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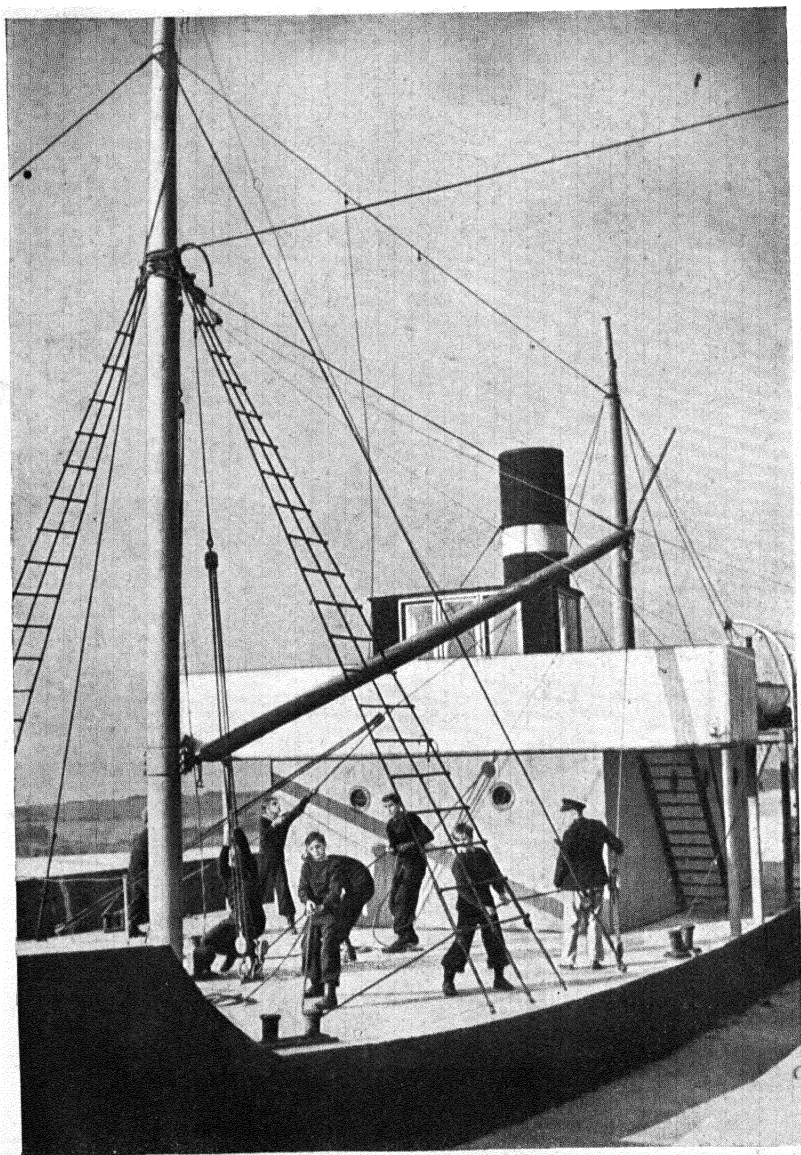
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Author Watson, J.

Title British Juvenile Courts

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*To the probation officers of
South-East London, in appreciation
and with my thanks*



Nautical instruction at a senior approved school, where boys receive special training in wireless telegraphy, seamanship, signalling and cooking, and as cooks and stewards. The school takes 200 boys between their fifteenth and seventeenth birthdays on admission.

BRITISH JUVENILE COURTS

BY

JOHN A. F. WATSON

Chairman of South-East London Juvenile Court

WITH A FOREWORD BY

THE RIGHT HONOURABLE THE VISCOUNT JOWITT

Lord Chancellor of Great Britain

Is it well with the child?

2 KINGS iv, '26

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AUTHOR'S NOTE

MY thanks are due to Mr. L. G. Banwell, Chief Clerk of the Metropolitan Juvenile Courts, for the trouble he has kindly taken in reading the proofs and for his valuable suggestions. I am also grateful for the assistance of Mr. James Mill, M.B.E., LL.B., City Prosecutor and J.P. Fiscal, Edinburgh, Mr. J. Martin Mackay, W.S., of Glasgow, and Mr. H. C. Montgomery, of the Ministry of Home Affairs, Belfast. Above all, I wish to thank the Lord Chancellor for the interest that he has shown in this booklet and for his kindness in contributing a foreword.

J.A.F.W.

METROPOLITAN JUVENILE COURTS,
BOW STREET,
LONDON, W.C.2.

FOREWORD

THE valuable service which the juvenile court renders to the community deserves to be better known and appreciated. For this reason this admirable little book written by Mr. John Watson will be greatly welcomed. Mr. Watson speaks from a wide experience not only of social work but also with special authority on this particular problem in view of his long experience as chairman of one of the busiest juvenile courts in London, where he has had the opportunity of studying closely the circumstances and needs of children brought before the court either as offenders or as in need of care or protection.

Mr. Watson has succeeded in compressing into a small space a clear and readable account of the functions and duties of those men and women who sit as justices to hear charges or applications in respect of children and young persons under seventeen.

Many wise men and women since the days of Solomon have preached the importance of training the child in the way it should go, but it is curious to reflect how slow public opinion was to realise, as Mr. Watson shows in the introduction to his book, the lamentable nature of the methods adopted not a century ago to deal with those who had failed to receive the training which was advocated. It is now a generally accepted doctrine that under a certain age—the law of England at present fixes it at seventeen—the wayward or neglected child should receive sympathetic consideration and that his future welfare should be the guiding principle of the court.

It would be a serious mistake, however, to regard the work of the juvenile court as in any degree purely sentimental. Like the wise parent, the juvenile court magistrate will be the first to recognise that in the case of the more serious offences committed by young people mercy may have to be tempered with discipline. The main need is that the discipline when required should be remedial and lead

to the making of citizens and not of criminals, as was too often the case when young boys used to be sent to adult prisons. The juvenile court has been rightly described as the first and best defence against crime, but it is even more than this. It has the great merit of saving from a life of unhappiness many children who often from no fault of their own have fallen into evil associations, and of enabling them to lead a useful life.

I hope this book will be widely read, particularly by those who are called upon to deal with the most difficult problem of juvenile delinquency.

JOWITT

HOUSE OF LORDS, S.W.1

Chapter One

WAYWARD CHILDREN YESTERDAY

IN 1831 a boy of thirteen was hanged in Maidstone prison for theft. In 1833 a boy of nine was convicted at the Old Bailey of putting a stick through a shop window and, though afterwards reprieved, was likewise sentenced to be hanged by the neck until he was dead. A year later two children aged ten and eleven years, found guilty at Stafford of stealing clothing, were sentenced to transportation for seven years.

These are not isolated instances of the treatment of young offenders in England during the first half of the nineteenth century. Little, if any, distinction was made in the treatment of children as compared with that of adult offenders; they were tried by the same courts, imprisoned in the same jails, transported in the same convict ships to penal settlements overseas.

Writing in 1862, Henry Mayhew and John Binny, joint authors of *London Labour and London Poor*, painted a vivid picture of the conditions under which hundreds of children were then serving prison sentences in the metropolis. To one prison alone, the House of Correction in Westminster, 9,000 boys under the age of seventeen had been committed between 1851 and 1855. This is an average of 1,800 in each year, of whom 945 were between fourteen and seventeen years old, 398 between twelve and fourteen, and 209 less than twelve. 'The place is called a house of correction,' they wrote, 'but rightly viewed, it is simply a criminal preparatory school, where students are qualified for matriculation at Millbank or Pentonville. Here we find little creatures of six years of age branded with a felon's badge—boys, not even in their teens, clad in the prison dress, for the heinous offence of throwing stones, or obstructing highways, or unlawfully knocking at doors. . . . The time is assuredly not far distant when our treatment of what are termed juvenile offenders will be ranked in the same barbarous category with the manner in which we formerly

dealt with the insane and idiotic. . . .’ They were right, but the time was farther distant than they thought. It is recorded that as recently as 1899 two boys, aged eleven and thirteen, served a sentence of hard labour in Portsmouth prison for causing damage to a door.

In Scotland during the same period the criminal code was neither so harsh nor so harshly administered. Cruel as were the sentences judged by modern standards, it is difficult to find a parallel to many of those cited from English practice. In part, this may be accounted for by the right of the Scottish prosecutor, in moving for sentence, to ask the court to restrict it to a penalty less than death. Alison, the historian, writing in 1833, refers to the law of Scotland as ‘greatly more lenient than that of England’ and states that it recognises hardly fifty capital offences. He adds that there are not more than eight or nine persons executed annually in the whole kingdom.

In both countries, throughout the century, there were those who saw the evils of the prevailing system—especially in relation to young people. They realised that the correction of a wayward child was more likely to be achieved by re-education and training than by retributive punishment and strove, against a hostile public opinion, to supplant harshness and oppression by kindness and training. Among these early reformers were Elizabeth Fry, whose work in Newgate is world-famous; Mary Carpenter, who founded the first reformatory schools; Dr. Guthrie of Edinburgh, a pioneer in the same field; and Sir William Harcourt, who in his efforts as Home Secretary to prevent the imprisonment of children met with opposition not only from magistrates, but from Queen Victoria herself.

In 1818 there was established in Warwickshire what was probably the first institution for the care of delinquent children based on the principles of reformation, as opposed to plain punishment. This was a farm colony at Stretton-on-Dunsmore, where some dozen or twenty boys were received from neighbouring jails. They were set to work on the land and at the same time made to ‘feel the advantages and comforts of a well-ordered family, inspiring them with the hopes and fears of religion and a principle of obedience to the will of God’. It is interesting to note that at the Quarter Sessions for the same county, ten years later, it was unanimously resolved ‘that if some plan could be adopted by which juvenile offenders could for their first offence be proceeded against in a summary manner, without undergoing in-

jurious imprisonment and the disgrace of a public trial, the chance of reform would be more probable'.

