts of their own accord, or ask them for advice in dealing with or educating their children. The Supreme Council for Social Protection and Prevention intends to collect statistical data with a view to drafting a report which will be free from all exaggeration.

Norway

REPORT TRANSMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

The treatment of young criminals or morally abandoned children is laid down in the Law of June 6th, 1896, amended in certain respects by the Laws of June 17th, 1907, July 2nd, 1915, June 9th, 1922, May 20th, 1927, and February 23rd, 1934. Children under 14 years are not punished for offences committed by them. 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.

Older children who have committed offences against the law are liable to punishment, but, until they have attained 16, the punishment may be accompanied by educational measures or, in their case also, replaced by the same measures

The law deals, not only with children who have already embarked upon a course of crime, but also with those who, without having gone thus far, are likely to become criminals, if not reformed in time.

The most important provisions of the law are the following :

II.

1. Organisation.

In every commune a Guardianship Council must be set up, composed of the judge, the clergyman of the locality and also of five members, men and women, elected for two years by the municipal council ; of these five members, one must be a doctor.

2. Competency.

Children under 16 may, by order of the Guardianship Council, be placed either in a responsible family or in a children's orphanage or similar establishment of which the rules and regulations have been approved by the King, or in a reformatory :

(a) If they have committed a punishable offence and appear to be of bad character or uncared for and if such placing is considered desirable with a view to correction or to preventing subsequent offences ;

(b) If, owing to the bad character or negligence of their father or mother or other persons in charge of their education, they are found to be uncared for or ill-treated, or have fallen or are falling into a state of moral corruption and if a warning is considered insufficient to bring them to a better frame of mind ;

(c) If their bad behaviour has resisted all measures of reform at home or at school and if, owing to this or other disquieting circumstances, placing out is considered necessary to prevent complete moral depravity (Article 1).

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[1] In the first edition of the document, this report was reprinted as submitted to the Commission by the former delegates of the Norwegian Government, M F. Woxen and M. A Omsted, and, save for an addition mentioned at the end, published in the Commission's *Bulletin* for 1927. In the second edition, a few changes have been made as suggested by the present delegate, M. H. Nissen.

The Guardianship Council, when ordering a child to be placed out, in virtue of the preceding article, may also deprive the father and mother, or one of them, of paternal power (Article 2).

If the Guardianship Council considers that the placing out proposed in virtue of Article 1 is not necessary, it may caution and admonish the child and the father and mother, or those replacing them, in such manner as it thinks fit (Article 3).

If a child under 14 years has committed an offence, or if a child between 14 and 16 years has committed an offence for which no other prosecution is ordered, the Council may caution, in the manner referred to in the preceding article. The Council may also instruct the persons in charge of the child, or his schoolmasters, to inflict suitable punishment on him, or, if the child has not attained 15 years, may place him in a reformatory for a period not exceeding one year (Article 4).

Children who play truant or are noteworthy for bad behaviour may, when the ordinary means of discipline are insufficient, be placed by decision of the school management in a reformatory, where they will pass a period to be fixed by the directors of the establishment, such period may not exceed one year (Article 5).

Duties of the Public Prosecutor — When an offence has been committed by a child who is under 14 and therefore not liable to prosecution, a judicial or extra-judicial enquiry may nevertheless be held If the Public Prosecutor thinks that the child should not be placed out, in accordance with Article 1, he may call on the persons in charge of the child or his schoolmasters to inflict suitable punishment on him. If, on the other hand, the Public Prosecutor thinks that the child should be placed out, he brings the matter before the Guardianship Council of the commune in which the child is living or staying (Article 42).

When a child under 16 but over 14 years has committed an offence, no prosecution need take place if the Public Prosecutor considers that, in the circumstances, the punishment referred to in Article 42 or any measure taken by the Guardianship Council is sufficient (Article 43).

3. Procedure.

The Guardianship Council takes action on the application, not only of the Public Prosecutor (police), but also of the child's parents, their neighbours, the school, the public relief authority, or the Board of Health or on its own initiative — *i.e.*, if a member of the council learns that a child is neglected, ill-treated or likely to fall into evil ways.

The council sits in secret. Minutes are taken of meetings. Decisions must state the reasons on which they are based. Before the decision, the father and mother, or those replacing them, must be called to state their views orally or in writing, moreover, the physical condition of the child, his situation and home surroundings will be carefully considered (Article 13).

The council may summon and examine witnesses and undertake all necessary investigations. The father and mother, or those replacing them, are entitled to be present at the meetings. In special circumstances, the council may permit another person to attend with the parents to watch over the interests of the child (Article 14).

The father or mother from whom a child is to be removed may apply for the decision to be submitted to the Minister of Education and Worship.

4. Measures to be taken.

(a) Special Provisions as to placing out of Children. — The Guardianship Council, when deciding to place a child out, will at the same time state what steps should be taken in regard to him. If a final decision as to the method of placing out is considered to be impossible at the moment, the council may provisionally send the child to a reformatory or

similar establishment, to be under observation (Article 19). Children who are not found to be corrupted must be placed for preference in a family or in an orphanage (Article 20). If a child over school age is placed in a family, this may be as servant, apprentice or in a similar capacity. Boys over school age may, instead of being handed over to a family, if they wish, be sent to sea. If a child placed with a family escapes or is otherwise of specially bad behaviour, he may be transferred to a reformatory (Article 23). The Guardianship Council must keep under regular supervision children placed out by it who are not in reformatories and likewise the method of their treatment (Article 24).

(b) Reformatories and Reformatory Schools. — The State establishes the necessary reformatories (skolehjem). Boys and girls may not be sent to the same institution. With the approval of the King, private or local reformatories may be used if the plans and regulations have been submitted for Royal approval (Article 27). Each institution is governed by a director or directress appointed or approved by the King. The Minister of Education and Worship is responsible for general inspection.

Children under 9 may not be placed in a reformatory. Children who have spent at least a year in a reformatory may be released provisionally, on the decision of the director, and placed in a family. In exceptional cases a child may be released even before the expiration of a year. The director must acquaint himself with the child's behaviour and with the manner in which he is treated after leaving the institution. The child must return to the reformatory if he does not behave properly, or if the director for other reasons thinks it necessary that he should return (Article 33). The director will obtain, if possible, suitable employment for those leaving the reformatory (Article 36).

A reformatory school (tvangsskole) may be opened by a single commune or by several communes together. The plans and rules will be approved by the King (Article 38). Less serious cases are placed in a reformatory school for the purpose of provisional observation; the period is limited to a year. Children may be so placed, not only on the order of the Guardianship Council, but also by the school authorities, in the case of children troublesome at school.

(c) Duration of Measures taken. — Children placed out in accordance with the law may be kept in a family, in an orphanage or in a reformatory, until attaining the age of 18, or, if they are placed in a special division of a reformatory, until attaining 21 years. The measures taken may be cancelled, as soon as they are no longer necessary, before the expiration of the above periods (Article 39).

The decisions referred to in the preceding article are as regards children placed in a reformatory or provisionally liberated by the director in agreement with the Supervisory Committee, and, as regards the others, by the Guardianship Council which ordered the child to be placed out. In certain cases, the decision is submitted to the Minister of Education and Worship.

(d) The cost of placing children out in accordance with the law is shared between the State and the communes. A certain amount may be recovered from the child's parents (Articles 46 to 52).

III.

The above procedure applied to children has given very satisfactory results.

The Law of June 6th, 1930, now in force, gives the Guardianship Council authority to take charge of persons over 16 but under 18 years. The result of this law is, as regards age-limits, that the limit of 16 years mentioned under I, paragraph 3, and under II, 2, Competency, paragraphs 1, 4 and 8, is replaced by 18; it also follows that, as regards the duration of the

measures taken, a child in whose case any measure of supervision or correction referred to above has been ordered remains under the authority and supervision of the Guardianship Council or of the reformatory in which he has been placed until attaining 21 years.

Addendâ. — The information contained in III as to the new Law of 1930 was added to the original report from information given by M. H. Nissen, the present delegate on the Commission.

New Zealand [1]

I.

In virtue of the Child Welfare Act, 1925, amended in 1927, the Governor-General may establish such Children's Courts as he deems necessary

Minors are tried under the following laws :

(1) The above-mentioned Child Welfare Act ;

(2) The Crimes Act and its amendments (previously enacted as the Criminal Code Act, 1893, substantially reproducing the draft English Criminal Code of 1878) ;

(3) The Prevention of Crime Act, 1924, which set up Borstal Institutions. This law also is based on the English Prevention of Crime Act

II

1. Organisation

The Governor-General is required to appoint one or more Stipendiary Magistrates or one or more Justices of the Peace to act as children's judges in every Children's Court established under the Act. No Stipendiary Magistrate or Justice of the Peace may exercise jurisdiction in a Children's Court unless he is appointed by the Governor-General so to do.

The Governor-General may also from time to time appoint one or more persons of either sex to be associated with the Court, either for the purpose of any particular case or class of case or generally in relation to all matters that may be dealt with by that Court.

Such persons shall be appointed on the ground of special knowledge or experience deemed to be of advantage to the Court in the exercise of its powers. The decision of the Court shall not be dependent on the concurrence of any persons so associated with the Court, but in all other respects they shall be deemed to be members of that Court.

A notice in the *Gazette* of the appointment of any person to exercise jurisdiction in a Children's Court is sufficient evidence of his authority so to do.

2. Competency.

Children under 17 years of age are subject to the jurisdiction of the Children's Courts. The law provides that these Courts shall be competent to try children under 17 charged with the commission of an offence and to deal with children who are abandoned or neglected by their parents.

[1] This report was prepared by the Secretariat on the basis of information contained in the documents entitled " Auxiliary Services of Juvenile Courts " and " Institutions for Erring and Delinquent Minors " and the study of the Child Welfare Act of 1925 amended in 1927, the Crimes Act of 1893 and the Prevention of Crimes Act of 1924 The text has been revised and approved by Mr. Knowles, New Zealand Government Offices, London.

Young persons between 17 and 18 who are charged with an offence may be tried by an inferior court or by the Supreme Court, either of which courts, however, may refer the young person to a Children's Court to be dealt with by that court as if he were under 17.

Very serious offences by persons over 15 and under 21 are tried under the Prevention of Crime Act, 1924, by the Magistrates' Courts or the Supreme Court as the case may be.

3. Procedure.

In districts where the Children's Courts are not held in special premises, days and times are set apart for hearing children's cases, preferably in a room other than that in which ordinary cases are dealt with.

The proceedings are not open to the public. Only the following persons are admitted : the members of the Children's Court, the persons immediately concerned with the proceedings and their counsel (if any), the parents or guardian of the child, any Child Welfare Officer, any person representing a social welfare agency engaged in work for the benefit of children, and any other person specially permitted by the court to be present.

The magistrate sitting as children's judge may immediately place a child brought before the court under the supervision of the Child Welfare Officers or a religious organisation.

All investigations into cases before the court must be made by the Child Welfare Officers.

It is not lawful to publish a report of any proceedings taken before a Children's Court, save with the special consent of the President of the Children's Court, and in no case is it lawful to publish the name of any child, or of its parents or guardian, or other particulars likely to lead to the identification of the child.

In any proceedings before a Children's Court, no child may be required to give evidence on oath.

4. Measures to be taken.

If the children's judge considers the offence unimportant, he hands over the child to its parents or guardian, but he may order that such child although continuing to reside at home shall be under the supervision of a Child Welfare Officer In more serious cases, the child, after having been reprimanded, is committed to the care of the Superintendent of the Child Welfare Branch of the Education Department. The Children's Court may order that he shall become the legal guardian of a child

Most of the children who are committed to the care of the Superintendent of the Child Welfare Branch of the Education Department are not retained for any considerable time in an institution but are boarded out. Children presenting special problems are transferred to the following institutions : industrial schools, Borstal institutions, religious institutions subject to State inspection and subsidy. Children committed to the care of the Superintendent of the Child Welfare Branch remain under supervision until the age of 21 unless specially discharged before reaching that age. In some cases the period of supervision may be extended beyond the age of 21.

Netherlands

REPORT TRANSMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

The system of children's judges was introduced into the Netherlands by the Law of July 5th, 1921 (*Staatsblad* No. 834), which came into force on November 1st, 1922, by virtue of the Royal Decree of October 4th of the same year.

II.

1. Organisation.

The law on the organisation of the judicature was amended by provisions (Article 50, paragraphs 3 to 5) in virtue of which the King sets up in each district court a division for children's cases. This division consists of a judge sitting alone nominated for two years, with a possibility of extension of the period. He and his successors are appointed by the King, but on the proposal of the court. In this office his title is children's judge (Kinderrechter).

The law provides that the same person may be children's judge in several district courts; so that, for instance, the children's judge in a large town might also perform the same duties in a neighbouring rural district court. For reasons of economy (as an additional allowance is payable to such judges), the Government has not put the provision in force, nor yet another provision whereby an additional judge, above the ordinary number of members of the court provided by law, may be appointed children's judge. In practice, on each bench an ordinary judge, or possibly a vice-president, is always appointed children's judge, and several judges, or possibly a deputy, are appointed substitute children's judges.

2. Competency.

The jurisdiction of the children's judge is two-fold — criminal and civil. The first of these jurisdictions is defined in Article 487 of the Code of Criminal Procedure, the second in Articles 373 *et sqq.* of the Civil Code.

(a) The criminal jurisdiction of the children's judge is limited to trying offences known as " delicts "[2]; " contraventions " by children, like those by adults, are tried by justices of the peace. Young offenders under 18 years are brought before the children's judge of first instance on the first day of the session.[3] To this rule there is an exception when, in the preliminary opinion of the Public Prosecutor and of the children's judge, a sentence of more than six months' imprisonment must be passed, or when the case, owing to its complex nature,

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[1] This report is reprinted as prepared by Dr. H de Bie, children's judge in the Rotterdam court, it was submitted to the Commission by the delegate of the Netherlands Government, Professor J. Simon van der Aa, and, save for one addition at the end, published in the Commission's *Bulletin* for 1927 For the additional statistics in the second edition, see the addendum

[2] Dutch criminal law is based on the bipartite system of " delicts " and " contraventions ", crimes are " delicts ".

[3] Dutch law does not fix a minimum age below which children cannot be prosecuted.

must be dealt with by the ordinary courts. In such circumstances, the case is tried by a court composed of three judges, including the children's judge. The same applies to cases in which young persons of 18 years are implicated at the same time as adults.

(b) In civil proceedings, the principal task of the children's judge is to order and apply to young persons the measure called " supervision " (Articles 373 *et sqq.* and Article 436*(a)* of the Civil Code). This measure is applicable to any young person (under 21 years) the conditions of whose development seem for any reason likely to lead to his moral or physical ruin. The children's judge cannot order removal from parents' or guardians' control or restoration thereto ; he is, however, *ex officio* a member of the chamber having jurisdiction in these matters. On the other hand, the children's judge decides what payment shall be made in respect of the child by the parent from whose control a child is removed.

3. Procedure.

(a) Criminal proceedings before the children's judge differ in several respects from the ordinary procedure (Articles 486 *et sqq.* of the Code of Criminal Procedure).

The result of various provisions of the law is that the Public Prosecutor must consult the judge as to the desirability of a prosecution. If he wishes to discontinue, he is obliged to consult the judge ; to discontinue provisionally, the judge's leave is necessary The accused may always be assisted by counsel in the preliminary examination as well as at the trial. Children may be kept in custody in another place than the gaol for adult accused — for instance, in an establishment for observation or even at home. The preliminary examination is conducted by the children's judge himself ; the parents or guardian of the accused are generally admitted to this, and also to the hearing. As far as possible, information is obtained as to the education, character, physical and moral development and conduct of the young person ; if necessary, he may be placed under observation in a suitable institution, even when not liable to be remanded in custody. The case is heard behind closed doors, but sentence is delivered in public. Special provisions, laying down a simplified procedure before a judge sitting alone appointed by the court for dealing with minor " delicts ", are also applicable in the case of the children's judge. The young person must appear. Judgment cannot be given by default unless it is impossible to cause the offender to appear. The young person has a right to appeal to the court ; but, when he is under 16 years, this may be done only by his counsel, subject to special guarantees.