The year 1838 saw the first official attempt to segregate young offenders from adult criminals. Parkhurst prison in the Isle of Wight was set apart for boys sentenced to transportation, usually between the ages of ten and eighteen and sometimes as young as eight and nine. But the establishment was essentially penal and every boy was kept in separate confinement for at least the first four months. The discipline was rigorous and mechanical, the buildings were guarded by armed sentries, and the system repressive in the extreme. As might be expected, there were frequent disorders and it is recorded that in 1844 some 445 boys incurred between them no less than 4,105 individual punishments. Parkhurst was not a success.

A more hopeful experiment was the establishment, between 1849 and 1853, of the first three reformatory schools in England—at Redhill in Surrey, in Birmingham, and at Kingswood near Bristol. They were all of them founded, and in the early years wholly maintained, by private philanthropic enterprise. All three are still in existence. By an Act of Parliament, introduced by Lord Palmerston in 1854, the courts were empowered to send young offenders to these reformatories, but subject always to a preliminary sentence of fourteen days imprisonment. The Act led to the establishing of reformatory schools by charitably minded persons and by religious communities in all parts of the country. By the end of 1857 one or more reformatories had been opened, or were about to be opened, in 33 out of the 42 English counties, and in 1860 their supervision was entrusted to the Home Office.

It is interesting to note that in the following year the Home Office also became responsible for another class of children's institution—namely, the industrial schools. These were concerned primarily with children who came under the Poor Law, and existed mainly for the reception of orphans and children whose parents were in prison. The placing of these two classes of school under the same Department of State was the first step towards the present system under which, as we shall see, reformatory and industrial schools have become merged into what are known as Home Office 'approved schools'. The modern approved school caters for every type of wayward and neglected child and

trains him, irrespective of what he has done, according to his needs.

In 1899, thanks mainly to the efforts of Sir William Harcourt, the compulsory period of imprisonment, which had hitherto been a condition precedent to the admission of any child to a reformatory school, was abolished. At last it had become officially recognised that, to whatever extent deterrent punishment may be a necessary element in the treatment of a delinquent child, imprisonment is not merely inappropriate, but the negation of all that a 'reformatory' stands for.

The first decade of the twentieth century saw the passing of the Children Act, 1908, known at the time as the 'Children's Charter', which was applied also both to Scotland and Ireland. A highly progressive measure, it included among its many provisions the setting up of separate juvenile courts from which the public were to be excluded. No child under the age of fourteen might any longer be sent to prison, and a boy or girl under sixteen might be imprisoned only if the court were to certify that he or she were unruly or depraved. In future, pending the disposal of their cases, young people were to be detained in a new form of institution to be provided by the local authority and called a remand home.

In England, the Act of 1908 was eventually superseded by the Children and Young Persons Act, 1933, which extended the jurisdiction of the juvenile courts to deal with boys and girls up to their seventeenth birthday. This Act, the Probation of Offenders Act, 1907, the Prevention of Crime Act, 1908, and the Criminal Justice Acts of 1914 and 1925 are the principal statutes regulating the work of English juvenile courts at the present time. A new Criminal Justice Bill, containing important proposals for the further amendment of the law in relation to children and young persons,* is at present in Parliament.

In Northern Ireland the Act of 1908 is still the principal Act, subject to an amending Act of 1931, which deals mainly with boarded-out children, and to a further amending Act of 1942 which provides for lay persons called 'children's guardians' to sit with the resident

* Under both English and Scottish law a 'child' is a boy or girl under the age of fourteen. A 'young person' is over fourteen but under seventeen. In this booklet, however, to avoid the constant repetition of the expression 'children and young persons', the word 'child' is used throughout except where the context demands the distinction.

magistrate when he is trying juvenile cases. It is understood, however, that a new Act is at present under consideration and will be introduced in their Parliament in the near future.

Scotland has been more progressive. The main provisions of the 1933 Act were applied to Scotland by the Children and Young Persons (Scotland) Act, 1937. As between England and Scotland there are certain divergencies in method, and except in three counties and in one city the constitution of Scottish juvenile courts is different from the English. But there is complete identity of purpose and in general both law and practice are the same. The ensuing pages contain an outline of the work of the English courts and of the methods of treatment available to them. Where there are important differences between England and Scotland they are defined in the text; to point to every technical distinction would be tedious. Broadly speaking, it may be said that a child brought before a juvenile court in Scotland finds himself faced with the same procedure and the same possibilities as to treatment as under English law.

Chapter Two

WAYWARD CHILDREN TODAY

WE have seen that in England and Wales the Children and Young Persons Act, 1933, is the most recent major Act of Parliament exclusively concerned with delinquent children. The emphasis throughout is upon the child's welfare. Thus it is specifically provided that 'every court in dealing with a child or young person who is brought before it, either as being in need of care or protection or as an offender or otherwise, shall have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training'. These words reflect the spirit in which the juvenile courts should approach their task.

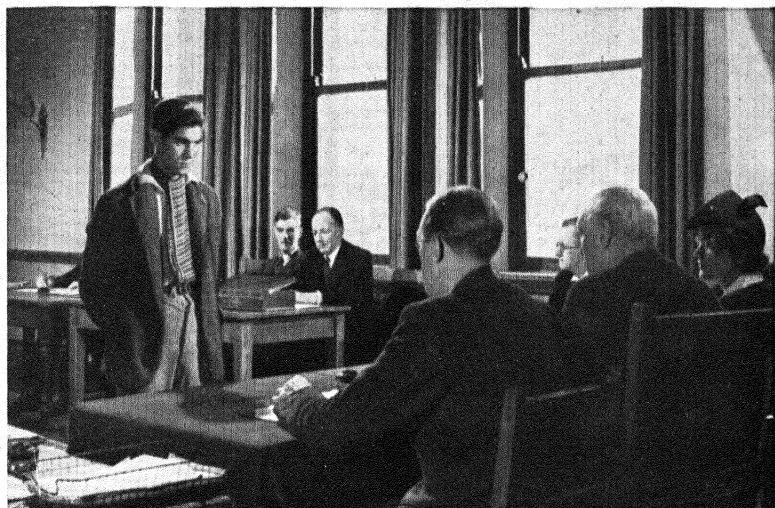
There are nearly a thousand such courts in England and Wales, and

they sit as often as may be necessary having regard to the amount of work to be done. The average, in lesser towns, may be once a week or once a fortnight, but in country districts they meet at longer intervals. In London, on the other hand, one or other of the several juvenile courts that serve the metropolis is sitting daily. The children who may be brought before them fall into three main groups.

The first and largest group comprises the offenders: that is to say, children who have broken the criminal law—most of them by stealing in some form. Such children may be brought before the juvenile court at any age between eight and seventeen. Eight is today the minimum age of criminal responsibility; the law presumes conclusively that no child below that age is capable of committing a crime and he may not be charged with so doing in any circumstances. There is in England a further presumption that boys and girls under fourteen are incapable of criminal intent unless the prosecution is able to prove that despite his tender years the child concerned did in fact know the difference between right and wrong. In a large proportion of cases the child's actions are in themselves sufficient to establish this; as for example when he has carefully hidden the stolen goods or has lied about what he has done. But where, as frequently happened in war time, young children were found in possession of oddments collected from the ruins of bombed houses, a court might not be justified in finding them guilty without positive evidence that they knew they were stealing.

The second group consists of children and young persons, of any age under seventeen, who are brought before the court and charged by their own parents as being beyond control. In such cases it is the parents who have initiated the proceedings and the supervision or other treatment ordered by the court is subject to their consent. If however, despite supervision, the child continues to misbehave, he may be brought back and dealt with in any way the law permits—whether his parents approve or not.

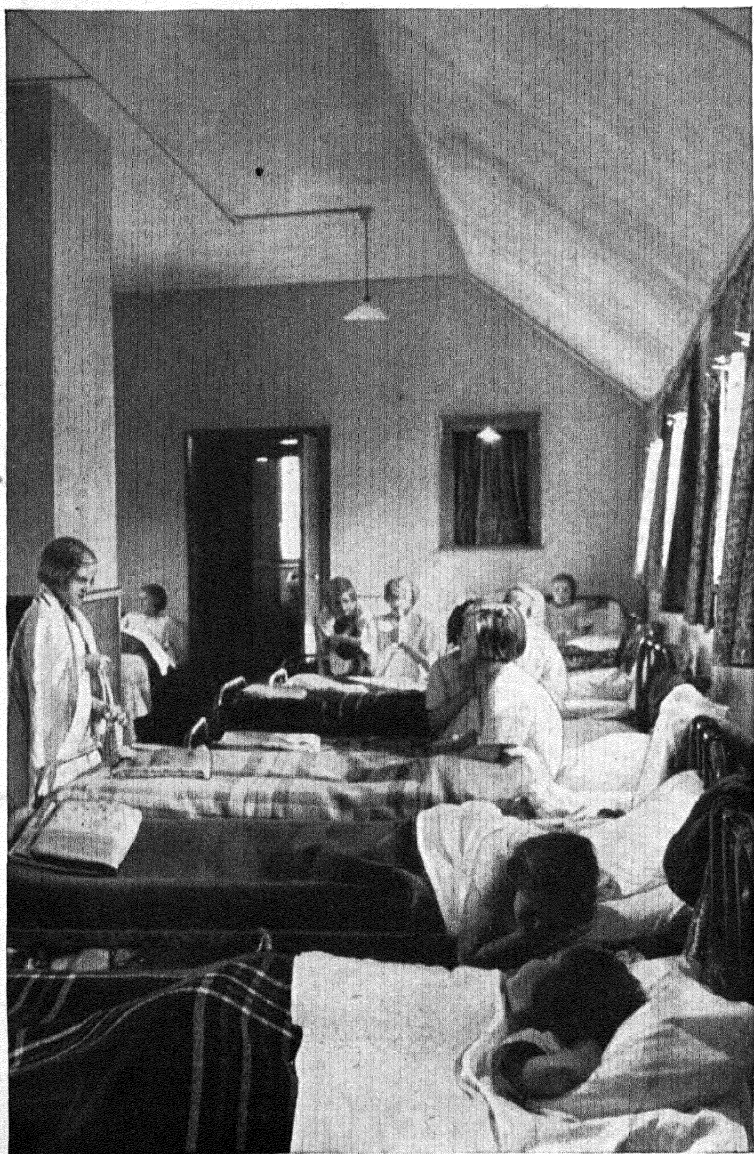
There is considerable variety in this type of case. There is the 'problem child' whose distracted parents have tried every method they can think of, from peaceful persuasion to the severest of sanctions, before they admit defeat and bring him before the court. There is the disobedient girl in her teens, who resists any form of restraint, stays out late at night, and is known to be associating with the most



The Juvenile Court at work. A scene from the Crown Film Unit production 'Children on Trial'.



This probation officer keeps models of aeroplanes in his room to see if boys in his care show an interest in them. He offers to introduce the boy to a club which runs a carpentry class.



A dormitory at another approved school for junior girls.

undesirable characters in the neighbourhood. There is the indolent youth, only son of a widowed mother, who is rude and truculent and who stays in bed all day and declines to work. Most tragic of all, there is the child who was evacuated in war time and is unable to adapt himself to the unfamiliar surroundings of his own home; after impressionable years in a foster home in the country, it is scarcely surprising if a child rebels against town conditions and the care of parents who during all this time were strangers to him.

The third group comprises children and young persons of any age under seventeen who are deemed to be in need of care or protection. They may be brought before the court by the local authority, by the police, or by some authorised society or person. The expression 'in need of care or protection' has a wide meaning. In brief, it means children against whom certain types of offence have been committed, or who have been associating with persons who have committed such offences; it also includes children who, having no parents, or unfit parents, or parents not exercising proper care or guardianship, are either falling into bad associations or are exposed to moral danger or are beyond control.

A man and woman are charged with cruelty to their children, or with neglecting them, and are sent to prison. The children are brought to the juvenile court. A boy runs away from home. Perhaps he is unhappy and seeks to escape from conditions that have become intolerable, or perhaps he makes his way to London for sheer joy of adventure in the belief that its streets are paved with gold. He discovers his mistake and is found by the police—hungry, cold and wretched; he appears next morning in the juvenile court, not for punishment but for help. A girl is reported missing. For some weeks nothing is heard of her. Then she is discovered in the company of prostitutes or frequenting a brothel; she is deemed in need of care or protection on the ground that she is in moral danger. Under the Education Act, 1944, and the equivalent Scottish Act of 1946, children who persistently truant from school may be brought before the juvenile court and dealt with as though in need of care or protection. The definition is wide enough to bring within the jurisdiction of the juvenile court all sorts and conditions of children, who for one reason or another are in trouble or in danger and who need looking after.

When we come to consider the various methods of treatment

available to the court, it will be observed that to a large extent the law allows all these three groups of boys and girls to be dealt with in the same way. They may be placed in the care of the same social workers, be sent to live in the same homes or hostels, be committed to the same types of institution. There is nothing incongruous in this. For the primary function of the juvenile court is not to punish children but to help them, for which purpose the main consideration in every case is not 'What has this child done?' but 'What does this child need?'

True enough, a child found guilty of stealing has broken the criminal law. Even so, the court should be less concerned with punishing the offender—although punishment may form an important element in the treatment prescribed—than in taking such measures as may be necessary so to reform and re-educate the child that he may be honest in future. And the remedial measures are often precisely the same as those required in the interests of a child who is so refractory as to be beyond his parents' control or, as the result of their neglect, is lacking in moral standards and perception.

The casual visitor to a juvenile court might observe with some surprise the extent to which boys predominate among the offenders. It is the general experience that only one girl is charged for ten or fifteen boys. One reason is that girls are not imbued with the 'gang spirit' to the same extent as boys. Another, no doubt, is that a girl is more useful about the house than her brother. He may be left to roam the streets; she more often is found some job to do and so remains under mother's eye.

When, however, one examines the statistics of young persons brought before the courts as being in need of care or protection on the ground that they are in moral danger, the reverse is the case. The great majority are girls: not 'bad' girls in the true sense of the word, but for the most part adolescents who have long been difficult at home and whose appearance in the juvenile court is the culmination of a series of doubtful adventures in which sex has played a leading part. A war-time increase in the number of cases of this kind, especially in large cities and in areas where troops were stationed, was perhaps to be expected. It provided the juvenile courts in such areas with their greatest problem of the war.

Chapter Three

THE MODERN JUVENILE COURT

NOW to consider the juvenile courts themselves. In England the juvenile court, like all other courts of first instance, is a magistrates' court. The office of magistrate, or 'justice of the peace', dates from the Middle Ages, since when it has been the practice to entrust the administration of justice in the lower courts to persons who, in general, are untrained as lawyers and unpaid. Of both sexes, they are appointed by the Crown on the recommendation of the Lord Chancellor, who is assisted in his selection by local advisory committees. In certain large centres of population, however, where the volume of work is exceptionally heavy, it has been found necessary to appoint in addition one or more paid or 'stipendiary' magistrates.

The Lord Chancellor's rules, under the Act of 1933, provide that the magistrates chosen to sit in the juvenile courts should be 'specially qualified for dealing with juvenile cases'. The definition is no more precise than this, but ideally such magistrates should be persons of common sense and impartiality, with a love for children besides knowledge and experience of the social background of the kind of child who most frequently finds his way into the juvenile court. An essay written recently by a boy in an approved school contained the following observation: "The world is full of people who keep on saying "I was once a boy myself", but who never show any signs of it'. The ideal children's magistrate is the man or woman who is still able to see the world and its ways through a child's eyes.

The court normally consists of three magistrates, one of whom acts as chairman, and it is usual and most desirable that one of the three should be a woman. In exceptional circumstances two magistrates may form a court, but only a stipendiary magistrate may sit alone. To obtain uniformity of practice, which is important when dealing with children, it is desirable that the same chairman should sit regularly. The magistrates, not being lawyers, are assisted in their work by a trained and qualified clerk. In London the clerks to the magistrates' court are drawn from the Civil Service; elsewhere they are mostly

solicitors, who may be wholly engaged in the work of the courts or employed on a part-time basis.

Besides the clerk, whose duty it is to guide the court in matters of law and procedure, there are certain other officials entitled to be present. These include a representative of the local education authority, one or more trained social workers called 'probation officers', and the police. The public are excluded except by special invitation of the magistrates, but there is no power to exclude the Press. It is a fundamental British principle that 'not only must justice be done; it must manifestly and undoubtedly be seen to be done'. Hence the inalienable right of the Press to attend and report any judicial proceedings as a safeguard of the liberty of the subject—however small and humble the subject may be. There is, however, a statutory prohibition against publishing the name of any child who appears in the juvenile court, or such particulars as might lead to his identification, except by special leave of the court or of the Home Secretary.

The chief difference between English and Scottish practice is in the constitution of the courts. In Scotland the arrangement discussed above, by which the judges are members of a specially selected panel, is optional. Hitherto, it has been adopted only in the City of Aberdeen and in three Scottish counties. Elsewhere juveniles are dealt with for lesser offences in courts where two justices of the peace* form a quorum, or in a police court presided over by a single magistrate or 'bailie'. Bailies are selected by the town council from its own elected members and may be either men or women. There is only one stipendiary magistrate in Scotland; he sits in the Central Police Court, Glasgow.

For more serious offences, except in places where the English system has been adopted, juveniles are dealt with by the sheriff court. The sheriff, or judge, is a trained lawyer who is paid for his services. The dividing line between the jurisdiction of the justices' courts and the bailies' courts on the one hand and of the sheriffs' courts on the

* In Scotland the term *justice of the peace* is not synonymous with *magistrate*. By *magistrate* is meant a *bailie*, who is a town councillor specially elected for judicial duties. This leaves the justices with only petty crimes and minor offences: In some districts they rarely, if ever, sit, but confine themselves to administrative duties.

other is defined by statute which provides *inter alia* that any theft of goods over the value of £10 must be tried by the sheriff. In the result, a child who has stolen property worth, say, £9 is dealt with in one kind of juvenile court, whereas his friend who happens to have stolen something slightly more valuable must be sent to another: an arrangement which to those accustomed to the English juvenile courts, empowered as they are to try children for every offence except homicide, seems complicated and unsatisfactory. The optional provisions of the Children and Young Persons (Scotland) Act, 1937, were clearly intended to remove this anomaly.

Attached to every criminal court in Scotland—and therefore to every juvenile court—is a public prosecutor whose duty it is to present the case against the defendants. In the Scottish courts, with rare exceptions, the police never prosecute. The advantage claimed for this system is that it makes possible a preliminary sifting of cases by an official who is independent both of the aggrieved parties and of the police. It is the duty of the prosecutor to decide whether it is in the public interest for a charge to be brought, and where a child is concerned he is free to consult a social worker or a psychiatrist. If he then decides to the contrary he marks the case 'no proceedings'. It is a legitimate criticism of the English system that the police, who in the lower courts frequently conduct the cases for the prosecution, tend at times to be over-zealous in pressing for a conviction.

The place at which the court sits is decided by the magistrates, usually in consultation with the local authority. In London and in other large cities the premises of the ordinary court for adult offenders are generally avoided on the ground that it is undesirable to deal with children in a building which is associated in the public mind with criminals and police. The town hall or a social settlement is considered more appropriate. In country districts, however, this is not always practicable and most country courts meet in the same building as the adult court, but generally on a different day.