(b) The civil jurisdiction of the juvenile court is also subject to special rules. The judge may not on his own authority order supervision. He can only take this step at the request of parents, guardians, certain members of the family, or the Guardianship Council, or on the application of the Public Prosecutor. A simplified procedure is laid down in which time-limits are short. The hearing is behind closed doors, but the decision is given in public. This decision is immediately operative, but is open to the ordinary methods of appeal.

Measures to be taken.

(a) In his criminal jurisdiction, the children's judge may impose a number of various penalties and measures (Articles 9 *et sqq.*, 23, 27 *bis et sqq.*, 38 *et sqq.* of the Criminal Code), which he may apply freely, with certain reservations, according to particular cases and circumstances.

The punishments are reprimand, fine, placing in a reformatory and, if necessary, imprisonment. When the offence is a " delict ", a reprimand is allowed only in the case of children under 14. If the accused is present when the decision is reached, he may be reprimanded forthwith. Fines imposed on young persons may vary from 50 cents to 90

florins ; when they are not paid, the offender is placed in a reformatory as a subsidiary measure. The period passed in a reformatory — of which there are at present two for boys and one for girls — may be from one to six months, for children under 14 ; from one month to a year, for young persons over that age. Imprisonment is only allowed in the case of young persons over 16. With the exception of reprimands — and in certain circumstances of fines — sentence may be pronounced conditionally with a probationary period not exceeding three years, during which the offender may be placed under special rules of conduct.

The other measures are return to parents or guardians, but only for young persons under 16 ; placing at the disposal of the Government and, as an accessory measure, placing under supervision. This last may not be pronounced alone, and may be combined with the other measures or with punishments inflicted definitely or conditionally. It may also be applied to young persons over 18 who are subject to the rules of ordinary procedure ; it is identical with the measure which can be imposed by the civil jurisdiction (see below *(b)*).

Placing at the disposal of the Government, which the judge may pronounce conditionally, may have various consequences. The young person may be sent to a State reformatory — at present there are three for boys and one for girls — or placed in an educational institution belonging to a private association and approved by the Government, or in a family ; these last two measures are effected through such an association. This disciplinary education (dwangopvoeding) continues until majority (21 years) at latest It may, however, cease before that time, either absolutely or conditionally, on the order of the central administrative authority (Minister of Justice).

Sentences of imprisonment may be passed on young persons over 16, but are reserved for those regarded as adults. Accordingly, in such cases, the fine is not limited to the special maximum of 90 florins ; the ordinary limits apply. However, if the fine is not paid, the additional penalty is not detention, but placing in a reformatory for a period varying from one week to one month.

(b) The measure that the judge in his civil jurisdiction may order is placing under supervision (ondertoezichtstelling) By this, the parents or guardian are limited in the free exercise of paternal power or guardianship and are obliged to conform, as regards the child's upbringing, to the instructions of the person charged with supervision, who is called in law the " family guardian " (gezinsvoogd). Placing under supervision is primarily ordered for a period not exceeding one year, but it may be prolonged until majority ; the measure may be cancelled at any moment. The family guardian must make a report on the child and his surroundings to the children's judge at least once a month.

The essential purpose of placing under supervision is the bringing of a salutary influence to bear on the young person and on his family. The measure may even be provisionally applied while a case is pending.

In the choice of the family guardian, the children's judge must take account of the religion of the child's family. He may appoint men or women, selected primarily from among private individuals, but also from certain groups of officials — namely, those dealing with the observance of the laws on young offenders and neglected children (Ambtenaren voor de kinderwetten), and from agents of welfare societies (for adults).

If a difference of opinion as to the education of the child arises between the family guardian and the person exercising paternal power or guardianship, the children's judge decides. An appeal lies from his decision to the court ; but the parent or guardian may appeal only with the approval of the Guardianship Council.

The family guardian must observe the instructions of the children's judge, who has general responsibility for all children placed under supervision within his jurisdiction. Before extending the period of supervision, the children's judge hears the parent or guardian and the family guardian ; they may appeal against his decision. The children's judge may at any

time replace one family guardian by another ; if the child moves to another district, he may transfer the case to his colleague in the new district. He may at any time order the family guardian to bring the child before him, with the assistance, if need be, of the Public Prosecutor.

If it appears that the child suffers from physical or mental defects which give rise to difficulty during his instruction, the children's judge may place him under observation at the cost of the State for a period not exceeding three months. He may take this step at any time without hearing parents or guardian. This measure is carried out in private or State institutions appointed for the purpose.

If a special disciplinary measure appears necessary, the children's judge may have the child detained for a period up to six months if he is under 14 years, and up to a year if he is over that age. Before this step is taken, the family guardian and the parents or guardian must be heard ; they may appeal to the Court, in this case without the intervention of the Guardianship Council. The measure may be prolonged for periods of six months under the same guarantees. The child may be detained in a private or a State institution ; but, except in cases of extreme poverty, the cost is borne by the child or his parents.

If the parents or guardian adopt a recalcitrant attitude towards the family guardian, or are grossly negligent of his instructions, they may be deprived of paternal power or guardianship.

III.

The Law of 1921, which introduced children's judges and the system of placing under supervision, was only an improvement of the three laws (civil, criminal and penitentiary) on young offenders or neglected children that have been in force since December 1st, 1905 ; the powerful and beneficial influence of these on the life of the people is unanimously recognised.

It has already been said that the Government, for reasons of economy, decided to choose the children's judge in each court from amongst the ordinary judges. The result is that more than one judge whose inclinations lie rather towards other work than the trying of children's cases is none the less obliged to fulfil the latter duties ; this is not favourable to the specialisation that is so necessary. The matter is all the more serious because, in the less populous districts, there are not enough children's cases for much experience to be gained. If such cases were dealt with by fewer persons exempt from other judicial work, specialisation and, thereby, a more uniform application of the relevant provisions would result, to the advantage of the children.

The introduction of placing under supervision has certainly had good results in some parts of the country, particularly in the large towns, and may be regarded as a happy innovation. One of its great advantages is the possibility it affords of taking care of young persons who have not committed offences but whose condition is a danger for themselves or others. But it must be added that, under the system, constant attention is necessary, and that it is difficult to secure enough persons suitable for the duties of family guardian. Moreover, in each district there has been felt a need for a paid staff with special experience in the matter, to make preliminary reports on cases before the children's judge gives his decision.

A few statistics may be given to show the work done by children's judges.

The introduction of these judges at the end of 1922 seems to have increased the number of convictions of young offenders, as will be seen from the figures for the years before and after the change (apart from the war and post-war period and their abnormally high rate of crime) ; but the curve is the same as for adult criminality.

It should, further, be noted that, from about 6 million at the end of 1920, the total population rose to above 8 million at the end of 1933.

Number of Children convicted.

Years 1912-1915: Average number of children convicted, 1,682.

Year	Number of children convicted	Year	Number of children convicted
1922	1,320	1928	1,968
1923	1,743	1929	1,764
1924	1,746	1930	1,983
1925	2,165	1931	1,882
1926	1,757	1932	1,817
1927	1,831	1933	1,955

The division between the two sexes is always about the same : 90 per cent boys and 10 per cent girls. As regards age, the largest number of convictions is among young persons between 16 and 17 ; in 1925, for instance, it was 461 (as compared with 414 between 17 and 18), in 1928, 430 (as compared with 378 between 17 and 18), and, in 1933, 528 (as compared with 411 between 17 and 18).

The sentences and other measures ordered by children's judges — and, in certain exceptional circumstances mentioned under II, by the ordinary courts — were as follows :

Year	Reprimand	Fine	Sent to a reformatory		Imprisonment		Placed at the disposal of the Government		
			Definitively	Conditionally	Definite	Conditional	Sent back to parents or guardian	Definitively	Conditionally
1923	9	709	262	311	59	108	68	216	39
1924	10	758	248	368	72	75	70	141	66
1925	126[1]	936	249	436	16	74	107	184	68
1926	20	720	226	348	49	47	141	195	55
1927	11	752	207	406	34	37	92	225	105
1928	10	844	201	413	36	49	112	187	114
1929	44	715	134	393	31	37	132	187	142
1930	49	708	211	452	29	60	153	230	157
1931	42	698	188	464	19	47	111	212	149
1932	42	600	176	480	17	34	129	213	175
1933	56	665	194	602	31	45	116	171	149

The following statistics show the civil cases dealt with by children's judges — or by the competent chambers of the courts :

Year	Placed under supervision	Deprivation of paternal power or removal from guardianship	Guardianship entrusted to an institution
1923	801	1,208	605
1924	859	1,094	602
1925	1,012	1,406	1,207
1926	1,038	1,310	1,222
1927	1,155	1,326	1,109
1928	1,287	1,274	1,192
1929	1,396	1,606	1,513
1930	1,899	1,876	1,679
1931	2,086	1,806	1,515
1932	1,773	1,246	1,089
1933	1,637	1,107	874

[1] The considerable increase in 1925 is partly explained by the fact that the bicycle tax was introduced in that year and led to many contraventions, in the figure given, 156 convictions, mostly reprimands, are included.

In 1925, the State reformatories admitted 175 boys and 21 girls, almost all placed at the disposal of the Government. During the same year, the total number of inmates was 896 boys and 93 girls, the average daily number of inmates being 526 boys and 65 girls. In 1928, these institutions admitted 335 boys and 37 girls, of whom 34 boys and 17 girls were admitted in virtue of Article 373 *(m)* and *(n)* of the Civil Code; during that year, the total number of inmates was 785 boys and 121 girls, the average daily number being 357 boys and 65 girls. In 1933, the same institutions accommodated 605 boys and 102 girls, the average daily number of inmates being 288 boys and 64 girls.

During the same periods, a certain number of children placed at the disposal of the Government were entrusted to associations (Pro Juventute and others). These associations gave assistance to a total of 807 children of this category in 1925, 766 in 1928 and 763 in 1933.

They also received during this same year, 1925, 1,207 children placed under their guardianship, the parents having been deprived of paternal power; they had charge during this period of a total of 10,740 children under guardianship. These figures were, in 1928, 1,192 and 10,813 respectively In 1933, 10,995 children under guardianship were entrusted to the above associations.

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Addendum. — To the report published in 1927, the author added in 1931, for the first edition of this document, the figures for 1926, 1927 and 1928, taken from the latest published official statistics Similarly, he has now added, for the second edition, the figures for the years 1929 to 1933.

Peru[1]

I.

The provisions concerning juvenile courts and the measures to be adopted are contained in the Penal Code, Law No. 4868 of 1924, which is to be found in Book I, Chapter XVIII, and Book IV, Chapter V.

II.

1. Organisation.

With a view to ensuring the welfare of children and young people by educational measures, they have to be judged by a special court. Accordingly, a juvenile court consisting of a special judge and doctor and a clerk is to be organised in the capital of the Republic. It is not necessary, according to the law, to appoint a special judge for minors in the provinces; these duties are performed by the civil judge of the courts which have more than two judges. In the provinces, in the courts which have only one judge, the duties of judge for minors will be performed by the deputy judge appointed each year by the court of appeal of the district. The court of appeal must also appoint annually two examining magistrates in each province. Justices of the peace act as examining magistrates in their districts.

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[1] This report was prepared by the Secretariat on the basis of information contained in the document entitled "Auxiliary Services of Juvenile Courts" and the Penal Code of Peru The text has been revised and approved by Dr. P. Ugarteche, head of the permanent Peruvian bureau attached to the League of Nations

Judges for minors, whether they have been appointed or whether they serve in their capacity of deputy judge, must be married, be fathers of families and possess a good reputation; the examining magistrates and doctors must have the same qualifications. The judge for minors, the doctor and the clerk of the court receive a stipend, while the deputy judge, examining magistrates and justices of the peace are unpaid. Judges for minors are appointed by the executive on the proposal of the court of appeal, which must submit three candidates. Judges for minors have the same powers as judges of the courts of first instance. Doctors of juvenile courts are also appointed by the executive. On the proposal of the National Academy of Medicine, the executive also appoints the clerks of the court.

The Public Welfare Department of Lima must also appoint six inspectors for minors each year The Public Welfare Departments of the provinces annually appoint two inspectors for minors. The local charitable associations are also entitled to appoint such inspectors, who may be either men or women

2. Competency

The competency of the juvenile courts extends to minors over 13 and less than 18 years of age, who have committed a breach of the law, who are morally or physically abandoned or who are in moral danger Minors over 18 and less than 21 years of age are also amenable to the juvenile courts

3 Procedure

At the request of the Public Prosecutor, the local Board of Patronage or a local charitable association, the judge for minors is entitled to order that an investigation should be made by the examining magistrate. If as a result of this investigation it is found that the minor has committed an act which is punishable as a crime, the judge summons the minor, his father, his mother, his guardian or any other person in whose charge he is, the representative of the local Board of Patronage, the doctor of the juvenile court and a representative of the Public Prosecutor. After the hearing of the case, at which only the persons mentioned above may be present, and of which neither the procedure nor the result may be published, the judge may order the application of the measures prescribed by law.

Should the act committed by a young person between 13 and 18 be punishable by imprisonment, internment in a penitentiary colony or deportation, the judge must conduct the investigation at Lima and the decision must be taken by the civil chamber of the Supreme Court of Appeal.

In provinces where there is a court of appeal, the deputy judge, in his capacity as judge for minors, must conduct the investigation, and the decision must be taken by the civil chamber of the court of appeal. In provinces where there is no Supreme Court of Appeal, a special court must be constituted consisting of a judge of first instance, the director of the local Board of Patronage, the director of the national secondary school or, in his absence, the senior teacher of the communal school. In these provinces, the deputy judge, in his capacity of judge for minors, must conduct the investigation and the decision will be taken by the special juvenile court. Each decision of this court must be examined by the civil chamber of the district court of appeal.

In cases in which children between 13 and 18 years of age are abandoned or in moral danger, the judge for minors, the local Board of Patronage or an inspector for minors must, at the Public Prosecutor's request, make an investigation of the case and take the necessary protective measures. The President of the local Board of Patronage is also entitled, at the request of the father or mother or on his own initiative, to conduct an investigation and take any steps he may consider necessary

4. Measures to be taken.

According to the Penal Code, the measures which can be ordered by the juvenile courts are the following :

A child under 13 who is morally or physically abandoned or in moral danger may be placed in a respectable family or private or public educational institute until he has reached the age of 18. He may also be placed under the special supervision of a guardian for the same period. If a child under 13 who is not abandoned or in moral danger in his family has committed a breach of the law, he may be sent back to his family after a reprimand.

If a child between 13 and 18 years of age has committed an act punishable by imprisonment, he may be placed as a precautionary measure in an industrial or agricultural school or in a reformatory for a period of not less than two years. He must be released when he has reached the age of 21. If the minimum period comes to an end before the child is 21, he may be released on probation. A minor may also be released on probation for six months or a year if his conduct has been satisfactory. If during this period he commits another offence, the judge for minors may order his reinternment.

If a minor between 13 and 18 years of age commits a breach of the law punishable by internment in a special penitentiary or by deportation, and if he appears to be a danger to society, even if this offence is punishable by imprisonment, the judge for minors is entitled to place him in a special section of the State Prison or in a special institute for this class of young persons, or again in an agricultural penitentiary for a period of not less than six years. At the end of the period of six years, the minor may be released on probation if his conduct has been satisfactory. He will be placed under the supervision of a patronage association and will be obliged to attend daily for two years a workshop specified by the juvenile court. If during the first year of freedom on probation he abuses this freedom, he will be reinterned in the penitentiary for a further minimum period of six years.

Judges for minors have the right to take protective measures if they consider them necessary for the welfare of abandoned children or young persons in moral danger, even if they have committed no offence

Children under 13 are protected by placing them, under the supervision of an authority, in a respectable family, in a private or public educational institution or in an agricultural school until they have reached the age of 18. Young persons between 13 and 18 years of age who are abandoned or in moral danger are protected by placing them in a reformatory or in an industrial or agricultural school until they have learned a trade. They are released at the age of 21. They are placed under the supervision of the local Board of Patronage or of a special association for the protection of minors.

If the minor is over 18 and under 21 years of age when he committed the breach of the law, the judge may order that punishment by internment in a special colony be replaced by internment in a reformatory for a period of at least ten years.