The furnishing and arrangement of the court should be simple. There are two reasons for this. Under British law, any person charged with an offence, whether he be young or old, is deemed innocent until he has been *proved* guilty; he must be given every opportunity to conduct his defence, and in appropriate cases, where the defendant cannot afford to employ a lawyer, the court is empowered to grant

him a certificate for free legal aid. In the juvenile court the same principle applies; it is important therefore to avoid any appearance of ceremony that may have the effect of intimidating the child, or of so distracting his attention that he may fail to state his case to the best advantage. Secondly, as will be seen later, the juvenile courts exist not merely to try children charged with offences, but to help and advise parents who are encouraged to come to the magistrates for guidance. A ceremonious atmosphere would be wholly inappropriate in this class of case.

For these reasons it is the practice of most juvenile courts to meet in an ordinary room; it is important that it should be well lighted. The magistrates and their clerk are seated at a table, and the child, when he is first brought in, stands facing them on the same level at a distance of a few feet. Behind him are chairs for his parents, who are always summoned to attend and may be compelled to do so. If the magistrates are wise they will see that their table is narrow, so that the chairman can beckon the child to come quite close to him when the time comes for him to tell his story. To require a child to talk from a distance to a group of strangers is to require him to make a speech. Most children become tongue-tied in such circumstances; an unfortunate happening in the juvenile court where, in general, it is more important that the child shall talk than the magistrates. Behind the child, and so far as possible out of his parents' field of vision, are tables for the probation officers and other officials.

If the arrangement of the court should be simple, so should its procedure. The juvenile court is no place for flights of rhetoric or high-sounding phrases. Yet it should not lack dignity, of the kind that can derive only from the calm demeanour and patient bearing of the magistrates who compose it.

Chapter Four

PROVING THE CASE

NO matter from which group the child may come, the first duty of the court must be to determine whether the case is proved: that is, to decide whether John did in fact steal the sweets; whether Jane is

in fact beyond her parents' control; whether Margaret is in fact in need of care or protection.

In England all *children* charged with offences, except on a charge of homicide, must be tried in the juvenile court. *Young persons* however, if they so desire, have the right to be tried on more serious charges in a higher court by a judge and jury; alternatively they may be sent for trial if the court thinks fit. This must be explained to them in simple language at the opening of the case, although in practice it seldom happens that a young person elects to be sent to the higher court for trial. Indeed it occurs so rarely that there is a body of opinion which believes that the right of young persons to 'go for trial' should be done away with, on the ground that it merely provides an unnecessary complication.

In Scotland no one, whether child or adult, has a right to demand trial by a jury. There is, however, power reserved to the Lord Advocate, the supreme criminal officer in Scotland, to order any criminal proceedings to be taken either in the High Court of Justiciary—Scotland's supreme criminal court—or in the sheriff court; but this power is exercised only in cases of exceptional gravity.

The court's decision, in every case, must be made upon the sworn evidence concerning the particular circumstances which have led to the child's appearance, and the magistrates should have no prior knowledge of the child or of his history. If any one of them, accidentally having such knowledge, feels that it would be difficult to dismiss that knowledge from his mind, his right course is to retire from the bench and to allow some other magistrate to take his place. The time will come when full inquiries must be made into the child's background and surroundings and the result be told to the court. But the time for this is after, not before, the case is proved.

In Scotland the standard of proof required by the courts, whether adult or juvenile, is generally higher. Thus in Scotland, apart from a few statutory exceptions of minor significance, no one may be found guilty of an offence on the uncorroborated evidence of a single witness. This, however, does not mean that there must always be two eye-witnesses; the corroboration may be found in proof of surrounding circumstances.

In practice the great majority of children charged with offences freely admit their misbehaviour. It is also common experience that

few of the children said to be beyond their parents' control or in need of care or protection tend to dispute the facts as stated by those who bring them. Where, however, the child does deny the charge, the responsibility is upon the police, his parents, or whomever it may be to prove the facts. Unless they are established beyond all reasonable doubt, the case must be dismissed.

When dealing with children, it is important that in every case the child concerned shall be made to feel that the course adopted—whether by magistrates, school teacher, or by his own parents—is just and fair. Therefore, it is necessary that a child who denies an accusation shall be accorded every opportunity of telling his side of the story and of taking as long as he likes in doing so. But the prosecution is heard first. The police and other witnesses, all of whom are placed on oath, are made to speak slowly and it is the duty of the court to explain in simple language anything that the child may fail to understand. And at this point it may be observed that in the juvenile court one person, and one person only, should have charge of the proceedings. That person should be the chairman. In the unfamiliar surroundings of a court room it is hard enough for a child to keep his attention fixed upon one person and answer his questions thoughtfully; the position becomes hopeless if the clerk and all three magistrates question him in turns.

Slowly but surely the story is unfolded. It may be the tale of some trifling mischief—breaking someone's window perhaps, or playing games in the street to the annoyance of passers-by. Or it may be more serious: the story of a carefully planned escapade in which a group of boys broke into someone's shop and stole anything upon which they could lay their hands. More often, especially in the case of younger children, the offence is the result of some sudden temptation—stealing some cakes from a passing van, pocketing some money from teacher's desk, or snatching some trinket from the dazzling display in the multiple store. Whatever the nature of the offence may be, the whole of the facts must be told to the court and told by the persons directly concerned. No statement is admissible unless it was made in the defendant's hearing. As the judge told Sam Weller during the famous trial in *Pickwick*: 'You must not tell us what the soldier, or any other man, said, sir; it's not evidence'.

Each witness is subject to cross-examination by the child, his

parents and the court; that is to say, he may be asked any question to test his story, or his credibility as a witness, or to bring out any point which appears to need further explanation. In the juvenile courts it is the duty of the court to assist the defence to cross-examine adequately, if necessary by allowing the child to tell his story and by then framing such questions as may appear needful in his interest.

When the case for the prosecution is concluded, it is for the court to decide whether a *prima facie* case has been established for the defendant to answer. If so, it is now his turn to conduct his defence. If the child is old enough to understand the nature of an oath, he may give evidence in exactly the same way as the witnesses for the prosecution; and in that case he must submit to any questions the prosecution sees fit to ask him. But he cannot be compelled to take this course. A defendant cannot be required to say anything at all, and if he wishes to address the court but avoid cross-examination he may content himself with an unsworn statement. He may also call witnesses. It is also right and proper that the child's parents should be given ample opportunity of saying anything they desire on his behalf.

Having heard both sides of the case the court must make up its mind, if necessary by majority, whether the charge is proved. The magistrates may retire for this purpose. If however, having weighed the evidence, they are left with any reasonable doubt in their minds, it is their duty to dismiss the charge; in which case the proceedings are concluded and the defendant is discharged.

In Scotland, besides the verdicts of 'guilty' and 'not guilty', there is an intermediate verdict of 'not proven'. If the court so finds, the defendant is discharged, but not, as in the case of a verdict of not guilty, as an innocent person with no stain on his character. He may, however, never be charged again with the same offence.

The procedure in 'beyond control' and 'care or protection' cases is much the same as in a criminal charge. Here there may be a conflict of opinion between the child and his parents. As this type of case falls within the civil, as opposed to the criminal, jurisdiction of the court, both child and parents are compellable witnesses; that is to say, the court may require them to give evidence on oath. In arriving at their decision, however, the same principle applies: 'Is this child, on the evidence adduced, *in fact* beyond his parents' control or in need of care or protection?' If, beyond all reasonable doubt, the answer is yes,

it is the duty of the court to find the charge proved. If, on the other hand, the magistrates are not satisfied that this is so, it is equally their duty to dismiss it. In Scotland there is no intermediate verdict in this class of case.

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Chapter Five

INQUIRY INTO CAUSES

THE evidence has been heard and the case is proved. The court has made up its mind beyond all reasonable doubt that John did steal the sweets; that Jane is in fact so badly behaved as to be beyond her parents' control; that Margaret's parents are unfitted to look after her, and Margaret, being in moral danger, is in need of care or protection. What next? What treatment shall the court prescribe?

Except in the case of some trivial offence, such as hanging on to a lorry or playing football in the street, a court which at this early stage proceeds forthwith to order *any* treatment is neglecting its duty. Parliament has laid down that in every case the court must have regard to the child's welfare. No court can conceivably obey that injunction until it knows far more about the child concerned than merely about the act of misbehaviour with which he is charged.

In London, and in places where the courts meet regularly and at short intervals, it is the practice at this point to order a remand. In other words the hearing is adjourned for a week or a fortnight, during which period the child may be sent home with his parents or, if the court thinks fit, be detained in a special institution called a remand home, maintained for this purpose by the local authority. The purpose of such detention must not be punitive; a remand in custody may be to enable the child to be observed by an expert staff, to provide temporary accommodation for a child whose home is unsuitable, or to prevent a recurrence of the offence.

Young persons, charged with and found guilty of an offence, may be remanded to prison if the court certifies them as unruly or depraved. In that event they go either to a special prison, or to a wing

of an ordinary prison where they are isolated from adult offenders. Even so, those who are best qualified to judge are unanimous in condemning this practice on the ground that the very atmosphere of a prison is gravely harmful to boys and girls. Therefore, this power is rarely exercised by the more experienced and enlightened courts.

During the remand a full inquiry is made into the child's or young person's surroundings and antecedents. This inquiry is usually conducted by one or other of the probation officers attached to the court. Women officers are concerned with the girls and, in general, with the younger boys; boys between fourteen and seventeen are dealt with by men. The probation officer visits the child's home and, if the child is in custody, the remand home. He has a private talk with the child and, no less important, with his parents. He inquires into the composition of the family and notes the kind of house in which they live. He makes inquiries as to the family's income and observes its standards, both moral and material. He investigates the child's medical history and makes a note of any early illnesses or accidents. He learns what kind of friends he has and how he spends his spare time; he is concerned to discover whether there is any religious influence and what may be the nature of the child's special interests or hobbies—whether he belongs to a club, a scout troop, or the like. The probation officer's inquiries are not confined to the particular happening which brought the child before the court; he is concerned with the whole of the child's environment and with all the circumstances, physical and psychological, that have led up to it. The whole of this information is embodied in his report which, with his recommendations as to treatment, is placed before the magistrates at the adjourned hearing.

It is also the duty of the local education authority to produce a report in every case. It is required to provide particulars, not merely of the child's school record, but of his health and character. In addition, it often happens that the local authority can provide useful information about his home.

There is also a third agency that can be called in to assist in this investigation of the child's background. The probation officer and the local authority are primarily concerned with what may be termed the external factors—the child's home, his friends, his work and play. It must not be forgotten that there are also internal factors which, often

more powerfully than the external factors, may govern a child's behaviour. These are the vital factors of the child's intelligence, temperament and emotions.

It is not suggested that in all, or even in the majority of cases which come before the juvenile court, the child presents a deep psychological problem. The fact remains—a fact that is becoming increasingly realised by all who have to deal with children—that the child's psychological make-up is always of importance. This being so, especially in large cities where expert medical guidance is more readily accessible, there is an increasing tendency by the courts to demand a report from the psychologist. The measurement of the child's intelligence is preceded by a thorough physical examination, and the psychologist is at pains to unearth any underlying causes of the child's behaviour which might otherwise escape notice. It is to be regretted that a psychological examination cannot yet be undertaken in every case. Hitherto the shortage of trained psychologists in this country has made this impossible, and there is urgent need for an increased number of child-guidance clinics and remand homes with psychiatric departments where this form of investigation can be undertaken.

One of the drawbacks of the present system is that it is for the magistrates or their probation officers, all of whom are laymen in these matters, to make the preliminary diagnosis. Sometimes it is fairly simple. The child before the court may appear so dull that the magistrates wonder whether he is mentally sub-normal; or there may be a history of physical illness or accident that suggests to them that the child's whole outlook may have been affected thereby; or the child may have a serious stammer; or be said consistently to wet his bed; or the nature of the offence may be such as to suggest, even to the laymen, some emotional instability. In all such cases as these the advice of the psychologist is patently called for. But there are other cases—cases in which to the inexperienced eye there is nothing at all which could be regarded as a 'problem', except that of correcting by appropriate punishment an ill-behaved or mischievous child. 'I would urge', wrote Sir Cyril Burt, the eminent English psychiatrist, 'that a thorough medical examination be made, not of picked cases, but of all delinquent children as a matter of routine. . . . If the selection of the "appropriate" cases is left to a non-medical authority, then

many of the most hopeful will be passed by.' That was in 1925. More than twenty years have passed since then, but the day when *all* children brought before the juvenile courts are physically and psychologically examined has still to come.

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Chapter Six

DISMISSAL : FINES : WHIPPING : DETENTION

A WEEK or a fortnight has passed and the child and his parents are once more before the magistrates. The court, if it so desires, may see the child alone or consult with the parents in the child's absence. It is difficult to exaggerate the importance of gaining the parents' co-operation and of making them feel in every case that the magistrates are concerned not just to punish their child, but to help him.

The probation officer submits his report, and reports by the local authority and the psychologist are also laid on the magistrates' table. The first step towards gaining the parents' co-operation is to avoid giving the impression that the court is acting upon secret information. Therefore, although the law allows these reports to be made in writing, it is the duty of the court to communicate both to the parents and to their child anything that may tend to influence its decision. In practice this means telling them in simple language everything of importance that the documents contain, after which they must be allowed to challenge any statement they consider untrue. In the event of a dispute the parents and the child must be given an opportunity of calling evidence, and if necessary the hearing must be adjourned for this purpose. The court can also require the attendance of the author of the report and allow him to be cross-examined.

It has already been said that the methods of treatment available to the court are very similar, whether the child or young person concerned has been found guilty of an offence, or beyond his parents' control, or in need of care or protection. Children require to be dealt with, less in relation to what they have done than to what they need. There are, however, certain important distinctions, as between the treatment of offenders and of those who fall within the civil jurisdiction

of the court, which must be noted. It is proposed for convenience first to describe the means available for dealing with the offender, and afterwards to indicate the points of difference where the other two groups of children are concerned.

In any case where the court has found the child guilty of an offence it may, if it thinks fit, discharge him. Where the offence is trivial, or where the inquiries reveal a satisfactory home environment, or where the magistrates consider that the child has been sufficiently punished at home or sufficiently frightened not to offend again, such a course may well be appropriate. It should be emphasised, however, that a discharge in these circumstances, under the Probation of Offenders Act, 1907, is quite different from a discharge under the Summary Jurisdiction Acts on the ground that the prosecution has failed to prove its case. The former might be described as a 'let-off with a caution' and the facts may be mentioned to any court before which the offender subsequently appears on a new charge. The latter is an acquittal and the defendant leaves the court an innocent person.

For every offence the court has power to impose a fine, up to a maximum fixed by statute in relation to its nature and gravity, and to whether or not the defendant has committed it before. But as the child who comes before a juvenile court rarely has much pocket money, it is often difficult to dissuade his parents from paying the fine forthwith and so disposing of the case; in which event it is they who suffer punishment, not the child. On the other hand it is sometimes the intention of the court to punish the parents, because by their neglect or otherwise they are responsible for the offence having been committed. In that event the parents may themselves be fined and payment be enforced against them, if necessary by imprisonment.

Apart from fines, the English courts have power, in addition to such other treatment as they may order, to require the child or his parents to pay a specified sum towards the costs of the prosecution or to make restitution to the injured person. In appropriate cases this is salutary, if only to make the child feel afterwards that to the utmost of his capacity he has made good the loss or damage he has caused. In Scotland the power of ordering restitution is more limited.

In the case of boys under fourteen, found guilty of more serious offences, an English court may order a whipping up to a maximum of six strokes. In Scotland the power extends to boys up to the age of

sixteen years. A whipping so ordered is inflicted by a police officer, and the child's parents have the right to be present. In recent years, however, the practice of ordering judicial whipping has been largely discontinued by the more enlightened courts in both countries. Those who object to judicial whipping do not necessarily object to the moderate chastisement of a naughty child by his parents or by his schoolmaster. But those who are experienced in these matters have come to appreciate the fundamental difference between corporal punishment at home or school and a whipping ordered by a court. An occasional whipping at school is the lot of many boys in this country and excites little interest among his fellows; it is an incident, not an event. A judicial whipping has the quality of the dramatic; the boy's parents always protest and the sentence is carried out by a strange policeman whom in all probability he will never see again. Too often a boy thus whipped returns to his home, not as a chastened youngster anxious to do better, but as a hero and a martyr. Careful observation, kept some years ago by one of the busiest London courts, disclosed that of all the boys who appeared on a second charge, the majority had been dealt with in this way on the first occasion. If it were established that judicial whipping was an effective deterrent, some argument might be adduced in its favour. In fact, all the evidence is to the contrary.

In 1938 a Departmental Committee, appointed by the Home Secretary, was unanimously in favour of abolishing this form of treatment. Had it not been for the war, it is probable that its recommendations would long since have passed into law. Proposals to this effect are embodied in the Criminal Justice Bill, which is now being debated by Parliament.

Another form of treatment available for the young offender, in which, like whipping, the element of deterrence is perhaps more prominent than of reformation, is detention in the remand home for a maximum period of a month. But the remand home, as we have seen, is not a punitive institution and it is impracticable for the authorities to provide in the remand home two different types of treatment—one for those sent there to be punished, and the other for children remanded merely for observation or safe custody. Yet for the normal child to be taken abruptly from his home and sent to any institution is a sobering experience and provides him with an

opportunity of reflecting upon the likelihood of his being sent away for a much longer period if he offends again.

The main objection to this form of treatment is that under the existing law a court which orders a child to be detained in the remand home as a punishment is precluded from ordering any additional treatment for the same offence. This is unfortunate, if only because the young offender whose misbehaviour is sufficiently severe to merit detention almost invariably requires a period of supervision afterward to assist him to mend his ways. A new form of short-term detention, involving brisk discipline and hard work, is another of the proposals contained in the Criminal Justice Bill.

Chapter Seven

THE PROBATION SYSTEM

FEW would dispute that a child's own home, provided it is happy and united, provides by far the most hopeful background to his education and upbringing. Unfortunately, a large proportion of the boys and girls who find their way into the juvenile court come from bad homes, in which there are few standards, little harmony, and the minimum of parental control. Sometimes it is necessary, if the child is to have any chance of growing up a responsible citizen, to remove him at once from so unsatisfactory an environment. But there are other cases, and they amount to more than half of all that are brought before the juvenile courts of this country, where it is worth while, at least in the first instance, to try the effect of binding him over to be of good behaviour, preferably under supervision.

This form of treatment, which in England is usually under the provisions of the Probation of Offenders Act, 1907, may be applied only if the offender consents. It is also subject to a 'recognisance', which is a sum of money the offender and, in the juvenile court, generally his parents also are required to pledge as security that the conditions imposed will be complied with. The recognisance carries with it the general conditions to be of good behaviour and to appear in court to be further dealt with if called upon. Besides these

general conditions it may contain specific conditions, either positive or negative. Such positive conditions may be to submit to supervision, to go to school regularly, or to live in a specified place; negative conditions may prohibit the frequenting of amusement arcades or fun fairs, or association with specified people. •

Where the offender is required as a condition of his recognisance to submit to supervision, this form of treatment is commonly called probation. It is applicable, not merely to children and young persons, but to offenders of any age. Moreover, it may be prescribed no matter how many times the person in question has been previously found guilty and punished. An offender placed on probation is allowed his freedom and in general to return to his own home, in order to give him the opportunity of proving that he can behave properly. The duration of the probation order may not be more than three years and in every case the probationer is supervised by one of the probation officers attached to the court. In exceptional cases he may be required to reside for a time in a probation home or hostel. A probation home is an institution for short-term training; a probation hostel is a place in which the probationer is required to live, but from which he may go out daily to work. He is required to go and see the probation officer at regular times—probably once a week to begin with, but later, if he makes satisfactory progress, at longer intervals; in addition, the probation officer visits the probationer's home as often as he may consider necessary.