Sentences of internment, imprisonment and deportation are reduced below the minimum duration applied to adults having committed the same offences. Young persons between 18 and 21 years of age must be detained in special sections of the prisons.

Poland

REPORT TRANSMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

The Decree of February 7th, 1919, setting up courts for minors in the towns of Warsaw, Lodz and Lublin, the organisation and procedure of which were governed by an Ordinance of the Minister of Justice dated July 26th, 1919, was abrogated by the Ordinance of the President of the Republic of Poland dated February 6th, 1928, introducing the uniform organisation of the ordinary law courts (*Legal Gazette*, text 93). Article 4 of this Decree authorised the Minister of Justice to set up special courts for minors attached to the local courts.

II.

1. Organisation.

Each local court chooses from among its members a children's magistrate, who is appointed for three years and acts as sole magistrate. The court of second instance is composed of three special judges of the Court of Appeal.

In order to assist the minors' courts, a welfare society is to be set up in each town where there is a court. These societies will be formed into one central child welfare organisation, which will have its own funds and will establish child welfare or educational institutions (the Government giving the necessary land free of charge).

2. Competency.

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.

3. Procedure.

Procedure in cases affecting minors is governed by Articles 614 to 635 of the Code of Criminal Procedure of July 1st, 1929, in the new text dated September 30th, 1932. Under the terms

[1] As the law had been changed since the publication of the report in the Commission's *Bulletin* for 1927, for the first edition of the document, a revised report drafted by M C. Berezowski, Judge of the Supreme Court, Warsaw, was submitted to the Commission by the Polish Government delegate, Professor E S Rappaport For the same reason, some minor changes have been made in this text for the second edition.

of these articles, proceedings against minors who are under 17 when the hearing commences are heard by the minor's courts, the procedure being the same as that before the magistrates' courts, with certain modifications.

No supplementary charge may be brought by third parties.

There is no formal preliminary examination, but an enquiry which is carried out by a children's magistrate or entrusted by him to a children's curator, a member of a child welfare organisation, the police or a trustworthy private person. The object of the enquiry is to establish the circumstances attending the act complained of, to collect the information necessary for determining in how far the minor knew that what he was doing was wrong, and to ascertain his character, his past, his education, his social and moral situation, the social and moral situation of his family, and the best methods of dealing with him. During the enquiry, as a preventive measure, the minor may be placed under responsible supervision or in a special home for minors. When the enquiry is terminated, the magistrate enters the case in the register, or states that there are no grounds for prosecution.

The case is heard in private, but the representatives of the child welfare organisations may be present. The parents of the minor and his guardians are notified of the date and have the right to make statements and submit requests. During the hearing, the magistrate may limit his action to reading the depositions of the persons whose evidence he has personally taken, unless the parties demand that they be called. During the proceedings, the magistrate hears what the minor has to say; the latter remains in the court only for such time as the magistrate deems necessary.

If the case has been brought against a minor and an adult, the proceedings are kept separate and the part of the case relating to the minor is referred to the children's magistrate. However, if it seems desirable to deal with the case as a whole, the ordinary court deals with it, while as far as possible observing, in the case of the minor, the above-mentioned rules.

Appeals may be made to the Court of Appeal against all judgments relating to minors. Appeals and applications to have cases quashed involve suspension of sentence only in the case of a sentence involving loss of liberty which has not been commuted to internment in a reformatory.

Finally, Articles 5 and 6 of the introductory provisions of the Code of Penal Procedure (*Legal Gazette*, 1928, text 101) provide for a home being attached to the juvenile court where minors under 17 can be provisionally placed. This home must not be in the same building as the prison or the place where adults are kept in custody and must be under the control of the children's magistrate. Until homes have been built, minors will be placed in a reformatory in accordance with the ordinance of the President of the Republic of March 22nd, 1928, or in a special part of the prison or of the place where persons are kept in custody.

4. Measures to be taken.

Minors of the first category (C. 2. " competency ") can only be subjected to such educative measures as reprimand, subjection to responsible supervision by parents, the existing guardians, or a special curator, or they can be sent to an educational institution.

With regard to minors of the second category, the judge may, in addition to educative measures, also order correctional measures : he may place the minor in a reformatory until he has completed his twenty-first year. Except in very serious cases, the judge may, as an experiment, suspend, for a period of one to three years, confinement in a reformatory and, during that time, apply the above educative measures. On the recommendation of those in charge of the institution, or on its own initiative, the court may release for a specific period a minor who has spent at least six months in the institution. If a person conditionally released

misbehaves, the court may rescind the release. If, during the period of provisional release, such release is not rescinded, or if the minor in question attains the age of 21, the original sentence is erased from the records.

Part of the cost of the education of minors placed in institutions is borne by the State, which has the right to demand reimbursement from the persons responsible for the minors' maintenance or, should these be insolvent, from the commune where the minors are domiciled.

III.

It is not yet possible to say definitely what results have been achieved as a result of the setting up of special courts for minors attached to the local courts, as provided by the Law of January 1st, 1929. The few years which have elapsed since this law came into force is too short a period for it to be possible to judge of the influence which this system has had Nevertheless, we may say that the work done by the juvenile courts up to the present has been very satisfactory, thanks especially to the collaboration of the welfare organisations. The good done by this work will increase in proportion as the welfare organisations develop and the central child welfare organisation commences to function with the support of the State and of public opinion.

Portugal

REPORT DRAWN UP ACCORDING TO INFORMATION SUPPLIED BY THE PORTUGUESE GOVERNMENT.

I.

The first law for the protection of children was promulgated in Portugal on May 27th, 1911.

A " Tutoria " (children's central court and Guardianship Council) was set up in Lisbon in 1911, and in 1912 a similar institution was opened at Oporto.

In 1925, by Decree No. 10767 of May 15th, the action of the juvenile courts was extended to the whole country. There are at present three central courts, one for each of the three judicial districts of Lisbon, Oporto and Coimbra, with an auxiliary court in each sub-district.

II.

1. Organisation.

Only the juvenile central courts at Lisbon, Oporto and Coimbra have full jurisdiction as special courts. There is only one magistrate ; a doctor and teacher participate in the hearing of the case merely as experts and as officials of the remand homes annexed to the court. There are also minors' guardians, who likewise act as the directors or assistant directors of the remand homes, and as superintendents of the probation officers, attached to these courts.

The juvenile district courts are benches presided over by the district judge, assisted by a doctor and a teacher as assessors. The Public Prosecutor's delegate for the district acts as the minors' guardian. In cases where internment is necessary, these courts merely serve as auxiliary courts to the central courts.

2. Competency.

It is the object of the juvenile courts to study and enforce the application of all legal measures and means for the defence and protection of children, and to impose measures of correction where necessary; they may also pass judgment on adults, including parents, who have committed acts prejudicial to the child or have neglected him. Judgments are not rendered according to the letter of the law, but in the light of all the circumstances of the case as far as the law allows.

Juvenile courts in Portugal are competent to deal with minors in moral danger and to place neglected orphan or vagabond children, children who are being ill-treated or who are exposed to harmful influences or to bad examples, under guardianship and protection from the time they are born until they come of age. In the first case mentioned, they can compel relatives down to the sixth degree to contribute, according to their means, to the maintenance and education of their children or wards. The court may declare a child who has neither parents nor family down to the sixth degree or whose family appears to be without means a ward of the State.

It is the special duty of these courts to try delinquent or pre-delinquent minors under 16 — that is to say, children who have been found guilty of a crime, misdemeanour or offence, or who show a marked tendency to criminality, although they cannot be accused of any definite act. It is not possible to define delinquency objectively according to the rules of ordinary criminal law. It has to be defined by an essentially subjective criterion in conformity with the principles of modern criminology. This first classification of minors from the judicial standpoint not only defines the powers of the " Tutorias ", but separates the groups whose juridical and social position is entirely different.

The " Tutorias " regulate the exercise of paternal power in the case of children of divorced parents, parents who have been judicially separated, or illegitimate children.

The central " Tutorias " are the only children's courts which have full power to apply all the measures sanctioned by law. The district " Tutorias " may only impose with final effect the less severe measures which can be carried out on the spot. If graver measures have to be taken in respect of a minor, either at the time of the first judgment or in lieu of a previous decision, the district court proposes to the central administration that the case be referred to the central " Tutoria ", and that the minor be interned in the house of observation attached to that court.

The " Tutorias " also endeavour to enforce, on behalf of their wards, the application of the laws for the protection of illegitimate children (action to establish paternity), at the request of the minors' curators, such cases being brought before the civil courts.

The " Tutorias " are competent to deal with the following civil and criminal cases :

(a) Criminal proceedings against adults including parents who incur criminal responsibility in respect of their wards and as regards the education or morals of the children;

(b) Criminal proceedings against delinquent children up to the age of 16;

(c) Paternal correction in the case of undisciplined minors up to the age of 21;

(d) Declaration that children are in moral danger up to the age of 21;

(e) Imposition of maintenance orders;

(f) Loss of paternal power;

(g) Restoration of paternal power;

(h) Provisional guardianship of the child before a case is heard or on account of loss of paternal power;

(i) Withdrawal of the right of guardianship;

(j) Regulation of the exercise of paternal power;

(k) Replacement, exclusion or dismissal of the guardian, in connection with loss of authority;

(l) Return of children to their homes.

Applications under several of the above headings may be dealt with at the same time.

The withdrawal of paternal power by the " Tutoria " merely affects the person of the minor. A request for action to be taken in respect of his property must be made by the guardians of the " Tutorias " to the civil courts.

This supplementary measure is adopted as the result of certain decisions, of which it is the necessary juridical corollary; it may also be imposed by a special action when the family is found to be the cause of the minor's moral danger. The Law of 1911, the provisions of which were complicated, too theoretical and, in short, inapplicable, has been simplified by a recent law on the subject.

3. Procedure.

The final judgment is in every case preceded by a preparatory sitting, at which the situation of the minor is examined, account being taken of the principal features of the case. Where the district " Tutorias " find that internment is necessary, they propose to the higher council attached to the Ministry of Justice that the minor should be handed over to the competent central " Tutoria " (Lisbon, Oporto or Coimbra). The latter pronounces final judgment after a thorough examination of the minor in the remand home attached to each central court, which possesses the necessary personnel, equipment and organisation. The minor is not present when judgment is given by the district " Tutorias ", but is examined privately in the office of the presiding magistrate.

After the decision, the judicial record of the case is sent to the establishment in which the minor is placed, so that observations may be entered as to the minor's conduct and the success or failure of the treatment to which he is being subjected. At the request of his parents, curator, or the director of the establishment, the record may be re-examined at any time by the court, which has the right to modify its previous decisions, making them more or less severe within the limits laid down by the law, or to take other additional measures, to replace one measure by another, or, finally, to cancel its previous decisions.

Cases are re-examined by the " Tutorias " every three years, even when this re-examination has not been requested under the above-mentioned conditions. The elasticity of this method is in accordance with the principles of modern criminology — namely, that a penal decision should be individual and indefinite.

4. Measures to be taken.

The preventive measures which may be taken by the juvenile courts for the protection and reform of delinquent minors are graduated according to a progressive and regressive scale :

(a) A simple reprimand;

(b) Placing on probation with the obligation for the minor to present himself periodically before the court;

(c) Placing of the minor in an adoptive family or purely educational establishment, with suspension of paternal power;

(d) Internment for not more than six months in a refuge (house of observation);

(e) Internment for from two to six years (not more) in a reformatory ;

(f) Internment for from two to six years (not more) in a correctional colony, with confinement, if necessary, in a special prison of the colony for intermittent periods.

An interned minor who has reached the age of 21, or who is over 18 and has already undergone six years internment under the influence of the " Tutorias " without his being reformed, is placed by judgment at the Government's disposal, and is sent by the latter either to an ordinary prison or to an oversea colony.

In addition to the measures indicated above, the court may order the following to be taken in respect of minors : semi-internment, release on probation and incorporation in the Army or Navy.

The court may also pronounce the loss of paternal power or guardianship, may bring an action for maintenance against, and apply criminal procedure to, the adults who are responsible for the children or who by their treatment of their wards have incurred criminal responsibility.

The Inspectorate-General may authorise the internment in correctional colonies of minors under 18 and over 16 who have been sentenced by the ordinary courts to the full penalty or to a correctional penalty exceeding six months, when the penal and penitentiary council considers that this treatment would be better for the minors. The period of this internment is strictly limited to the duration of the penalty to which the minors have been sentenced by the ordinary courts.

When a minor is declared a ward of the State, this decision gives him a right of priority to admission to public assistance establishments, if he cannot be voluntarily received by an adoptive family or private institution. Pending the adoption of these final arrangements, minors of this category are placed in special premises attached to each remand home.

The " Tutorias " also authorise, at the request of their parents or guardians, the internment of unruly minors in a reformatory, when it has been ascertained by enquiry that they refuse to work and are not amenable to the normal processes of education in a family or school.

III.

From 1911 down to the present time, approximately 20,000 minors of both sexes have passed through the hands of the " Tutorias ".

Of this large number, although some are living under better conditions than others, very few have had to reappear before the courts. Naturally, not all these minors were interned. In some cases, preventive and guardianship measures alone were taken — reprimands and the obligation for the minors to present themselves periodically before the " Tutorias ", placing on probation, placing in adoptive families, semi-internment, compulsory enlistment in the Army or Navy, withdrawal of paternal power, action to secure a maintenance order (decisions taken by the juvenile courts) and action to establish the paternity of the child at the request of the curation of the " Tutorias " attached to the ordinary courts, etc.

It is only in the last resort that recourse is had to prolonged internment or compulsory education, with conditional release and the application of the welfare system.

Nearly 2,000 minors benefit each year by the system and various measures of guardianship, defence, protection and reform applied by the " Tutorias ".

In principle, a child should not be held responsible for his action before the age of 13 or 14 ; up to that age, only measures of defence, protection and re-education should be taken, through the administrative or judicial authorities and in a purely tutelary form. From 14 to 18, a certain responsibility may be assumed. Minors can then be subjected to a purely disciplinary or correctional regime, according to the degree of perversity and the occasional or habitual nature of the offences committed. Cases which arise must be examined by special courts

according to a special procedure, based not so much on the desire to impose a punishment commensurate with the offence as on the desire to re-educate and reform the minor.

As a general rule, it is preferable for young persons from 18 to 21 sentenced by the ordinary courts to serve their sentence in special establishments where they will be given suitable work, not of a penitentiary character.

The State should encourage the tendency to submit all questions relating to the rights of legitimate or illegitimate children to the special juvenile courts, guardianship councils to organisations, or suitable administrative or judicial authorities, in cases where minors are involved. The object is to ensure the adoption of the best possible measures for the moral and physical training of the children. As a general rule, efforts should be made to emancipate young persons over 18, if their family has proved incapable of exercising parental power.

Failure to support a child when ordered to do so, or the abandonment of a family, must be regarded as offences, and measures of security and social defence, including the obligation to work, either in prison or under a deferred sentence, part of the wages being paid to the family, will be imposed.

Roumania

REPORT DRAWN UP ACCORDING TO INFORMATION SUPPLIED BY THE ROUMANIAN GOVERNMENT.

I.

The legislation in force in the territory of the former Kingdom of Roumania does not provide for juvenile courts, juvenile offenders being generally dealt with by the same bodies and according to the same rules of procedure as adult offenders.

In Transylvania and the Bukovina, on the other hand, there is a special system for dealing with juvenile delinquents.

II.

1. Organisation.

(a) *Transylvania.* — Law VII of 1913, " on the authority competent to deal with juvenile offenders ", provides for the organisation of such an authority to work with each police court, and the Ministry of Justice may also, where necessary, provide for such authority being attached to certain justices of the peace.

The magistrates are appointed by the Ministry of Justice for a period of three years.

(b) *The Bukovina.* — A series of decrees, the most important of which are those of July 10th, 1903, May 25th, 1905, and October 21st, 1908, provide that, in the case of courts with several divisions, juvenile offenders of 14 to 18 years of age shall be dealt with by one division and, as regards justices of the peace, by one magistrate specially appointed for the purpose.

Minors are dealt with, if possible, in separate rooms, or at least at different hours, so as to prevent their coming into contact with adult offenders.