It is important to note that probation officers are unconnected with the police and that their primary duty is to befriend and help the offender. They are highly trained social workers whose salaries are paid half by the Exchequer and half by the local authority in whose area they work. There are some 800 full-time and 200 part-time probation officers attached to courts in England and Wales, and in recent years a large proportion of the entrants to the Probation Service have been selected and trained under a Home Office scheme. In Scotland, partly because Scottish legislation is more recent and partly because of practical difficulties in a country with small communities and sparsely populated districts, progress has been slower in building up an efficient probation system. There are rather less than sixty full-time paid officers in Scotland, and in many parts of the country reliance has to be placed on part-time and voluntary workers.

Probation is in a sense an arrangement between the offender and the court. The offender, for his part, undertakes to keep the terms of the order and to behave himself. The court undertakes that if he keeps his promise he shall receive no punishment for the original offence. If the offender keeps to his side of the arrangement, when the order expires the whole matter is over and done with. But if he breaks its terms by some form of misbehaviour, he can be brought back to the court and dealt with for the original offence for which he was placed on probation. In addition, the recognisance may be forfeited and he may be fined for breaking its conditions.

From time to time the magistrates meet privately with their probation officers to discuss, not cases that are before the court, but those that have been disposed of by the making of a probation order. Such meetings are of great value, not merely to the probation officers, who receive guidance and advice; they are also valuable to the magistrates, who are thus enabled to watch the results of the treatment they have ordered and frame their policy accordingly.

The success of probation depends first upon the wise selection of cases for this type of treatment. It is rarely wise for a juvenile court to place the same child on probation twice unless a long period has elapsed between his offences. Secondly, it depends upon the personal qualities of the probation officer concerned. It has been observed that a good probation officer needs the strength of Samson, the patience of Job, the courage of a lion, and the skin of a rhinoceros. In addition, he needs a sense of humour. The considerable success that attends this form of treatment is due to the fact that most probation officers possess these qualities in such large measure.

Chapter Eight

FOSTER PARENTS

W E have said that there is nowhere more hopeful than a child's own home, provided it is a reasonably good one, as the background to his education and upbringing. Therefore it is only logical when the court decides that a child's home is hopelessly unsuitable,

or for some other reason that he needs to be moved into fresh surroundings, that it should first consider the possibility of placing him in a foster home. Indeed, the Act of 1933 specifically provides that when dealing with a child under the age of ten years the court shall not send him to an approved school unless it is satisfied that he cannot be dealt with otherwise.

The placing of a child in a foster home may be accomplished either on a short-term or on a long-term basis. There are cases, beyond question, when all that he needs is temporary severance from his family. The home, perhaps, is overcrowded and removal is only necessary until such time as his parents have been successful in finding more suitable accommodation. Or the child's father may be in hospital, or in prison, and the court may think it wise to remove him only for a limited period while his mother has more to do than she can manage. Or there may be some emotional conflict between the child and his family which will quite likely resolve itself if the immediate tension can be broken.

In such circumstances as these, temporary residence with foster parents can be achieved by placing the child on probation, if he will agree to that course, and by making a condition of residence. During the period specified the child remains under the care of the probation officer attached to the court; or, if the foster home is at a distance, under the supervision of the probation officer for the area concerned. A grant from public funds is available for the child or young person's maintenance, but in normal circumstances for no longer than twelve months. At the end of that time the grant comes to an end and, unless a young person can support himself by his earnings, he returns home.

More frequently, however, and especially in the case of young children, the need is not for temporary removal but for permanent transplanting into new surroundings. Occasionally some friend or relative may come forward to take such a child, but in general a permanent arrangement can be made only by committing him to the care of the local authority. The local authority, having accepted the child, must board him out permanently with foster parents unless the Home Secretary expressly sanctions some alternative arrangement. With a few exceptions, all local authorities in England and Wales have boarding-out schemes for this purpose. The careful choice of foster parents is naturally of supreme importance and the greatest care must

be taken, not merely to supervise the foster parents while the child is with them, but to investigate their antecedents before he is entrusted to their care.

A child so dealt with becomes the ward of the local authority, which assumes the full rights and, with one or two exceptions, the full responsibilities of parents. The court's order lasts normally until the child's eighteenth birthday, until which time the local authority is charged with his maintenance, education and upbringing. But if in the meantime the child's natural parents are able to convince the court that it is in the child's interests for them to have him back, the court has power to revoke the order.

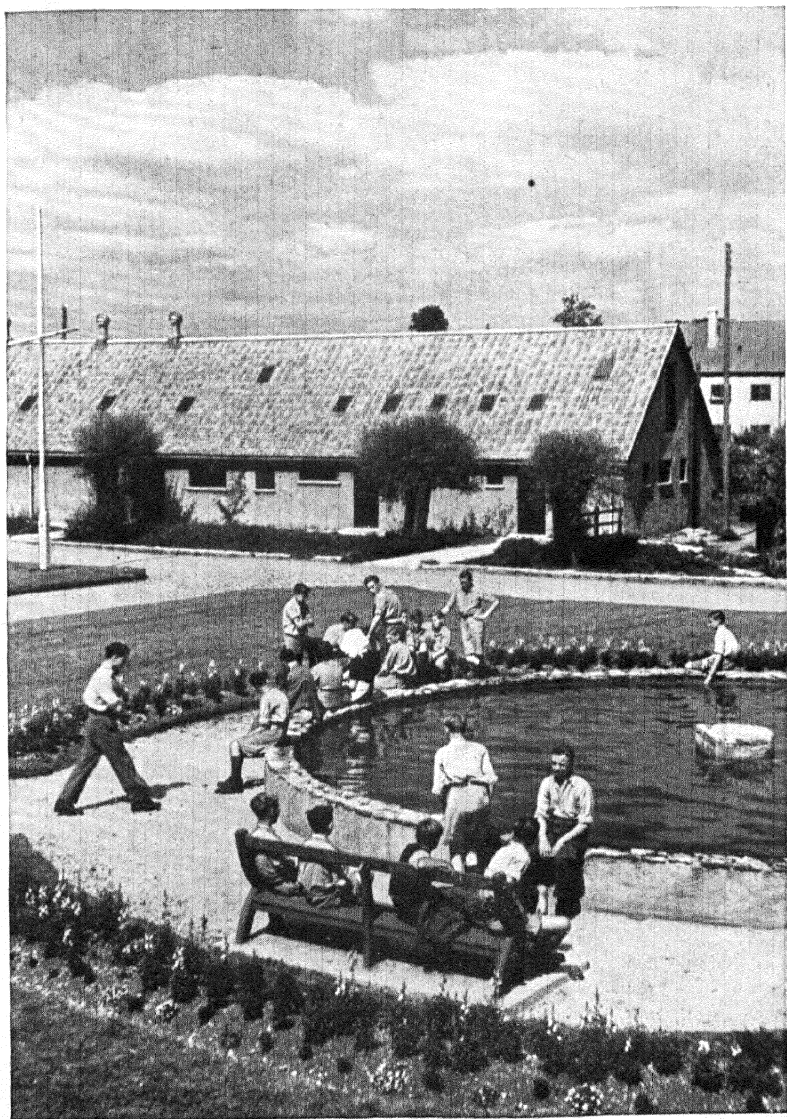
One of the greatest difficulties at the present time is to find sufficient good foster parents for this purpose. During the war, when vast numbers of children were evacuated from the towns to the countryside, the problem was even more acute. And today, although the children have long since gone back, a large proportion of excellent foster parents who proved their worth in war time feel quite justifiably that they deserve a rest. As the result many children, deprived through no fault of their own of normal family life, have to receive an institutional upbringing.

Chapter Nine

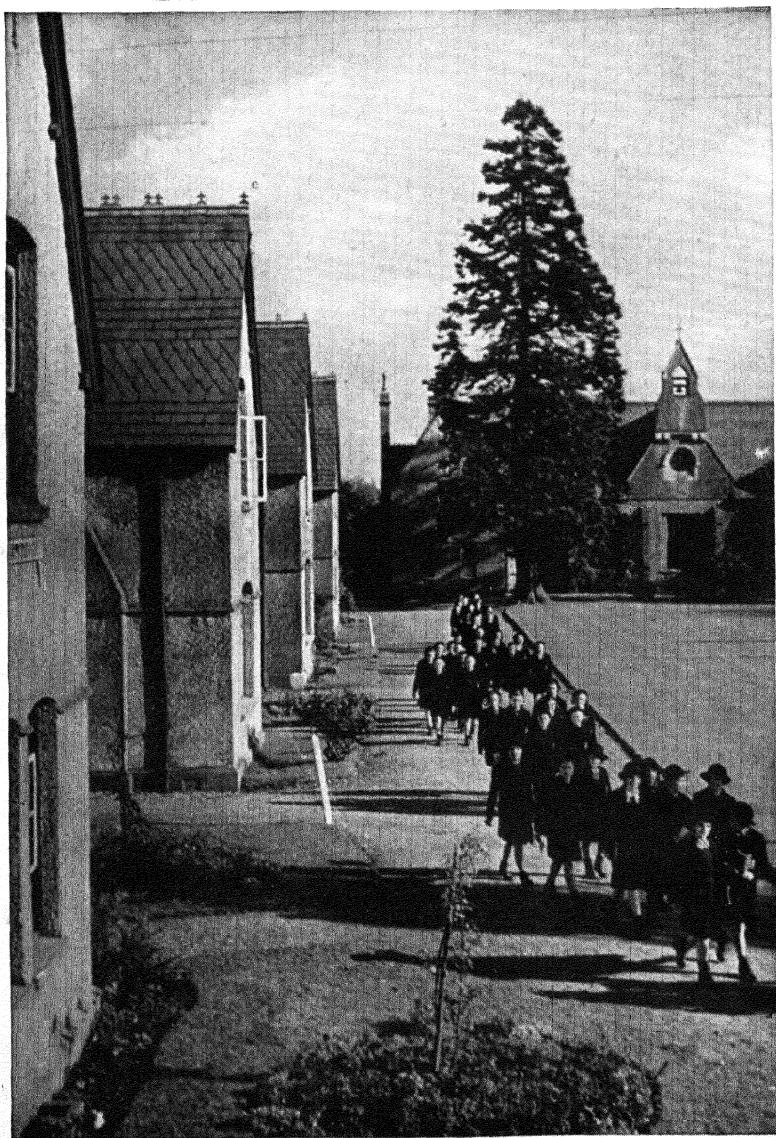
APPROVED SCHOOLS

FOR children other than those who are mentally sub-normal, the institution provided for long-term treatment is the approved school. There are 149 such schools in England and Wales and some twenty-five in Scotland; the majority are managed by voluntary bodies and the remainder by local authorities, and all are financed out of public funds. They are the lineal descendants of the old industrial schools and reformatories and are subject to inspection—in England by the Home Office, and in Scotland by the Scottish Education Department.