2. COMPETENCY.

See under Nos. 1 and 3.

3. PROCEDURE.

(a) *Transylvania.* — The Magyar law still in force empowers the judge to make enquiries in person or through representatives with a view to establishing the causes of the offence — that is to say, it invests him with the powers of an examining magistrate. The magistrate summons the minor to appear, as also his representative at law or the person with whom he lives. The minor must then be brought before the magistrate without delay. In exceptional cases, he may be kept in custody, but in no circumstances may he be detained for more than forty-eight hours.

The case is not heard at the same time as ordinary police-court cases, the public may be excluded altogether, or only authorised members of child welfare societies, lawyers, etc., admitted.

The proceedings may not be reported in the Press.

(b) *The Bukovina.* — The whole procedure is designed to throw light on the physical and moral characteristics of the juvenile offender. Thus the presence of the father or guardian is required at all stages of the enquiry. The magistrate may ask the school or judicial authorities, or the minor's employer, for information with regard to him, and he may ask certain associations or trustworthy persons to collect such information.

Detention for purposes of enquiry is only authorised in cases of extreme necessity.

4. MEASURES TO BE TAKEN.

(A) *Transylvania.* — As regards this point, the above-mentioned special law is supplemented by the provisions of Law XXXVI of 1908, called the "Supplement to the Penal Code", and by those of the Law on Criminal Procedure.

(a) Children under 12 years of age are not regarded as responsible for their action, and only measures of an educative nature may be taken with regard to them.

(b) This also applies to minors between 12 and 18 years of age who have committed an offence without knowing that it was wrong. Other cases can be dealt with by :

(1) Reproof ;

(2) Conditional release or release under supervision ;

(3) Relegation to a reformatory, etc., for an indefinite period, which may not continue after the minor has attained his majority ;

(4) Imprisonment for terms varying according to the age of the delinquents. Minors between 18 and 20 are regarded, for the purpose of punishment, as adults, with this difference — that they may serve terms of imprisonment in special prisons for minors.

(B) *The Bukovina.* — Ordinance XV of September 30th, 1905, relating to the serving of sentence in prisons, provides for educative measures in addition to coercive penalties.

As regards punishment, according to the Austrian Penal Code still in force, minors under 10 years of age are only liable to punishment in their homes. In the case of minors between 14 and 18 years of age, crimes are punishable with a period of imprisonment varying from one to six months, combined with the obligation to do useful work, while misdemeanours and minor offences are punishable with penalties only in the minor's own home.

Sweden

REPORT TRANSMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

The Law on the Social Protection of Children, dated June 6th, 1924, which came into force on January 1st, 1926, provided that there should be set up in each commune a " Children's Protection Council " (Barnavardsnamnd), with the very wide duties that its name implies. Amongst them is the duty to take measures for the protection and education of children that are deserted, uncared for or in moral danger, up to the age of 16 years, and even up to 18 if they have already been corrupted.

This law replaced another dated June 13th, 1902, which came into force on January 1st, 1905, but which only applied to children under 15. In connection with this first law, a change had been made in the criminal code by a Law of June 27th, 1902, which is still in force and which withdraws children under 15 from the scope of the Criminal Code. 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. The first mentioned of the above laws provides for such measures and their methods of application.

The criminal code has not yet been adapted to the Law of 1924. Thus, for young offenders between 15 and 18 years, the Children's Protection Council has not exclusive jurisdiction. Such offenders come also under the jurisdiction of the criminal courts and are liable to the ordinary punishments. There are, however, certain special rules as to procedure and the measures to be taken in regard to children ; these will be referred to later.

The Law of June 6th, 1924, on the Social Protection of Children has been amended by two laws of May 31st, 1934. These laws raise the age-limit for applying the rules regarding vagrancy from 18 to 21, and provide for special measures in respect of young persons from 18 to 21. As the powers of Children's Protection Councils have thus been enlarged, they may be called " Youth Commissions " in so far as they deal with young persons between 18 and 21.

II.

1. Organisation.

In each administrative commune a Children's Protection Council is established. But in small communes the King may, exceptionally, allot these duties to the public relief authority which obtains the assistance for this purpose of a minister of the Protestant religion and of a master of an elementary school. As a general rule, the council is appointed solely for the protection of children. It consists of a representative of the public relief authority, a Protestant minister, a master of an elementary school (or schoolmistress or inspector of elementary education) and at least two other members selected from persons of either sex who have shown interest and enthusiasm for the protection of children. In towns, and, as far as possible, in the country, a doctor also sits on the council. The members, of whom one at least must

[1] In the first edition, this report was reprinted as prepared by M Olof Barklind, Bachelor of Law, Stockholm, and submitted to the Commission by the former delegate of the Swedish Government, M. V. Almquist, and published in the Commission's *Bulletin* for 1927. In the second edition, a few additions have been made to cover changes in legislation and the statistics have been amplified by the figures for 1928 and 1931.

be a woman, are elected by the deliberative body of the commune for a period of four years (the member of the poor-law administration for his period of office). The same organ appoints the chairman and vice-chairman. The organisation and working of the councils are under the supervision of the prefects. The central inspection is in the hands of the State inspector of public relief administration.

2. Competency.

The jurisdiction of Children's Protection Councils is indicated in the definition of their duties, which the former law described as follows :

> " The purpose of this law is to provide suitable education for children under 15 years, who, owing to the depravity or neglect of parents or guardians, or their incapacity for giving them the necessary attention, are morally abandoned, so that special measures are considered indispensable to prevent their corruption ; also for children who are already so corrupted that the measures of education that can be supplied by the family or the school are insufficient for their reform."

The Law of 1921 extended the jurisdiction of the councils to children who are ill-treated in their home, or whose life or health is endangered from lack of attention or any other reason. Besides the " social protection " which relates to this category, and also that of morally abandoned children, the councils are also responsible for " social guardianship " — *i.e* , for the supervision of all children placed for remuneration with persons other than their father and mother or guardian, or even placed gratuitously in an orphanage and likewise for deserted children or orphans. The public relief authority is therefore only responsible for outdoor relief ; disputes as to jurisdiction are settled by an Arbitration Commission. In all the cases mentioned, the age-limit is 16 years (at the moment when the council takes action) ; for children who have been already corrupted, the age-limit is raised to 18, in order to ensure suitable treatment for young girls leading an immoral life or youths with a tendency to vagrancy or idleness. On the other hand, a clause has been added to the law on vagrancy excepting from its provisions young persons of 18 years See, however, the new age-limit of 21 for vagrancy referred to in I.

No such change has been made as regards the Criminal Code, and the minimum age of criminal responsibility is still 15 years. Thus, young moral delinquents of 15 to 18 are subject to two parallel jurisdictions — as delinquents to prosecution in the ordinary courts, and as morally corrupted to the Children's Protection Council. If the two jurisdictions operate concurrently, the decision of the council is, *ipso facto*, annulled by any sentence of the court ; it remains in force only where there is a suspension of sentence.

3. Procedure.

Any person who desires the Children's Protection Council to intervene may apply to the chairman or any member of the council, who will forward the request to the chairman. Any local authority official or public officer, doctor, or midwife who in the exercise of his duty or profession becomes aware of a fact warranting the council's intervention will be bound to inform the council. But the latter may also act *ex officio* : the whole procedure before the council is essentially of an *ex-officio* nature. There is no appeal against the rejection of an application or against a decision by which the council refuses to take any measure asked for ; the only course is to apply to the prefect. The latter, in virtue of his office, must compel the council to fulfil its duty.

When a question is brought before the council, the chairman makes a preliminary investigation ; he obtains, or instructs a delegate — who may or may not be a member of

the council — to obtain precise information as to the material and moral situation of the child and as to his conduct. If there is reason to believe that the child suffers from a disease or bodily or mental infirmity, he further obtains a medical report. His powers of investigation are only limited by the resistance of those to whom he applies. In such a case it is for the council to complete the investigation. The council may summon before it any person residing in the commune. A person failing to attend after four days' notice is liable to a fine, and the prefect may issue against him a writ to appear in court. The council cannot place witnesses on oath.

The hearings are not public. Besides the child, his parents or guardian are heard. If they live outside the commune, they may be heard by a delegate commissioned for the purpose in the commune in which they live ; or they may state their views in writing. Minutes of the meetings are taken ; the council also keeps a register containing the names of each child with which it deals and those of his father and mother or guardian, and the decision reached This forms a sort of criminal register

The decision of the council removing a child from the authority of his parents or guardian must be notified to the latter and they must state within the fixed period whether they consent. If they do not consent, the decision is referred to the prefect for approval. In this case, execution of the award is stayed unless orders to the contrary are specially given. Both the parents or guardian and the council may appeal from the prefect's decision to the Council of State (Regeringsratten).

The special rules to be observed by ordinary courts in cases against young persons under 18 years may be mentioned here. In such cases, the President of the court may (and, if the offence is punishable with penal servitude, must) appoint a delegate as rapporteur to enquire into the moral and material situation of the accused and the measures by which he may be reformed. The court may sit behind closed doors. If the young person is involved in a case concerning an older offender, his case is separated from the latter ; but, if this cannot be done without hindering proceedings, the whole case may be heard behind closed doors. Even if a private hearing is not necessary for the whole affair, the delegate's report is read in private. The near relations of the young offender are admitted and also other persons whose presence is considered desirable. Judgment is always read in public.

4. Measures to be taken.

Only measures for the protection and reform of children who are, or are in danger of being, neglected or corrupted, are here referred to. The " social guardianship " mentioned above, which is the supervision of children placed away from their family, is not here in question. The measures are the following .

(a) Warning to the parents ;

(b) Reprimand (with or without corporal punishment) ;

(c) Additional education ;

(d) Protective education.

A warning is given in the case of moral neglect. The council addresses to the persons in charge of children a warning and an order to bring up the child better, as is their duty ; it may be given at a public sitting or through a delegate appointed for the purpose.

The child himself is reprimanded in the same manner, if he has shown signs of moral perversity. If the council thinks fit, it may also order corporal punishment to be inflicted on the child, in the presence of witnesses ; this is limited to boys under 15 and girls under 12 years. When the council gives a reprimand or a warning to parents, it must arrange for

welfare supervision, with which it may entrust one of its members, or any other responsible person. This consists in watching over the child's conduct and helping in his education. Further, the council must warn the parents or guardian that severer steps will be taken if the measures already applied prove insufficient.

The council may order a child's parents or guardian to apply for the assistance of any institution founded to help in the upbringing of the young, such as children's homes and industrial schools, or that the young person be bound to follow a suitable employment to be determined by the council. In such a way, an endeavour is made to make up for lack of attention due to the daily employment of those in charge of the child; without being taken away from his family he must be removed from the dangers of idling.

The term " protective education " means the education received by children who, by a decision of the council, are removed from the control of their parents or guardian, either on account of moral perversity or neglect, or that they may be rescued from cruelty or danger to life or health, to which in their family they are exposed. In all these cases the council provides for the placing out of the child, but the methods of placing vary. If the most appropriate method cannot be decided upon at once, the child will be provisionally entrusted to a charitable institution, and if his physical or mental condition requires special treatment, such treatment will there be given. As a rule, neglected children are placed with a reliable family or, if no such be willing to receive them, in a home for neglected children. In cases of moral perversity, these methods are only employed if there is no fear that other children may thus be corrupted; such cases are generally sent to " protection homes ". The same method is employed if a child behaves badly or corrupts other children A protection home only receives a limited number of children of one sex It is organised so as to ensure that each of its inmates shall receive the guidance and care necessary for bringing him up in a God-fearing manner and accustoming him to work. The inmates are called pupils, and attend an elementary or higher elementary school in the institution itself. The manual work is, in particular, farming and gardening, but other trades are taught, like carpentry, boot-making and, for girls, sewing, according to inclination and ability. If young persons over 15 years placed in a protection home show signs of serious moral perversity, they may be removed to a " reformatory ".

The period of protective education is not laid down in advance. The law only provides that it shall not extend beyond 18 years and, in certain exceptional cases, 21 (majority). See, however, the new provisions for young persons between 18 and 21 referred to at the end of this section. When a child placed in a family or in a home has reached such an age or acquired such a stability of character that he is considered capable of being sent to employment or apprenticed, the council takes suitable steps and also obtains for him the necessary outfit. A child is sent back to his own family as soon as this is in a position suitably to take charge of him and bring him up The shortest period passed in a protection home is a year. After this period, the management, if it thinks fit, may discharge the pupil and place him either in a family or in service, or apprentice him for a fixed period or until further orders. The management must always reserve the right to recall him, and is bound to bring him back into the institution if his conduct or other circumstances require Final discharge is only granted when the child has acquired such a firmness of character as no longer to have need of this system of upbringing. The decision rests with the management of the institution and not with the council

The management must endeavour to find suitable employment for pupils discharged and provide for their outfit. Even on the conclusion of protective education, young persons who have once been removed from their family remain under the council's supervision until their majority.

The costs of maintaining and educating children placed with individuals or in orphanages or protection homes are advanced by the council, who may recover them from the child's parents. Against parents who, through depravity, negligence, idleness or indifference, have rendered placing out necessary and who are avoiding payment of the cost, the council may employ measures of constraint, consisting of a kind of forced labour. The parent is obliged to work in an institution of the poor law authority or elsewhere until there is reason to believe that he intends to fulfil his duties towards the child. By doing the work allotted to him, he is deemed to repay the cost of the assistance given meanwhile to his wife and children under age.

Protective education does not involve deprivation of paternal power, which continues in law although suspended in fact. The penalty of deprivation is well known, but it is within the province of the courts. Councils for the protection of childhood may not decree deprivation, and may only institute proceedings for the purpose.

Courts dealing with young persons between 15 and 18 years impose the usual sentences upon them, but take account of their age in mitigation of punishment When passing a sentence of fine, imprisonment or hard labour not exceeding two years, the court may, if it thinks fit, having regard to the character of the accused, to the surroundings in which he has lived and to his degree of intelligence, order that, instead of serving the sentence awarded, he be sent to a reformatory where he may be kept until his majority. Suspension of sentence, combined with probation for a certain period, may be ordered under the same conditions as for adult offenders The court may further bind the accused to submit to such rules of conduct and to such arrangements as the delegate in charge of him may think necessary.

As regards the measures laid down by the two above laws of May 31st, 1934, regarding young persons between 18 and 21 of lazy and dissolute habits, the following should be noted :

The Child Welfare Committee must first appeal to the party to change his ways and try to help him to find work or must take other suitable action If it decides to apply any measure, it must see that the young person is kept under supervision, though this may also be ordered without any special measure being adopted If the Committee thinks that the measures laid down in the Law are, or would be, useless, or if the measures taken by it prove ineffective, it must see that the young person is given protective education (skyddsuppfostran) suited to his character and stage of development The young person is then placed in a protective education home (skyddshem) or in a reformatory (allman uppfostringsanstalt) The young person may also, if this seems the best solution and does not inconvenience others, be boarded out in a family or in a labour home (maison de travail).

Persons undergoing protective education may eventually be released on probation. Final release is granted when the party seems to require no further protective education. It is granted not more than two years after the Committee has taken charge of the young person, but may for special reasons also be postponed for not more than one year After discharge, orders may also be given to keep the party under supervision for at least one and not more than two years, but such supervision may in no case extend beyond the age of 24.

If a criminal court sentence has to be enforced against a young person, the Committee's decision to subject him to protective education is in some cases invalidated.

III.

It is not possible to give a report on the results of the law which came into force on January 1st, 1926. This law took the place of the former law, which had worked unsatisfactorily in a large number of communes. Thus, only one-third of the urban communes and one-quarter of those in country districts had set up a council for the protection of childhood, and the others had charged the school councils with these duties (this was permitted by the old law, but is not permitted by the present law). Better results are expected from the more

effective aplication of the latter law. But the results of the former were not bad. The percentage of children and young persons discharged from homes of protection who subsequently commit offences is between 7 and 21. As regards the largest institution, the " Hall Agricultural Colony ", which, however, only receives the worst cases amongst boys, 12 per cent of those discharged were again convicted for criminal offences during the five years following their discharge. The annexed statistics will give an idea of the work done by the councils under the system of the old law.

Statistics.

Year	1908	1915	1923	1928	1931
1. Measures ordered by councils					
Preventive Measures ·					
Warning parent or guardian	533	597	—	741	498
Reprimand .	595	810	612	920	805
Corporal punishment .	90	123	59	44	18
Supplementary education .	—	—	—	39	35
Welfare supervision (as only measure)	—	—	—	797	1,400
Number of children	—	—	—	2,061	2,455
Protective Education . . .	677	793	626	1,016	988

	End of the year		Middle of the year	During the whole year	
2. Total number of minors undergoing	1908	1915	1923	1928	1931
protective education	2,116	2,732	—	4,765	5,578
Placed with private individuals	1,238	1,721	-	2,462	2,877
Placed in orphanages .	428	463	—	885	1,058
Placed in protection homes .	450	548	861	1,498	1,675
Placed in institutions for abnormal children, etc .	—	—	—	292	327

	Legitimate		Illegitimate		Total
3. Division of minors undergoing protective education, according to age groups, etc., in 1931 ·	boys	girls	boys	girls	
Ill treated or exposed to dangers against life or health .	451	419	211	164	1,245
In moral danger . . .	774	621	424	342	2,161
Lack of discipline .	1,084	540	370	259	2,253
Net number . . .	2,273	1,560	992	753	5,578
Placed with private individuals	1,099	793	549	436	2,877
Placed in orphanages	385	362	165	146	1,058
Placed in protection homes .	812	390	289	184	1,675
Placed in institutions for abnormal children, etc.	113	129	48	37	327

		Men	Women
4.	Frequency of conditional release .	(Percentage)	
	Inmates of homes of protection .	86	90
	Others	approximately 18 %	
	Frequency of readmission to homes of protection of inmates on conditional release	13	23
	Frequency of failures (sentenced for infractions against the penal code) of the former inmates of homes of protection during approximately five years of their conditional release .	21 5	7 5
	Of this total, inmates of the " Agricultural Colony of Hall " . .	25	

		Men	Women
5	Total number of inmates in the homes of correctional education on December 31st, 1933	170	29

Switzerland

REPORT TRANSMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I

The Federal Law of Switzerland contains no provisions as yet for the organisation of juvenile courts The draft Swiss Penal Code of 1918 contains certain articles on this subject (Articles 80-96, 390-394, 414 and 415), but it is still under consideration by Parliament.

Pending Federal legislation, most of the cantons have refrained from settling the matter on their own initiative, although the need for special provisions is generally recognised. Special jurisdiction for children and young persons has, however, been introduced in some cantons, more particularly in Appenzell (Outer Rhodes), Aargau, Basle Town, Berne, Fribourg, Geneva, Grisons, Lucerne, Neuchatel, St Gall, Vaud and Zurich, and other cantons are about to follow this example As the Federal scheme merits the closest attention, however, it will be well first to study its provisions on each question and then to glance at the cantonal laws. It should be noted in the first place that, even under the Federal scheme, the question of procedure will be left to the cantons, except for a few general laws embodied in the draft.

II.

1. Organisation.

Children between 6 and 14 years of age, under the text of the Federal Council and the Council of States (between 6 and 15 under the text of the National Council), who commit any act punishable as a misdemeanour or petty offence will not be liable to prosecution (The Swiss scheme abolishes the tripartite division into crimes, misdemeanours and petty offences. The term " misdemeanour " includes acts known elsewhere as crimes and misdemeanours.)

[1] In the first edition, this report was reprinted in its original form as prepared by Dr A Silbernagel, former President of the Basle Courts of Law, transmitted to the Commission by Professor Delaquis, Swiss Government delegate, and published in the Commission's *Bulletin* in 1927, apart from an addition at the end

In the second edition, the report has been amended and supplemented in the light of data supplied by Dr Silbernagel and communicated by Professor Delaquis

The cantons will appoint authorities competent to take the following measures as regards this class of young offender.

Proceedings against young persons between 14 and 18, under the text of the Federal Council and the Council of States (15 and 18 under the National Council's text), may be entrusted by the cantons to special authorities, such as juvenile courts, offices for the protection of children or guardianship authorities While the word *judge* is still employed in the Federal Council's draft in connection with the establishment of the facts in cases concerning juveniles, *competent authorities* is used in the Parliament's text.

These very broad rules leave the cantons quite free to set up authorities for dealing with children and young persons and will easily cover any institutions already in existence.

The Juvenile Court (Jugendgericht) of the Canton of Appenzell (Outer Rhodes) consists of five members. This court is appointed by the Government The magistracy and education committee must be represented on it.

In the Canton of Basle Town, most cases concerning young offenders are referred to the guardianship authority. The Board of Guardians is then competent. This Board (there is only one for the whole canton) is presided over by the Chief Official of the guardianship authority and consists of a jurist, a doctor, a teacher, a business man and a woman The chief official of the guardianship authority is competent, as judge sitting alone, to deal with petty offences. Appeal may be made against his decision to the head of the Department of Justice, with whom the final decision rests (Polizeistrafgesetz, 1919).

The Canton of Berne introduced special jurisdiction for children and young people by a law dated May 11th, 1930. Under this new law, which applies to children between 6 and 15 and young persons between 15 and 18, no special courts for minors were set up, but the post of " children's counsel " (Jugendanwalt) was created This official deals with cases concerning minors He combines the Offices of examining magistrate and district attorney, and, at the same time, is responsible for seeing that sentences are carried out A central authority, the Cantonal Office for the protection of Minors (Jugendamt) is responsible for seeing that the children's counsel carries out his duties. It also acts as a general information bureau on all matters concerning the protection of minors One fundamental principle governs the new law, that embodied in Article 3, according to which any measures taken and any penalties inflicted must be solely in the interests of the offending minor and aimed at educating and protecting him.[1]

In the Canton of Geneva, a Juvenile Penal Division was set up under the Law of 1913; this law was amended in 1925 and 1935 The Penal Division consists of a professional judge and two assessor judges, one of whom is a doctor and the other a teacher. One of these assessors may be a woman.

In the Canton of Neuchatel (Law of 1917) the guardianship authority tries cases concerning minors. It consists of the president of the district court assisted by two assessors. Women may act as assessors.

In the Canton of St. Gall, the Law of 1913 set up special juvenile courts for young persons. These courts consist of three members of the district court and two members of the Official District Child Welfare Committee. The latter are appointed for each particular case by the President.

A provisional system for dealing with young offenders was introduced in the Canton of Vaud under a law of 1932, pending the entry into force of the special law for which provision is made in the penal code.

Under the Zurich Law of 1919, minors are tried by the district courts. Courts which consist of several divisions hand over all cases of this kind to one division The district court

[1] A survey of the Law of May 11th, 1930, by Professor Thormann, Berne, appeared in the " Recueil de documents en matière pénale et pénitentiaire ", Vol. I, Book 1, published by the International Penal and Penitentiary Commission.

may, however, set up for this purpose special courts composed of district judges and other persons, not excluding women. Investigations of cases in which children and young persons are implicated are entrusted to special procurators (Jugendanwälte) Women are eligible for this office The Cantonal Office for Children (Jugendamt) must assist the procurators by setting up in each district a committee for the protection of children (Jugendschutzkommission) with from seven to fifteen members, at least one-third of whom must be women Minor charges against children are considered by a school committee

2. Competency

Under the Federal scheme, the authorities of the place of domicile of the child or young person will have local jurisdiction. If he has resided for a long time in some other place, the authority of his place of residence will have jurisdiction. Failing domicile or prolonged residence, the ordinary provisions concerning courts of jurisdiction will apply

Appenzell (Outer Rhodes). — No proceedings are taken against children under 12 The Jugendgericht deals with minors between 12 and 16 who are handed over to it by the Department of Justice There is no appeal against the decisions of this court The Communal Council deals with children who have acted without due understanding

Aargau — Under the Supplementary Law of 1932 on Penal Proceedings, the district court is usually competent to try offenders who are minors These cases come, not before the assizes, but before the penal division

Basle Town — Children under 14 who have committed a punishable offence and adolescents between 14 and 18 who cannot be held responsible for the offence committed, owing to the state of their intellectual and moral development (the text of the penal code of August 10th, 1914, deliberately avoids the use of the words " due understanding " in connection with young persons and does not recognise the condition of " due understanding " in other penal laws), are handed over, under the Law of 1912, to the guardianship authority Even when a young person is responsible for an offence, he is tried by the same authority if the offence is not serious or if the application of educational measures holds out hopes of success Only when a young person can be held responsible in view of his intellectual and moral development and when the offence in serious do the courts deal with him

Geneva. — The Juvenile Penal Chamber investigates and tries all crimes and misdemeanors committed by minors between 10 and 18

Grisons — The education authorities are competent to deal with petty offences and the police court with crimes committed by children between 10 and 14

Lucerne — Children under 14 are not amenable to penal law The necessary action is taken by the education and police authorities A new law concerning special procedure for children and young persons is being prepared

Neuchatel. — The guardianship authority is competent to try minors between 10 and 18.

St Gall — The courts are competent to deal with young persons between 14 and 17 Children under 14 who have committed any offence are handed over to their parents or to the guardianship authority

Vaud. — Under the new Penal Code of 1931, Section V, childhood legally ends at 15 and adolescence at 18 No penal proceedings may be brought against children under 8.

Zurich. — The district courts try children between 12 and 16 and young persons between 16 and 19 Young offenders under 12 are handed over to the education or guardianship authority, which takes the necessary action.

3. Procedure.

When a child between 6 and 14 commits an offence, the competent authority will note the facts and obtain accurate information as to his physical and mental condition and his education. It will be required to obtain a medical report in all doubtful cases.

The judge will adopt the same procedure in dealing with young persons. He may also order a young person to be kept under observation for a time

Cases in which children and young persons are implicated will be kept separate from those concerning adults, and will be heard, as far as possible, in a different building or at different hours. Only near relatives and the legal representative of the accused, together with the representatives of associations for the protection of children and young persons, will be allowed to attend

The procedure for dealing with young persons will also be followed if the offender committed the offence during adolescence but was not brought up for trial until he had reached the age of 18.

In other respects, the procedure will be fixed by the cantons

In the Canton of *Aargau*, young offenders detained pending trial are kept apart from adults. The judge may order an enquiry to be made into their education and family circumstances and may, if necessary, order a medical examination. When no offenders of adult age are implicated in the case, young offenders are tried in camera. They may be excluded from the hearing during pleading

Basle Town. — Young persons who are to be brought before the court may not de detained pending trial, at any rate, not in the same place as adults In the same way, a minor who appears as a witness in a court must be heard apart from adult witnesses as far as possible. This is the provision which has met with most criticism, at Basle and Zurich, from the examining magistrates and the other officials responsible for investigations

Fribourg — Young offenders are not present during pleading and may be excluded during cross-examination

Geneva — The Procurator-General, the examining magistrate or the examining division are required to report any offences to the President of the juvenile penal division at once. When minors between 10 and 18 are implicated in cases concerning adults, they are dealt with separately. During examination, care must be taken that they do not come into contact with adult accused persons or prisoners. Instead of being detained pending trial, they may be handed over to a particular person or to the official committee for the protection of minors When the juvenile penal division discusses a case, it summons the accused, his father and mother and his guardian on the day fixed for the hearing. It may call before it any other members of the family or persons or witnesses whose presence is considered desirable The accused may be defended by counsel who will be heard in the child's absence. The proceedings take place in camera.

Neuchatel. — An investigation is made by the examining magistrate who may decide where a minor shall be sent during the enquiry. If he is detained pending trial, he must not come into contact with adult prisoners. When the investigation is completed, the examining magistrate sends the file to the Procurator-General, who forwards it with his

preliminary notice to the prosecuting court. The guardianship authority has the matter referred to it by an order of the prosecuting court. It gives its decision within the shortest possible time The Public Prosecutor is not represented and the accused is not defended by counsel Cases are heard in public. The President of the guardianship authority may, however, announce his decision in camera if this is in the interests of public morality or of the offender. If a minor was 13 years of age when the offence was committed and it is a serious offence, or he appears to be dangerous — in which cases the guardianship authority may impose the ordinary penalties with certain modifications — the President sees that the Public Prosecutor is represented and that the accused is defended by counsel selected by him or appointed *ex officio*.

St Gall. — The same procedure is followed in the juvenile court as in the district court. Cases are heard in camera, however, and if possible in a different building and at different hours from the proceedings of the ordinary court The President is free to decide whether the father and mother of the accused or the members of the committee for the protection of children may attend the proceedings

Zurich — Under the law, penal charges against children and young persons are referred to the Procurator for Minors The law contains provisions similar to those of the Federal draft on investigation, separate procedure for cases concerning young offenders, enquiries into the personal and family circumstances of the accused, and the hearing of the case in camera The guardianship office appoints a probation officer The Committee for the Protection of Children assists the Procurator to make investigations and to enforce the decisions reached, and co-operates generally in any attempts to suppress juvenile crime It also assists the guardianship authorities to find suitable probation officers (or guardians, when the child has no parents).

1 Measures to be taken.

Federal Draft — If a child who has infringed the law is found to be morally neglected, depraved, or in danger of becoming so, the authority will arrange for him to be sent to an educational institution or placed in a trustworthy family where the authority will supervise his education A child may also be left with his own family under the same supervision. If his condition calls for special treatment, particularly if he is suffering from mental disease, or is mentally deficient, blind, deaf and dumb or epileptic, the authority will order suitable treatment. In the absence of any such circumstances, the authority will reprimand him, if it considers him guilty, or order school detention If the parents have neglected their duty to him they will be admonished or warned The authority may abstain from taking action if six months have elapsed since the offence was committed.

Young persons who are morally neglected will be sent to a reformatory, where they will remain for as long as is necessary for their education, or not less than one year and at most until they have attained the age of 20 (majority). They may be placed in a family under the supervision of the authority. If this treatment is not effective, the judge will send the offender to a reformatory Young persons who have committed serious offences or are thoroughly depraved will be sent to a reformatory reserved solely for such cases They will remain there until they improve or for a period of not less than three and not more than twelve years. At the suggestion of the head of the institution, one of these measures may be replaced by the other.

The National Council is anxious to retain this provision, but the Council of States wishes to delete it and to provide, not reformatories, but educational institutions only, for the less serious cases. It would transfer serious cases and young persons who are incapable of improving to premises to be used as a prison.

At the end of the minimum period, the supervisory authority, after consulting the officials of the institution, may discharge the offender provisionally. It will arrange after-care for him and provide for his maintenance, education and supervision. It may also lay down rules of conduct, in particular it may require him to learn a trade, to live in a certain district or to abstain from alcoholic liquor If within one year of his discharge, he breaks these rules of conduct or abuses his freedom, the competent authority will order him to return to the institution; otherwise he will be finally discharged. The Council of States desires to abolish provisional discharge in these cases.

The provisions relating to special treatment are the same for children, and they also apply to young persons addicted to drink or mentally or morally backward.

When none of these special circumstances are present, a judge will reprimand young persons whom he considers guilty, or sentence them to detention for from three days to one year in special premises where they will be required to perform suitable work He may suspend the period of detention and put the offender on probation for from six months to one year if his character and previous conduct give reason to believe that this will lead him to amend his ways. The conditions of probation are similar to those of provisional discharge, and at the end of the probationary period the sentence will be regarded as cancelled A sentence of detention not enforced within three years will no longer be operative.

The Council of States wanted to add an article — Article 93 (4) - for adolescent criminals, stipulating that as an exception the ordinary penalties might be imposed on young persons who appeared to be dangerous or had committed a very serious offence In this case, the judge would, as provided for persons between 18 and 20, mitigate the penalties. The National Council raised objections to this article

Parliament deleted Article 94 of the Federal Council's text, which provided that the parents of a young person might be admonished or warned.

A judge may abstain from passing sentence if half the period of prescription has elapsed since the day on which the offence was committed At the request of the person concerned, he may order the entry relating to any measures taken to deal with the offender to be removed from the police record after at least ten years have elapsed since they were carried out, provided his conduct justifies their removal and he has made good the damage as far as lies in his power

The cantonal law will decide who shall bear the cost of placing out a child or young person when neither he nor his parents are able to do so

As these rules are laid down with a view to the draft penal code, they do not mention minors who, though in moral danger, have committed no offence As at present, they will be dealt with by private benevolent societies, for instance, the *Pro Juventute* Foundation, and special associations. Cases are brought to their notice by the persons concerned and especially by ministers of religion.