Approved schools are graded according to the age *on admission* of



An intermediate approved school where boys divide their time between the schoolroom and training in crafts such as farming, gardening, and bricklaying.



Some of the pupils at a junior approved school, which takes about 160 girls up to their fifteenth birthday on admission.

the children for whom they cater. For boys there are three grades: junior schools for boys who when admitted are under thirteen; intermediate schools for those of thirteen, but under fifteen; senior schools for those of fifteen, but under seventeen. For girls there are two grades only: junior schools for girls who when admitted are under fifteen; and senior schools for those of fifteen, but under seventeen.

They are classified according to the religion of the child committed. Thus there are schools for Protestants, Roman Catholics and Jews, and the law provides for the committal, where practicable, of a child to an approved school of his own religious persuasion. A further classification is in relation to the type of training provided. The older schools were built on the block system, but the tendency in recent years has been to provide cottage homes, or schools so planned that the children can be grouped in houses that are structurally separate. The junior schools are mainly concerned with primary education; but the intermediate boys' schools combine this with some degree of technical instruction, and the schools for senior boys and girls provide industrial training. Among the approved schools for boys there are nautical schools, farming schools, and schools that specialise in engineering. For girls the curriculum is largely confined to domestic economy, but there are certain schools in which girls of more advanced intelligence can be trained for business.

The choice of the school does not rest with the court. In strict law the magistrates are entitled to commit a child to any school in the appropriate age-group which has a vacancy. In practice, however, the English juvenile court generally commits the child to a school 'to be named' and leaves it to the Home Office to suggest a suitable school to which he shall be sent. Later, if the court approves the suggestion made, it names the school in the order and the child is sent there accordingly.

The allocation of a delinquent or neglected child to the school best suited to his needs is obviously of paramount importance. There is clearly no purpose in the provision of a number of different schools, specially designed to meet the needs of various types of children, unless the children themselves are classified with equal care. This being so, the Home Office has in recent years arranged for the establishing of several classifying centres to which children, committed by the courts for approved-school treatment, are sent in the first instance.

for observation by a skilled staff. Unfortunately there are not yet sufficient of these centres to serve the requirements of the whole of England and Wales; therefore a large number of committed children have to wait in the local remand homes between the date of their committal and their arrival in the approved school to which they are destined. This is unsatisfactory both in their own interests and in the interests of other children in the remand home who are comparatively inexperienced in juvenile crime and merely on the threshold of treatment by the court. The remedy is to provide more classifying centres and more approved schools, matters which are receiving attention by the authorities at the present time.

Nor is the length of the child's stay in the approved school decided by the court. This depends upon his behaviour and progress and, particularly in the case of a young child, upon the home conditions to which he will return on discharge. In general, the date upon which the child leaves the school is decided in the light of these considerations by the school authorities, though the Home Secretary has power to intervene. There is, however, a maximum period of detention depending upon the age of the child when the court makes its order. Thus children who are committed when they are still under twelve may be kept in the school until they are fifteen but no longer. For those over twelve when committed the maximum term is in general three years, but not beyond the nineteenth birthday. Very roughly it may be said that a child committed over the age of twelve, who makes good progress and has a decent home, may expect to stay in the school about two years. In England, however, there are in addition certain short-term schools where, by special arrangement between the Home Office and the school authorities, the period of detention is normally no longer than nine months.

The responsibility of the school does not end on the day that the child leaves it. It is rarely wise, after keeping a child for a considerable period in the artificial atmosphere of an institution, suddenly to discharge him unwatched and unsupervised into the hazards of everyday life. This being so, there is an after-care organisation operating in England whereby a child discharged from an approved school may remain for a specified period under the care of a specially appointed welfare officer. There are, however, some areas where no welfare officer has been appointed, in which the local probation

officer undertakes this duty. The welfare officer or the probation officer, as the case may be, may think it wise to try to provide for each such child within his care some private person living in the locality who will act as, and indeed become, the child's personal friend. Effective after-care is complementary to almost every form of institutional training.

* * *

All the forms of treatment hitherto described are applicable to offenders. To a large extent they are also available to children and young persons who are beyond their parents' control or in need of care or protection and thus fall within the civil, as opposed to criminal, jurisdiction of the court. But there are certain important differences.

Whipping and detention in the remand home and the infliction of monetary penalties, forms of treatment that are punitive rather than constructive, can be ordered for offenders only. The Probation of Offenders Act is also inapplicable to civil cases, but the Act of 1933 provides that children and young persons found beyond control or in need of care or protection may be placed under the probation officer's 'supervision'. In practice, a supervision order is in its effect very similar to a probation order, but it involves no recognisance either by the child or his parents.

Such children may be boarded out with foster parents. In England and Wales, subject to his own consent, a young person may be placed in a hostel as a condition of a supervision order. Children may also be committed to the care of the local authority, whose duty it then becomes to board them out in exactly the same way as in the case of offenders. If supervision fails, or for one reason or another the court decides that institutional training is called for, children and young persons in these groups may also be committed to approved schools. In that event they are sent in general to the same schools as those described above, and precisely the same conditions apply with regard to release and after-care. It is the experience of those who manage these schools that there is in practice little to choose, in the matters of character and conduct, between children who are sent there as offenders and those who are beyond control or in need of care or protection.

In Scotland, unfortunately, there is no power to insert a condition of residence in a supervision order. As the result a disproportionate number of children in need of care or protection find their way into approved schools.

Chapter Ten

THE BORSTAL SYSTEM : IMPRISONMENT

WE have seen that the upper limit of age for committal to an approved school is immediately before the young person's seventeenth birthday. It may be asked what is to happen to boys and girls placed on probation by the juvenile court while under seventeen who fail to respond to this form of treatment, and who are brought back to court after their seventeenth birthday. In such cases, if institutional treatment is considered necessary, there is a choice of two alternatives. The first is Borstal and the second is prison.

Borstal treatment is available, subject to certain conditions, for offenders of both sexes on or after their sixteenth birthday but before they have attained the age of twenty-three. The new Criminal Justice Bill, however, contains proposals to reduce the maximum age for committal to Borstal to twenty-one. Even so, as this booklet is concerned with the juvenile courts, which deal in general with boys and girls under seventeen, it may be objected that consideration of a form of treatment which is applicable not merely to boys and girls, but to full-grown men and women, is beyond its scope. There is weight to this objection, but the fact remains that an appreciable number of offenders aged sixteen are sent to Borstal, in preference to a senior approved school, at the instance of the juvenile courts; besides which the juvenile courts have power to deal in this way with young people whom they placed on probation when they were under seventeen, who have got into further trouble after passing their seventeenth birthday, and are brought back to the juvenile court for the breach of their recognisance. In these circumstances a brief description of the Borstal system may not be inappropriate.

The system derives from the Prevention of Crime Act, 1908, and in England is administered by His Majesty's Prison Commissioners. In Scotland it is the responsibility of the Scottish Home Department. Borstal takes its name from the small village of Borstal in Kent, where the first experiment was made on these lines. There are at present thirteen Borstal institutions for the training of lads and young men in England and Wales; in addition separate wings in certain prisons have been adapted for special Borstal purposes. One of these adapted wings is for reception and classification; another is for lads who have been discharged from Borstal, have failed, and have been brought back for further and more drastic treatment; another is for the correction of those who have absconded or seriously misbehaved. There are also three training institutions for girls, who form only a small proportion of the whole. In Scotland there are three institutions for lads and one for girls.

No offender may be committed to Borstal unless, in the words of the Act, it appears to the court 'that, by reason of his criminal habits or tendencies, or association with persons of bad character, it is expedient that he should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation and the repression of crime'. The Act also requires the court, before passing a sentence, to obtain from the Prison Commissioners a report as to the suitability of the offender for this form of treatment. The magistrates' courts have no general power to commit to Borstal direct; if, however, they have before them a young offender of this type, who has previously been found guilty of an offence for which he was not discharged under the Probation of Offenders Act, or having been placed on probation has committed a breach of his recognisance, they may commit him to one of the higher courts to be so dealt with. Thus it will be seen that nearly all the young offenders sent to Borstal have previously been in trouble, many of them on several occasions. A large proportion have already been fined, placed on probation, imprisoned, or sent to approved schools. Such material is not easy to mould.