Certain provisions of the Military Penal Code (Federal Law of June 13th, 1927) should also be mentioned. Under Article 13, children under 14 who commit an act punishable as a crime or offence are not prosecuted If the offender is a young person between 14 and 18 (Article 14), the judge is free to reduce the penalty or to inflict none if he considers other measures more effective. If the judge inflicts no penalty, he hands the young person over to the competent civil administrative authority for subsequent action. He may also hand over young persons who are acquitted to this authority.

In the Canton of *Appenzell (Outer Rhodes)* children between 12 and 16 who have committed an offence with due understanding may be reprimanded, sent to a reformatory under the supervision of the Communal Council, or handed over to the Communal Council for supervision. Communal Councils may appoint special committees for the protection of children to exercise supervision of this kind.

In *Aargau* the judge may reduce the minimum ordinary penalties in sentencing offenders between 18 and 20. He is not bound to inflict the ordinary penalties for offences and crimes committed by minors between 12 and 18 years of age. He may reduce the penalty or replace it by reformative or educational measures. If the young person is morally neglected, corrupt or dangerous, the judge may send him to an institution for a period of from one to four years — boys are sent to the special educational reformatory at Aarburg, which is also used for young persons not found guilty who need compulsory education (see also Law of November 25th 1927). After not less than one year, the court may release young persons on probation. It may also extend the period of internment. If the offender behaves very badly in the reformatory, the court may reconsider the case and pass a sentence of imprisonment. Persons acquitted may be handed over by the Government to the guardianship authority.

At *Basle*, the guardianship authority may order suitable educational measures In cases that are somewhat serious, it may also order isolation in an educational institution for not more than one week. When young persons between 14 and 18 are tried by the courts, but are not handed over to the guardianship authority, the ordinary penalties are considerably reduced

Berne — In the case of children, the children's counsel himself orders the necessary measures He severely reprimands or admonishes the child, places it under the supervision of a trustworthy person, or orders that it shall be placed in a family or an educational institution, or shall receive special treatment if it is suffering from mental disease or is mentally deficient, deaf and dumb, or epileptic Young persons are brought, according to the seriousnes of the offence, before a judge sitting alone or before the district court. The judge or court decides whether he shall be placed in a family, sent to a reformatory, or put in the care of a welfare association, or simply reprimands him severely or fines him not more than 100 francs. The measures ordered may be modified if they are found to be unsuitable or are no longer appropriate to the circumstances.

At *Fribourg*, the Council of State may send children and young persons to institutions or place them in families for educational purposes after the sentence has been carried out

Geneva — The Juvenile Penal Division may take the following measures : place the offender on probation, instructing his parents or guardians how to deal with him (it frequently removes him from the family influence when it is found to be unsatisfactory) ; communicate the information it obtains to the official committee for the protection of minors ; place him in a reformatory or disciplinary institution for a period which may extend until his majority. Abnormal or diseased persons may be handed over to the administrative authority to be placed in a suitable institution The Law of February 13th, 1932, appointing a general guardian provides that the latter may also be appointed as probation officer for children or young persons tried by the Juvenile Penal Division. He then becomes responsible to this authority.

Lucerne — The ordinary penalties are reduced in the case of young persons who have committed an offence with due understanding. They may be sent to a reformatory (see also Polizeistrafgesetz, § 34)

Neuchatel. — The guardianship authority may inflict disciplinary detention up to eight days on children between 10 and 13 and up to three months on young persons between 13 and 18, and may place young persons who are morally neglected or depraved in an educational institution or reformatory The guardianship authority may inflict the ordinary penalties on young persons who have committed serious offences, allowing for extenuating circumstances.

St. Gall. — The juvenile courts may order detention in a reformatory for from one to four years or imprisonment up to three years The Council of State may at any time decide to send a minor who has been sentenced to imprisonment to a reformatory. It is interesting to note that it may also order children under 14 (over whom neither the ordinary courts nor the juvenile courts have jurisdiction) to be dealt with in the same way.

In the Canton of *Vaud*, the following measures may be taken to deal with children between 8 and 15 who have committed offences They may be handed over to their parents, admonished, detained (up to fifteen days), placed in a family or in an educational institution, a home or hospital, or sent to a reformatory school. The authorities may appoint a person to supervise them. They may be ordered to stay in the family or institution for a fixed or indefinite period, until they are 20 years of age. One measure may be substituted for another. These provisions also apply to offenders between 15 and 18, who may be detained in an institution for juvenile offenders for not more than five years Young persons who have committed serious offences or are thoroughly depraved may be brought before the ordinary penal courts and subjected to the usual penal treatment See also the Rules of 1902, amended in 1918, for the Boys' Reformatory School at Croisettes, above Lausanne.

Zurich. — The measures relating to children are similar to those laid down in the draft. In addition, it is provided that the offender shall, as an educational measure, make good by his own work all or part of the damage he has done. Young persons are dealt with under the penal code Instead of being fined or imprisoned, however, they may be reprimanded or ordered to make good all or part of the damage by their own work Instead of being sent to prison, they may be fined or sent to an institution The latter measures may be provisional. In addition, there are provisions concerning the period of probation, probation and conditional discharge. Apart from reprimands, sentences are carried out by the Procurator for Minors, in conjunction with the guardianship office, which is also responsible for supervising minors on probation. If a child found guilty is morally neglected, the court may send the file to the guardianship authority.

III.

As the Federal law is not yet in force, there can be no question of considering the results obtained. The cantonal laws are all of fairly recent date, so that results cannot be judged from statistics ; reports on experience gained up to now are somewhat uncertain.

In Zurich, there is satisfaction with the effect of the Law of 1919 on education and child protection. The system works better in the town than in the country districts. Any criticism relates, not to the principle involved, but only to certain methods of execution.

In Basle, it is observed that juvenile crime has certainly not increased under the present system, but that indiscipline amongst the young is increasing. The fact that decisions are taken by an administrative authority without the same prestige as a judicial authority is criticised. It is admitted that young persons should not be tried by ordinary courts.

In Geneva, experience has shown that children who have been before the criminal chamber for children rarely appear later before the ordinary criminal courts. The best results are obtained by placing in families, for preference in the country, but also in reformatories.

At St. Gall, the measure most frequently adopted is a provisional sentence of imprisonment. In a certain number of cases the sentence has had to be served, because the children placed on probation committed further offences. Reformatory education and fines are very rare ; the first measure is most often ordered by the administrative authorities. In general, the results obtained give satisfaction.

In Neuchatel, the reduction of crime among children is attributed to the activity of the guardianship authorities under the Law of 1917, of which the principal effect is to remove many children from surroundings prejudicial to their moral welfare. Much doubt is felt as to reformatories, and placing in families is preferred.

Czechoslovakia

REPORT TRANSMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

Until lately, there have been two distinct legislative systems in force — one, of Austrian origin, applied to Bohemia and Moravia-Silesia — and the other, of Hungarian origin, to Slovakia and Sub-Carpathian Russia.

While in Bohemia and Moravia-Silesia there were no special courts for youthful offenders, but only a certain amount of special study of juvenile delinquency by magistrates in the ordinary courts, the Hungarian Laws XXXVI of 1908 and VII of 1913 set up juvenile courts with special provisions relating to procedure and the measures to be taken.

As from October 1st, 1931 — the date on which the new Czechoslovak Law of March 11th, 1931, on Juvenile Courts came into force (No. 48 of the *Collection of Laws*) — the question is governed for the whole territory of the Czechoslovak Republic by the provisions of the said law. Consequently, the following information on the organisation of juvenile courts, their jurisdiction, the procedure to be adopted and the measures to be taken is exclusively based on the provisions of this law.

II.

The following may be noted for information :

(a) In Bohemia and Moravia-Silesia, there are courts of first instance which deal with crimes (except the most serious cases coming within the competence of the courts of assize) and misdemeanours, and district courts which deal with minor offences. This also applies to Slovakia and Sub-Carpathian Russia, though in these provinces misdemeanours are dealt with both by the courts of first instance and by the district courts.

(b) The following information with regard to the competence, procedure and measures of the juvenile courts also applies to the district courts in areas where there are no courts of first instance and where the law does not provide for special juvenile courts, but only for ordinary magistrates specialising in juvenile delinquency.

1. Organisation.

In the thirty-seven towns where there are courts of first instance, special juvenile courts are to be set up. A juvenile court is not distinct from the ordinary court. It is composed of a part of the court of first instance and a part of the district court; but these two parts are called " the children's court ".

The law does not provide for special juvenile courts to be attached to district courts in areas where there are no courts of first instance, but stipulates that cases of juvenile delinquency shall be dealt with by one magistrate, who shall also be empowered to deal with matters of guardianship and curatorship.

The juvenile court is held on the premises of the ordinary court, but in such a way as to avoid minors coming into contact with adult offenders.

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[1] As the law has been changed since the publication of the report which appeared in the Commission's *Bulletin* for 1927, a revised report was submitted to the Commission for the first edition of the document by the delegates of the Czechoslovak Government, Professor A Miricka and Dr. E Lány For the second edition, particulars regarding the entry into force of the new law have been added, Section III has been redrafted on the lines suggested by the Czechoslovak representatives on the Commission and a statistical table has been added

Cases before the juvenile court which come within the jurisdiction of the court of first instance are dealt with by a bench of three magistrates — two regular magistrates and one assessor, who may be a woman. The assessors are chosen, on the proposal of the "helping-hand" societies, from among the persons best qualified to fill this post.

In the case of an offence which would normally (that is to say, when committed by an adult) come within the jurisdiction of the courts of assize, the juvenile court is composed of two regular magistrates and two assessors.

Cases coming within the jurisdiction of the district courts are dealt with by one magistrate.

Proceedings against minors are placed in the hands of a single special Public Prosecutor in each court.

2. Competency.

The juvenile court has jurisdiction to deal with minor offences committed by children between the ages of 14 and 18. Persons under 14 are not regarded as responsible; nevertheless, the guardianship court[1] may order the necessary educative measures. If a crime for which the criminal law provides the death penalty or imprisonment for life has been committed by a minor between the ages of 12 and 14, the guardianship court must place him in an educational or other establishment, as it may deem best in view of the child's condition. Neither jury nor the special chamber of "aldermen" (which deals with cases of defamation of character through the Press) possess any jurisdiction in these matters.

The competency of the juvenile court extends, as regards cases coming under the court of first instance, to the area for which this court has jurisdiction and, as regards cases coming under the district courts, to the area for which the district court of the town has jurisdiction. Its competency in these cases may, however, be extended to one or more neighbouring districts, which may also be done in the case of other district courts. This centralisation of competence is designed to encourage greater specialisation on the part of children's magistrates and the utilisation of special child welfare institutions.

The proper juvenile court is the juvenile court of the district where the minor is domiciled or (if he has no domicile) resides. If, however, it seems to be in the interests of the minor or likely to facilitate the conduct of the case, the case may be referred to the court of the place where the offence has been committed, that of the place where the guardianship court is situated, or that of the place where the minor's legal representative is domiciled.

Cases relating to the guardianship or curatorship of youthful delinquents and of their brothers and sisters under age may also be dealt with by the juvenile court.

3. Procedure.

The procedure adopted in cases brought against minors is governed in general by the provisions of the Codes of Penal Procedure,[2] but it has been simplified by the suppression of all useless formalities and has been so adapted as to enable the court to ascertain as accurately as possible the character of the offender, his environment, and the reasons for his wrongdoing.

There is no formal preliminary examination, but the necessary enquiries are made. These enquiries relate, not only to the act committed, but also to the person of the offender, his antecedents, his environment, etc. The court is assisted in this work by the "helping-hand" societies.

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[1] This term is used to denote the court which has jurisdiction to deal with cases connected with the guardianship of a minor. This is not a special judicial institution, but is usually the district court in whose area the father (or mother in the case of an illegitimate child) is domiciled

[2] Penal procedure is still governed in Bohemia and Moravia-Silesia by the old Austrian Criminal Investigation Code of 1873 (No. 119 of the *Collection of Laws*) and in Slovakia and Sub-Carpathian Russia by the former Hungarian Criminal Investigation Code of 1896 (Law No. XXXIII)

An offender may be kept in custody to await trial; but, whenever this can be avoided, some other measure must be adopted, such as placing the minor in an educational institution, a family, etc. If the minor is kept in prison, he must be given a legal adviser.

The legal adviser must be present at all hearings of the case. Cases may, with the consent of the legal adviser or the minor's legal representative, be held in private, if this is in the minor's interest. Nevertheless, the minor's parents or guardian, the representatives of the welfare society and professional lawyers may not be prevented from attending sittings of the court. It is, however, forbidden, and even punishable, to publish the portrait of a young offender, or any statement relating to an act committed by such a minor, or to the proceedings taken against him, in such a way as to enable the public to ascertain his name, unless publication is made in the interests of the proceedings or with the permission of the court.

If an educational measure becomes necessary during the proceedings, the magistrate may take this measure provisionally. In particular, he may place the minor under the supervision of a trustworthy person, or may place him in a family or in an institution for " protective education ". The same provisional measures may be taken by the juvenile court when it is found that there are no grounds for prosecution, or when the minor is acquitted. The guardianship court decides in the last resort whether the provisional measures are to be maintained or not.

The Public Prosecutor may decide not to take action if the offence committed by the minor is not serious or if conviction or the proceedings themselves are likely to be against the minor's interests.

4 Measures to be taken.

If it does not seem desirable to refrain from prosecution and the court does not find that there is no case or acquit the accused (as it must do when the minor has committed an act which, owing to inadequate moral development, he did not know to be wrong), the court may take the following measures:

(a) It may convict the minor without inflicting penalty. It may then send him back to his family or school to receive proper training, or it may reprimand him

The court must not inflict a penalty if the minor's offence is trivial or has been committed through thoughtlessness, under the influence of another person on the impulse of the moment, or as a result of poverty, or excusable ignorance of the law, or if the penalty would in any case have been insignificant.

Conviction without the infliction of a penalty is not entered in the personal criminal record sheet.

(b) The court may sentence the minor to a penalty involving loss of liberty, or to a fine, with or without suspension of sentence.

Loss of liberty in the case of minors is a special penalty called " internment ", which, in their case, replaces the death penalty or any term of imprisonment provided for in the Penal Code. If the Penal Code provides for the death penalty or imprisonment for life and the offender is at least 16 years of age, internment shall be for not less than two and not more than fifteen years; if the minor is under 16, it shall be for not less than one and not more than ten years. In other cases, the minimum and maximum terms of imprisonment provided for in the Penal Code are reduced by half, though the minimum may not exceed one year and the maximum five years.

Fines may be inflicted on minors, the normal maximum being reduced by half and the minimum being abolished. Fines which cannot be recovered may not be replaced by sentences involving loss of liberty — as is obligatory in the case of adults — but the judge must in such a case replace the fine by another measure: either he must send back the minor to his family or school, or order him to spend three to six hours on the premises of the court, but not in the prison.

Suspension of sentence may be granted in the case of a penalty not exceeding three years, even after the sentence has started to run. Previous convictions do not prevent suspension of sentence. The minor to whom suspension of sentence has been granted must be placed under the supervision of a qualified person, if the magistrate has not ordered " protective education ". The probationary period may be from one year to five years, and may be extended if the minor commits a fresh offence.

If the penalty has been inflicted without suspension of sentence, conditional release is allowed under the provisions of the Law of 1919, but in more favourable conditions than those allowed for adults.[1] Conditional release is allowed if the minor has served half of his sentence (but at least six months), if, during this period, he has spent one-quarter of his time in the highest disciplinary category and if he is in that category at the time of his release.

In all these cases — that is to say, conviction without infliction of a penalty, or with infliction of a penalty with or without suspension — the court may also take the following protective and educative measures : it may place the minor under the supervision of a person capable of supervising him, or place him in a family or institution. Protective education must be ordered, if his lack of education cannot be remedied in his own environment. The protective measures are continued as long as may be necessary, but not after the offender is 21 years of age. These measures may also be ordered by the guardianship court without criminal proceedings being taken, and also on the expiration of the penalty when the minor is released. In this case, the decision is taken by the Prison Supervisory Board The protective measure chosen may be replaced by some other measure at any time, if this is necessary in the interest of the minor.

III

The three years which have elapsed since the new law came into force are too short a period to allow any final judgment of results Nevertheless, the experience so far is favourable and proves clearly enough that this legislation is a valuable weapon for combating juvenile crime which, in spite of the economic depression and its social and moral consequences, is tending to decrease ; this being particularly the case with regard to offences of some gravity.

GROUP 1

More Serious Offences that is to say, Crimes or Misdemeanours usually falling within the Jurisdiction of the Court of First Instance or the Assizes.

	1932		1933		1934	
	Number	Percentage	Number	Percentage	Number	Percentage
Implicated in cases	1,668	100 0	1,525	100 0	1,471	100.0
No prosecution :	184	11 1	173	11 3	169	11.5
Convictions.	1,484	88.9	1,352	88 7	1,302	88.5
Sentences :						
No penalty inflicted.	185	12 5	120	8 9	150	11.5
Sentence suspended	963	64.9	903	66 8	902	69 3
Sentence not suspended	336	22 6	1,329	24 3	250	19 2

[1] According to the provisions of this law, which applies to the whole territory of the Republic, conditional release is accorded to prisoners who have been sentenced to a term of imprisonment exceeding one year and have served two-thirds of their sentence (but at least one year) or, in the case of imprisonment for life, twenty years (Act No 91, 1934), if there is reason to suppose that they will behave well

GROUP II.

Less Serious Offences — that is to say, Petty Offences or Misdemeanours usually falling within the Jurisdiction of the District Court.

	1932		1933		1934	
	Number	Percentage	Number	Percentage	Number	Percentage
Implicated in cases	9,420	100 0	7,762	100 0	8,058	100 0
No prosecution. . .	1,845	19.6	1,631	21 1	1,633	20.3
Convictions .	7,575	80.4	6,131	78 9	6,425	79.7
Sentences:						
No penalty inflicted.	3,096	40 9	2,296	37.4	2,615	40 7
Sentence suspended	3,385	44 7	2,968	48.4	2,943	45 8
Sentence not suspended	1,094	14 4	867	14 2	867	13 5

Protective and Educational Measures taken by the Juvenile Courts during 1934.

	Group I (more serious cases)	Group II (less serious cases)
Welfare supervision . . .	688	995
Education in a family . .	7	83
Education in an institution . . .	69	66

Union of South Africa

REPORT TRANSMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

The laws of the Union have not set up special courts for children and young persons; but the treatment of young offenders differs from that of adults as regards procedure, and also especially as regards the measures taken. Most of the special rules are to be found — amongst other various provisions — in the Children's Protection Act, 1913 (amended in 1921 and 1931). But, as early as 1911, the Prisons and Reformatories Act (re-enacted by the Criminal Procedure Act, 1917, and amended in 1920) provided for reformatories for children under 16 and others for young persons from 16 to 21.

The same provisions apply to whites and to blacks.

[1] This report has been reprinted as submitted to the Commission by the former delegate of the South African Government, Mr. W. S. Bateman, and, save for one addition at the end, published in the Commission's *Bulletin* for 1927

II.

1. Organisation.

The courts trying children's cases are the ordinary courts, and there is no special organisation. But cases against children must be separated from those against adults, and must be dealt with by a single magistrate specialising in problems of childhood and working with the welfare organisation.

2. Competency.

Children under 7 years are not subject to the criminal law. Those between 7 and 14 are presumed to be incapable of criminal intent, but this presumption may be rebutted by proof that the intelligence of the offender was sufficiently developed for him to understand, and that he did understand, the unlawful nature of his act. These cases, and also all cases of children between 14 and 16 years, are tried by special magistrates and according to the procedure hereafter described. Amongst the special measures, some are limited to children (juveniles) and others are applicable to young persons of 16 to 21 (juvenile adults).

Under the criminal law, the courts can only try children who have committed offences. But the Children's Protection Act further gives them jurisdiction to apply measures to children who are neglected or uncared for by their parents, or are vagrants, beg, avoid parental control, play truant, escape from apprenticeship, consort with bad companions or are in surroundings contrary to their interests. Any person or society working for the protection of children may bring such cases before the court.

3. Procedure.

Important courts set apart special days, or at least special hours, for trying cases concerning children. In order that the latter may, as far as possible, be removed from the atmosphere of a criminal court, their cases are heard in a separate room, and, failing any other place, in the magistrate's private chambers. The ordinary formalities are not observed, proceedings are in private and of the nature of a simple private interview, for the purpose of finding the best method of treating the child with a view to his improvement. Before giving judgment, the magistrate must investigate as closely as possible the history of the child and his family surroundings, which must be known before the suitable treatment can be decided on. For this purpose, the magistrate gets into touch with a welfare officer, who collects all necessary information and makes a report to the magistrate. This officer is admitted to the trial, further, the child's parents or guardian are called upon to be present. Except for the Press, the public is not admitted. During the examination the child cannot, save with the special permission from the Minister of Justice, be detained in a prison or police-station. If it appears necessary to keep him in custody, this must be done elsewhere and under the supervision of a guardian appointed by the magistrate.

The purpose of protecting children against the bad influence which the atmosphere of the courts might have on them is not only kept in view in their own cases, but in criminal or civil cases concerning persons of full age, when a child is summoned as a witness, the court may order the public to be excluded, without, however, preventing the Press from attending.

4. Measures to be taken.

The measures against young offenders which the court may apply are, first, the ordinary punishments of the criminal code with certain modifications. Thus, if a child has committed murder, the court may replace the death sentence, which must be passed on an adult, by

another sentence. Flogging is limited in the case of a child to fifteen strokes and must be administered in a closed building.

Besides the ordinary punishments, the judge may apply the following measures in the case of children :

(a) Children's reformatory ;
(b) Certified hostel ;
(c) Industrial school or approved institution ;
(d) Placing out or apprenticeship.

There are also reformatories for adults ; but for children there are special establishments, and likewise for young persons Detention in an institution of this nature is, in children's and young persons' cases, awarded in place of imprisonment. The period is from two to five years, and, in the case of a child, detention ends at latest when he reaches 18 years ; only in special circumstances and with his own written consent and that of the Minister of Justice can he be detained until the age of 21 Boys and girls are kept separate The governor is deemed to exercise parental control and may inflict disciplinary punishments, such as reduction of food, solitary confinement, and, for boys, flogging Inmates are bound to perform the work prescribed in the rules In the case of good behaviour, the Governor-General may discharge them on such conditions as he may think fit In passing sentence, the judge may order the offender, on the expiration of his term, to be apprenticed to a trade or useful calling until the age of 18 If he does not obey this order, the offender will be forced to return to the reformatory during the period fixed for his apprenticeship.

Certified hostels are private establishments approved by the Minister of Justice and under his supervision The Minister may at any time withdraw his approval if they are not properly managed Any individual may be detained in them ; but they are specially intended for children and young persons, who may be placed in them pending judgment (instead of being remanded in custody), and likewise if their sentence of imprisonment is suspended or if they are released on probation from a reformatory. Placing in a certified hostel may also be ordered as an independent measure for children who have committed offences, except murder. Save where employed as a substitute for remand in custody, the period awarded is from two to five years , it is fixed beforehand. The inmates receive school instruction and, if they are older, are taught a trade, either a handicraft or farming Young persons are often employed in the town and only go home for meals and to sleep They pay a part of their wages towards their maintenance. If an inmate behaves badly or has a bad influence on his comrades, the magistrate who ordered him to be placed in the hostel may send him to a reformatory for the rest of his term. Under similar conditions, a child may be removed from an industrial school to a reformatory Detention in a reformatory may be replaced or prolonged by apprenticeship.

Industrial schools are designed rather for the prevention than for the punishment of crime. The judge or the court sitting *in camera* may send a child under 16 to an industrial school if he is neglected or uncared for, a vagrant, a beggar, etc. (see " Competency "). The director is called " principal ", the children " pupils ". The principal is deemed to have parental control and to be in every respect *in loco parentis*. The work done by the children is the same as in reformatories. As far as possible, boys are separated from girls, and whites from blacks. The pupils are generally boarders ; but the school management may board out children under 10 with private individuals with whom they remain till the age of 12, or perhaps longer if the management and the Minister of Education consent They are always regarded as under detention and subject to the supervision of the school management, which may remove them. Detention in an industrial school lasts till 18 years, if it is not replaced

by sending the individual to a family or by apprenticeship ; detention and alternative measures may be prolonged to the age of 21 years at most. As an equivalent measure, the same children may be placed in a private institution approved by the Minister of Education (certified auxiliary home). The Minister of Education is responsible for supervising both these classes of establishments.

A child placed in one of these last institutions may further be transferred for his instruction in a trade to a State establishment on the order of the Minister, who then assumes in regard to him the powers of a director of an industrial school.

The placing out or apprenticing of a child may be ordered on the same conditions and within the same age-limits as detention in an industrial school. The child is removed from the custody of his parents or guardians who have neglected him, and handed over to a private individual, who may or may not be a relative and who appears capable of providing suitably for his education ; otherwise, he is apprenticed. The judge may also leave the child with his parents or guardian, subjecting him to such conditions as he shall think fit and to supervision by a welfare officer. The cost of placing out, like that of maintenance in an industrial school, may be laid upon the parents ; the judge may even order that a part of the income of these latter shall be directly employed for the purpose. Placing out may be substituted for detention in an industrial school after two years of such detention, or even sooner with the consent of the Minister of Education, if the child is well-behaved and appears likely to continue to be of good conduct. The Minister above-mentioned is responsible for the supervision of children so placed out.

Addendum. — The mention under I of the Children's Protection Act being amended in 1931 and the information contained in the last passage but one of the report are the result of a communication from Mr. F. Fleck, the present delegate on the Commission.

[*Translation.*]

Union of Soviet Socialist Republics

DOCUMENTATION TRANSMITTED BY THE DIRECTOR OF THE TREATIES AND LAW DEPARTMENT OF THE PEOPLE'S COMMISSARIAT FOR FOREIGN AFFAIRS.

I.

The first law relating to the campaign against penal offences committed by children was promulgated by the Soviet Government almost immediately after it assumed power (January 14th, 1918). The decree of that date made it illegal to bring before the ordinary courts or keep in custody persons under 17 years of age, and set up committees composed of representatives of the Commissariats for Education, Social Welfare and Justice to deal with all misdemeanours without exception committed by children and young persons.

The Law of March 26th, 1926, defines the duties of these committees in the Russian Socialist Federal Soviet Republic (*Collection of Laws*, 1926, No. 19, Article 148). Practically identical rules for the investigation of cases in which juvenile delinquents are involved having been adopted in the other Republics forming part of the Union of Soviet Socialist Republics, the replies to the questionnaire are based on the organisation in force in the Russian Socialist Federal Soviet Republic.

II.

1. Organisation.

The committees set up to deal with cases in which minors are involved come under the local Section for Education and are composed of a President, who must be an educationalist, and two members, including a magistrate belonging to the local people's court and a doctor appointed by the local Section for Public Health. The composition of the committee itself indicates its functions in the campaign against juvenile delinquency.

The magistrate of the local people's court is a member of the committee. He assists it with his knowledge of the law, helps it to discover crimes committed by adults who attempt to inculpate children, and, if necessary, takes criminal proceedings against such persons. The committees dealing with cases in which minors are involved operate with the assistance of public organisations. They may include, in an advisory capacity, representatives of the political, workmen's and peasants' associations.

Central Committee for cases regarding minors. — A Central Committee for cases regarding minors has been set up at the People's Commissariat for Education in order to ensure the regular and uniform application of the laws, to direct the activities of the committees, to guide their work, to examine in a supervisory capacity the cases settled by the committees and to give information to the committees on questions which may arise in the course of their work.

This Central Committee is organised on the same principle as the local committees The President is a representative of the People's Commissariat for Education, and the members are representatives of the People's Commissariats for Justice, Public Health and the Interior.

In order to strengthen the connection with the public organisations, representatives of the Trades Union Council of the Union of Soviet Socialist Republics, political organisations, Peasants' Mutual Aid Committee and working and peasant women also sit on the Central Committee in an advisory capacity (*Collection of Laws*, 1925, No. 38, Article 267).

2. Competency.

The principal task of these committees is to educate or re-educate children and adolescents who have for any reason been guilty of offences against the law, or of misdemeanours.

The committees are not allowed to refer to the ordinary courts cases regarding persons of 14 to 16 years of age (*Collection of Laws*, 1929, No. 58, Article 571 ; No. 82, Article 196 ; and 1930, No. 3, Article 29).

3. Procedure.

The committees do not work in specially arranged premises (with gratings, benches for the accused, etc.), but in ordinary rooms where there is nothing remotely suggesting a " court sitting ". The committees are not really courts, but sociological laboratories, councils (" concilia ") which investigate, define and settle questions relating to the defects of children, which they try to cure.

4. Measures to be taken.

The measures taken by the committees are exclusively of a medical and educational nature If, after they have been repeated on several occasions, these measures fail to achieve the re-education of the child, the committees may place recidivist minors of from 14 to 16 years of age in special labour penitentiaries for adolescents. These institutions give them elementary education, teach them trades, train them with a view to socially useful work and provide them with food and clothing.

The principal measures adopted by the committees are :

(a) Supervision by guardians or parents ;
(b) Supervision by an inspector of education ;
(c) Interviews, exhortations, etc. ;
(d) Sending them to work ;
(e) Placing adolescents who are difficult to educate in special institutions ;
(f) Repatriation.

Delinquent children who may be classed as defectives are not left without assistance ; various measures are taken adapted to their psychophysical condition and designed to enable them to perform useful work in the future.

III.

Experience has shown the important part played by these committees in the campaign against juvenile delinquency and for the education and re-education of children.

A large number of children and adolescents who appeared before these committees subsequently undertook socially useful work and are now helping in the construction of the Soviet State in its modern aspect.

Uruguay

REPORT DRAWN UP ACCORDING TO INFORMATION SUPPLIED BY THE GOVERNMENT OF URUGUAY

I.

The Children's Code in Uruguay, promulgated on April 6th, 1934, provides for the setting-up of the Children's Council, which is the central body for dealing with all matters relating to the lives and welfare of minors from the time of conception to majority. This Council is divided into several sections, one of which, the legal division, is under the direction of the children's magistrate (Juez Letrado de Menores) appointed under the same code, and performs the functions of a court of law with its seat at Montevideo In the different departments of Uruguay, these duties are performed by the senior judge (Juez Letrado) of the area.

II.

1. Organisation.

The children's magistrate is appointed by the Supreme Court of Justice. In his absence, he is replaced by another magistrate also appointed by that court, which must designate each year three judges of the capital who must be ready to replace the children's magistrate

when instructed to do so. Within the territory of Uruguay, a Justice of the Peace replaces the titular judge in the cases provided for by law.

Minors under 18 years of age who commit crimes or offences, and minors under 21 years of age who are in a state of moral or material abandonment, are placed at the disposal of the children's magistrate, who, after a summary enquiry, must pronounce judgment and place them under the system of supervision and protection in conformity with the Children's Code.

2. Competency.

The children's magistrates' duties are :

(*a*) To investigate offences of commission or omission punished by penal law with which minors under 18 are charged and to take the necessary decisions ;

(*b*) To take action on complaints and denunciations of bad treatment, unjustified punishment or internment, etc., applied to minors ;

(*c*) To intern in the establishments existing for this purpose minors of bad conduct, at the request of their parents, tutors or guardians ;

(*d*) To inspect the establishments in which minors are lodged or educated ;

(*e*) To perform any act likely to ensure the protection of minors as a good father would do, over and above the other duties assigned to him by the Code.

The children's magistrate co-operates with the criminal authorities when he knows of an offence of which a minor was a victim.

3. Procedure.

With a view to ascertaining the circumstances and personal or family antecedents of the minor, the magistrate always hears the latter or his parents or guardians ; he proceeds to the spot, if he considers it necessary, and decides upon any other useful measure, report or investigation The proceedings may only be attended, apart from the Public Prosecutor and the counsel for the defence, by the legal representative of the minor and his advocates and the male or female social visitor. Any other person must first obtain an authorisation from the magistrate Appeals may be made against the magistrate's decisions, but these appeals may only be lodged by the prosecutor or counsel of the minor

Preventive imprisonment is abolished for minors under 18. A minor is only arrested for breaches of the police or municipal regulations, in order that the children's magistrate may be able to decide whether the minor should be sent back to his home, be placed under the supervision of an official or private person, or be interned in a public or private institution. The publication of reports or illustrations regarding offences committed by minors under 18 is prohibited. The decisions taken by the magistrate are not entered in the register regarding the repetition of offences and unstamped paper is used in making out the judicial documents.

4. Measures to be taken.

In the discharge of his duties, the children's magistrate has all the powers and prerogatives of a criminal examining magistrate ; he may demand the assistance of the police, verbally or in writing, summon any person to his office and apply to any authority without its being possible for the rules or statutes of any institution to be invoked against him.

When the police takes *in flagrante delicto* a person who states that he is under 18, it hands the latter over to the children's magistrate, at the same time supplying all necessary information regarding the place and date of birth and name and domicile of parents. The magistrate must question the accused within twenty-four hours. If he has any doubts as to his age, the magistrate notifies the Director of the Civil Register if the minor is a Uruguayan ; if no definite information is available or if the accused is a foreigner, the magistrate orders the accused to be examined with reference to this point by the medical expert, who will have to report within three days. If the accused appears to be over 18, the proceedings are not stopped and the children's magistrate continues to investigate the case, but he will have to hand over the whole dossier to the ordinary legal authorities if it is confirmed that the accused was over 18 at the time of the offence. All persons or public or private institutions having knowledge of the existence of minors in a state of moral abandonment who are incited by their parents or guardians to commit acts detrimental to their physical or moral health, mendicancy, vagrancy or frequenting of immoral places, or who have dealings with vicious or dissolute persons, must report the fact to the children's magistrate. Denunciations may be made in any form, either verbally or in writing, without its being necessary to employ stamped paper or a special form.

III.

The best results are anticipated from this new organisation for the welfare of children and of minors in general ; but it would be hazardous to attempt to draw final conclusions at present, since juvenile courts have only been in existence for a very short time in Uruguay. The Children's Council is responsible for undertaking enquiries and investigations into all problems concerning children, and, in the course of its future studies, it will no doubt give a review of the results achieved.

Yugoslavia

REPORT TRANSMITTED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION.[1]

I.

The new Yugoslav penal and prison legislation of 1929,[2] which constituted further progress in uniformising the law throughout the whole kingdom, provided for the setting-up of juvenile courts throughout the country, whereas previously such courts had only existed in a few provinces. This legislation, the basic principles of which differ from those of the old laws it has replaced, makes the enforcement of penalties and measures with regard to minors very elastic and develops and supplements the system of juvenile courts in existence before its introduction.[3]

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[1] The law having been changed since the publication of the report which appeared in the Commission's *Bulletin* for 1927, a revised report was submitted to the Commission for the first edition by the delegate of the Yugoslav Government, Dr D. Soubotitch. This report is reprinted unaltered

[2] A statement on this legislation is made by the author of the present report in the "*Recueil de documents en matière pénale et pénitentiaire*" published by the International Penal and Penitentiary Commission, Volume I, Livre 1.

[3] See for this system the report by M Ogorelitza and M. Chilovitch in the International Prison Commission's *Bulletin*, New Series, No. 3, December 1927.

II.

1. Organisation.

The Code of Penal Procedure of February 10th, 1929, provides for the setting-up of a special section attached to each local court constituting the " juvenile court ".

Further, the Code authorises the Minister of Justice to set up such juvenile courts to be attached to district courts, if this can be done.

One single magistrate sits as children's magistrate.

The President of the Court of Appeal appoints the children's magistrate for a period of three years, and chooses him from among the experienced judges of the court in question. If necessary, several children's magistrates may be appointed.

A Public Prosecutor attached to the local court is specially entrusted with proceedings in which minors are involved.

The minor must have a person to defend him. This person, if not chosen by the minor himself, is appointed by the magistrate (§§ 434 to 436).

2 Competency.

The juvenile courts deal with crimes and misdemeanours committed by minors between the ages of 14 and 17 (Code of Criminal Procedure § 433, Penal Code § 15).

Juvenile courts may be entrusted with matters relating to the guardianship of the young offenders who appear before them

They do not deal with children under 14, against whom penal proceedings may not be taken. Such children may, if they have committed an offence against the law, be brought before a guardianship court, which deals with all matters relating to guardianship.[1]

3. Procedure.

The provisions of the Code of Penal Procedure are applicable to minors where there are no special provisions for minors.

Proceedings against minors are regarded as urgent (§ 437)

The primary duty of the competent authorities is to see that cases involving minors are kept separate from cases involving semi-adults between the ages of 17 and 21 or adults over 21. This applies to the whole duration of the proceedings There are two exceptions -- the ordinary courts are competent to deal with youthful offenders if the separation of the cases might be prejudicial to a young offender during the proceedings themselves, and if the young offender reaches the age of 17 before or during the proceedings (§ 438).

The competent children's magistrate orders the necessary enquiries and conducts them either himself or through other public authorities or trustworthy private persons. The latter must promise him that they will do their duty to the best of their ability (§ 439).

The persons who may be entrusted with the enquiries, their duties and their functions are defined by the law (§ 440).

The children's magistrate first ascertains the age of the offender, so that he may know whether or not the offender is between the ages of 14 and 17. Then the magistrate makes enquiries into the offence committed and elicits all information necessary to throw light on the personality of the minor, his moral and intellectual development, his previous life and other circumstances which may have led to his offence. For information with regard to the character of the minor, the magistrate may apply to his parents, guardian, schoolmaster, or

[1] The guardianship court, in accordance with the Law on the organisation of District Courts of November 26th, 1930, is composed of one magistrate, and is attached to the district court, which has one judge or several judges, who sit alone and divide the work *ratione materiæ* and *ratione loci*.

doctor, or to directors of institutions, or to other persons. In the interests of the enquiry, no person may be excused from attendance as a witness, and all persons are bound to give information as to the character and moral and intellectual development of the minor, and his personal circumstances. The magistrate may always, if necessary, take preventive and protective measures with regard to the minor. If the minor is exposed to moral danger, the magistrate may place him in a more suitable environment — for instance, in another family. He may also suspend any measures taken, if they are no longer necessary.

Deprivation of liberty is provided for in exceptional cases. If the minor has been arrested for a criminal offence by a non-judicial authority,[1] he must be brought within twenty-four hours before the juvenile court and must, in the meantime, be kept separate from adults in custody (§ 441).

The law distinguishes between private charges and actions brought by the authorities. In the former case, the plaintiff himself must begin the proceedings within a week after the minor has been summoned before the magistrate. In the latter case, the Public Prosecutor must submit a proposal to the magistrate as soon as possible regarding the procedure to be followed, giving his reasons and stating what measure should, in his opinion, be taken. He may also propose that the proceedings be dropped when it appears that there is no case or when the offence is so trivial that further proceedings are not worth while (§ 442).

If the offence is not a crime and if the magistrate considers that it is not in the interests of the intellectual and moral development of the youthful offender to proceed with the enquiry, or to take any measure involving internment in a public educational institution or reformatory, he may, after examining the minor, his defender and, if necessary, his parents and his legal representative, take one of the following decisions, without defining the criminal offence : (1) he may suspend proceedings on the ground that the act committed is trivial or that he agrees with the Public Prosecutor that there is no case ; or, (2) provide for the minor being punished by his parents or the school authorities, admonish him or place him for a period of one year under the supervision (probation) of a person to be appointed by the magistrate ; or, (3) he may place the minor with a family or a private educational institution with a view to his education or in order to prevent neglect. This measure is only provided for in cases where the magistrate is convinced that the minor in question is morally neglected or defective, or if there is a real danger that he may become morally neglected. If the minor fails to appear, the magistrate may have him brought by some trustworthy person or in some other way. At this stage, the magistrate does not consider whether or not the minor understood the nature and significance of his act and whether he acted accordingly (§ 443).

Criminal proceedings may only be taken against a youthful offender if he has committed a crime (§ 442, paragraph 2). If a charge is brought, the accused is summoned to appear, as are also all other persons concerned. If he does not appear, the magistrate issues a warrant for his apprehension (§ 444, paragraph 2).

The case is heard orally and in private. Members of welfare or educational societies and persons who evince a real interest in minors may be allowed to be present during the hearing. The publication of reports relating to the cases is forbidden under pain of prosecution. The youthful offender must be present and may not be sentenced by default (§ 445).

After hearing the case, the magistrate weighs the questions of fact and law and gives : (1) a decision, in which he declares the youthful offender responsible for the act committed, if he finds that he was capable of understanding the nature and significance of his act and of acting accordingly, and orders the measures to be taken ; or, (2) acquits him. This is done

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[1] In accordance with § 114 of the Code of Criminal Procedure, any authority or private person is entitled to apprehend an offender *in flagrante delicto*.

in the following cases : *(a)* when the act committed is not an offence ; *(b)* when it is not proved that the accused has committed the offence ; *(c)* when the circumstances point to the fact that he was not responsible, so that no penalty can be inflicted ; *(d)* when the accused has not understood the nature or significance of his act or is not capable of acting accordingly ; and, *(e)* when the act committed is trivial. In all these cases, however, as also when the charge is refuted, the magistrate may order one of the educative measures enumerated above (such as handing the minor over to his parents or to his school authorities, placing him under supervision or sending him to an educational institution), if he regards this as necessary and desirable in the interests of his intellectual and moral development (§ 446).

Applications for remedy (žalba) and appeal (prizíw) may be made to the district court against decisions given by magistrates of local courts in cases relating to young offenders, and to the Court of Appeal in the case of similar decisions given by magistrates of district courts. The decisions of the Court of Appeal are final (§ 447). Nevertheless, an application may be made, in order to prevent a miscarriage of justice, against a judgment involving a minor which has acquired force of law (§ 448).

4. Measures to be taken.

The Penal Code of January 27th, 1929, distinguishes between children (up to 14 years of age), minors (between the ages of 14 and 17) and semi-adults (between 17 and 21).

Children may not be prosecuted or convicted A child who has committed an offence against the penal law must be handed over to his parents or to his guardians, or to the school authorities, so that they may admonish him, look after him and supervise him. If such a child is morally neglected or depraved, he is sent to an educational establishment or placed with a trustworthy family for as long as may be necessary for his education, but not after the age of 17. This compulsory education is ordered by the guardianship court (§ 26).

A minor is not liable to a penalty if he does not understand the nature and significance of his act. He is handed over to his parents or guardians or those who have charge of him, so that they may admonish him, supervise him and look after him. If he is morally neglected or depraved, he is sent to an educational establishment or placed with a trustworthy family, where he must remain for as long as may be necessary for his education, but in any case for one year at the least, and not after he has reached the age of 21 (§ 27).

If the minor is capable of understanding the nature and significance of his act and of acting accordingly, he may be reprimanded, placed on probation or placed in an educational establishment or reformatory for minors. He is merely admonished if the offence is not serious or has been committed through carelessness or thoughtlessness.

The period of probation is for a period not exceeding one year, if the act, though of a serious nature, has been committed through carelessness or thoughtlessness.

All these measures are applicable only if the education or reformation of the minor is not necessary.

If the minor is morally neglected or depraved, the magistrate sends him to an educational establishment, where he must remain until he has reformed, or for one year at the least, but not after he has reached the age of 21. He is sent to a reformatory if he is so depraved that he cannot be admitted to an educational establishment, and he must remain in such reformatory until he reforms, or for three years at the least and ten years at the most.

A minor of 15 to 17 who, during his stay in an educational establishment or reformatory or outside, commits a crime, is punished as a semi-adult. For other offences committed during this period he is subjected to disciplinary penalties (§ 28).

Measures taken against a minor do not affect his rights, and he is regarded as not having been judicially sentenced (§ 29).

Semi-adults (between the ages of 17 and 21 years) are regarded as practically grown-up and are punished according to the following rules : (1) for a crime punishable with death or penal servitude for life, they are sentenced to penal servitude or imprisonment with hard labour for a minimum period of seven years ; (2) for a crime for which a fixed term of imprisonment is provided for by law, the court is not bound to sentence him to the minimum penalty prescribed by the law, nor may it sentence him to a term of imprisonment exceeding ten years, if penal servitude for life or imprisonment with hard labour are provided ; (3) if the court considers that a lighter sentence should be inflicted, it may replace penal servitude or imprisonment with hard labour by rigorous imprisonment or ordinary imprisonment. A semi-adult cannot be deprived of civil rights.

Semi-adults must be kept separate from adult convicts and serve sentences in special establishments up to the age of 21 (§ 30).

The new Code of Penal Procedure of February 23rd, 1929, contains special provisions relating to the execution of measures ordered by the magistrate in the case of youthful offenders between the ages of 14 and 17.

The magistrate must, if he orders a minor to be placed on probation, himself control the supervision ordered. The person entrusted with the duty of supervising the minor is obliged to report to the magistrate on the life and conduct of the minor. If, during this probationary period and before he has reached the age of 17, the minor commits a serious offence, preliminary investigations are instituted under the provisions of Article 439. If the minor is addicted to drunkenness, vagrancy or prostitution, or in general behaves badly or escapes from the control or supervision to which he is subjected, or commits a trivial offence, and the magistrate considers that it is not in the interests of his intellectual and moral development to take severe steps, he may, after he has ascertained the facts, decide : (1) that the probationary period shall be extended for one year ; (2) that the guardian be replaced by another person and that the measures of supervision shall be more severe ; (3) that the minor be admonished and that it be left to his family or the authorities of his school to punish him ; (4) that he be apprenticed to a trade or attend a school suitable to his age, his degree of education and his circumstances ; or (5) he may summon the minor to appear before him to give an account of his conduct and his way of living (§ 449)

The magistrate has very wide powers. He may order these measures separately or all together, and may renew them from time to time until the minor has reached the age of 21 (§ 450).

The education of the minors in question is carried out under the control of the public authorities in suitable families or in private or public educational institutions It is provided that, if possible, youthful offenders who are attending school at the time they commit the offence shall be allowed to continue their studies without interruption, if it is found that they have made good progress at school If a minor, after spending one year in an educational establishment, gives proof of having entirely reformed, the magistrate may release him conditionally and place him under the care of a welfare association. If the conduct of a minor who has been conditionally released is without reproach during the probationary period, his release becomes definitive ; otherwise, he is sent back to the establishment (§ 451).

The Minister of Justice chooses the reformatory to which the minor is to be sent. Here the latter is trained to do useful and practical work (§ 452). If, after three years in a reformatory, the minor gives proof, by his conduct and his work, of having entirely reformed, the Minister of Justice may order his conditional release and place him under the care of a welfare association. If the minor breaks the rules of conduct, on compliance with which his release is made conditional, he may be sent back to the reformatory. If, however, he behaves well during the year following his release, such release is regarded as definitive (§ 452).

In order to adapt the measures taken to the character of each offender, the law provides for the possibility of transferring a minor from a reformatory to an educational establishment,

which may be done if it is found, after a year's probationary period in a reformatory, that, in view of his conduct and industry, the minor no longer requires anything but a good education in order to be completely reformed and equipped for a regular and honest life. Such transfer shall be ordered by the magistrate, on the proposal of the management of the establishment (§ 453).

The magistrate is entrusted with the supervision of welfare work for minors and the suitable placing of minors who have been conditionally released. He is assisted in this work by the management of the establishment and by trustworthy private persons, as also by the welfare associations (§ 454).

III.

Juvenile courts have existed for ten years in some parts of Yugoslavia only, while in other parts they have only been introduced quite recently. The new legislation extending this system to the whole territory of the kingdom was only passed in 1929. Consequently, it is impossible at present to form any definite judgment as to the results achieved by the juvenile courts, especially as no reliable statistical data are yet available. Nevertheless, the humanitarian and rational ideas in forming the new institution make it certain that this system will help to reform youthful offenders and thus prove of service to society and to the State. Experienced children's magistrates are of opinion that the institution of juvenile courts has already justified its existence and will yield very valuable results, as soon as all the auxiliary services and associations contemplated have been set up and organised.