The term of a Borstal sentence is not less than two and not exceeding three years. But within these limits the sentence is indeterminate, for the date of discharge on licence is decided by the authorities according to conduct and progress. Any lad may be discharged after

the first six months and any girl after the first three, but in general it is found that even those who behave well and work hard are in need of training for a period of at least eighteen months. The Borstal licence, which is subject to revocation in the event of misbehaviour or reconviction for a further offence, extends from the date of discharge until the expiry of the full term ordered by the court and for one year thereafter.

The form of training varies considerably in relation to the type of youth concerned, who is classified not merely according to age but to record and character. Two alternative kinds of institution are provided for each age-group—one 'open' and the other 'closed'. An open institution is a camp or building in the open country with no surrounding wall; to it are sent those lads whose training, in the opinion of the authorities, can be given under conditions of comparative freedom. A closed institution is a converted prison building in which, when necessary, the maximum security can be afforded. Even so, the casual visitor to a closed institution is quick to observe that the main gate stands open throughout the day and that here as at other Borstal institutions a large part of the activities is carried on outside the walls. To lead; to trust; to give to each lad and girl as time goes on an increasing sense of personal responsibility: these are the principles upon which the system is founded. Its success or failure is determined not by the buildings or equipment, but by the devotion and character of the staff. Hence the division of the institutions into houses, each of which is in charge of a carefully selected housemaster and matron. The working day in Borstal is intentionally arduous, but the programme affords ample opportunity for physical exercise and education. Six of the institutions have large mixed farms and several provide training facilities in building and engineering. For girls the emphasis is upon laundry, cooking and housework.

Borstal treatment does not end abruptly on discharge. At that stage a lad comes under the supervision of the Borstal Association, a semi-official body, and months before he regains his freedom arrangements have been made with a view to his after-care: after-care which is considered so important that it was once described as 'one half of the Borstal system'. During the period of training a plan has been made for his future, and shortly before his discharge all the

information concerning him is sent by the Borstal Association to the after-care worker, called a Borstal associate, in whatever part of the country he is going to live. In London, Liverpool, and Manchester whole-time officers are employed. It is proposed to replace them gradually by probation officers or other associates. The staff at the institution see to the lad's outfit and it is the duty of the associate, who is usually the local probation officer, to help him find employment and, if necessary, lodgings. As the lad starts work and settles down the associate is responsible for his supervision; if possible he also puts him in touch with some local friend and gradually withdraws his own support as he feels he can stand alone. The after-care of Borstal girls is on very similar lines. The Criminal Justice Bill now in Parliament contains proposals for substantially altering the constitution, but not the methods, both of the Prison Commission and of the Borstal after-care organisations.

The majority do well. When their licences expire their supervision comes to an end and they slip quietly and unobtrusively into the ranks of well-conducted citizens. But sometimes they fail, and when that happens their licence may be revoked and the lad or girl concerned be recalled for further treatment. Often before the licence runs out, he is given a second chance. A surprising number of apparent failures succeed at the second attempt.

So much for Borstal, a place of hopefulness and progress. The alternative is prison, to which each year notwithstanding that they are often eligible for Borstal a large number of boys and girls in their teens are still committed. As a means of punishing young people, imprisonment can have the most evil consequences, a fact upon which all those best qualified to judge—prison governors, prison doctors, prison chaplains, voluntary workers in prisons—are in wholehearted agreement. Until some alternative short-term treatment is devised for young offenders between seventeen and twenty-one, the present power must remain—but to be exercised by enlightened courts only in the last resort. Proposals in the Criminal Justice Bill give ground for hoping that the time is not far distant when offenders under the age of twenty-one will be committed to prison only in exceptional circumstances.

Chapter Eleven

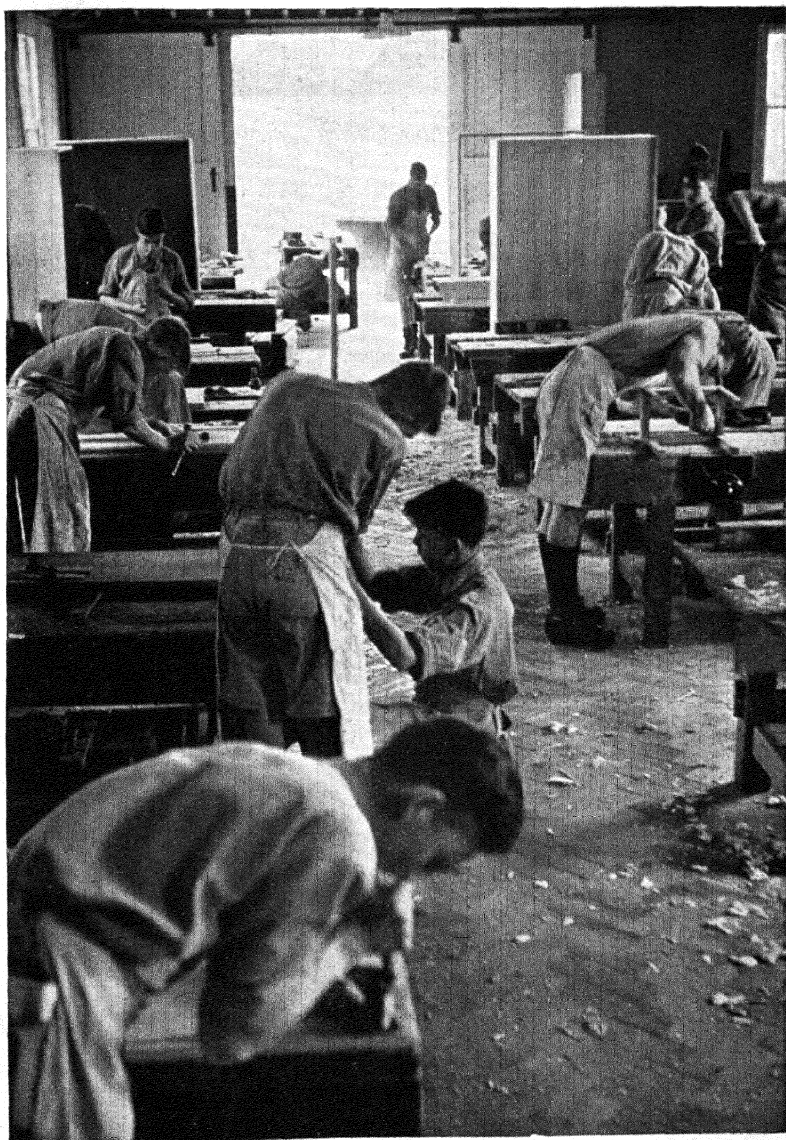
CONCLUSIONS

IN the foregoing pages we have discussed very briefly the development of our modern methods of treatment from the penal system of the early nineteenth century. It is fitting that in conclusion we should consider to what extent we have progressed.

The times have changed, and with them very largely the conditions of the people. Gone, at least to some extent, are the miseries of the Dickensian city—'the foul and fusty dens, where vice is closely packed and lacks the room to turn'. Gone are the transport ships and convict nurseries, and gone the day when more than half the youthful criminal population of the country was recommitted to the jails each year. Gone long since the egregious Mr. Fang, the notorious police magistrate before whom poor *Oliver Twist* was so unjustly arraigned. The times have changed indeed—and for the better.

Today, although most offences by children still take the form of stealing, it is rarely with the knowledge or approval of their parents. The Artful Dodger, schooled by his elders in the gentle art of picking pockets, has no modern counterpart. Yet old ideas die hard. There are still too many people who fail to see any useful purpose in the juvenile court beyond the trial of young offenders and, if they are found guilty, the handing out of condign punishment. Others, sceptical of recent reforms, lose no opportunity of ascribing to what they regard as sentimental leniency the blame for the increased juvenile delinquency we have experienced during the war. An increase, let us make haste to add, that is often greatly exaggerated; for even during the worst period the proportion of children charged each year in the juvenile courts with serious offences never exceeded fifteen per thousand of the total population in their age-group.

The precise extent of juvenile delinquency is hard to determine. It was always hard to measure because the only available figures are of children actually brought before the courts. In addition, there are clearly a large number who commit offences but are not detected, and a substantial number who are detected but not charged. The size of



The carpenter's shop at a senior approved school for boys.



Wireless instruction at a senior approved school for boys.



A general view of an 'open' Borstal camp for lads.

the first group depends upon the efficiency of the police; that of the second upon the degree of public confidence in the means of treatment available to the courts. At a time when the conviction of a child for some trivial theft led inevitably to imprisonment or transportation, a conscientious citizen would think seriously before preferring a charge; such alternative steps as he might take to correct the miscreant went unrecorded. But gradually, as we have become more enlightened and our methods of treatment increasingly recognised as genuinely reformatory, the reluctance of the public to prosecute these children has proportionately diminished. Thus there is good reason to believe that the marked increase in the number of English children found guilty of offences in the years just before the war was due not to a crime wave, but to the passing of the 1933 Act which had greatly strengthened public confidence in the juvenile courts.

But in war time there was no room for doubt. The number of children and young persons found guilty of serious offences by English juvenile courts rose steeply. It was a tragic happening, but not unexpected, and the reason was not far to seek. For although there are various causes of youthful misbehaviour—poverty, unemployment, bad companions, defective education, lack of religious training, to mention only a few—the basic cause, in the experience of all who have to do with such children, is seen to be parental failure: failure not merely to enforce discipline but to possess a sense of responsibility, set a standard, and preserve unity in family life.

Then consider all the factors that in war time contributed to the break-up of family life: the children's fathers away in the Forces, their mothers in the factories, and in our cities bombed homes, closed schools, the queer night-life of the public air-raid shelter; not least, perhaps, the whole grim business of evacuation, which in the case of many children was gone through several times. No matter how urgent the reason, how efficient the organisation, how kind the foster parents, it is not reasonable to break up families and broadcast the children over a strange countryside and expect them to behave like angels. ~~Of course~~ the measure of delinquency increased.

Children's troubles are one of the tragic by-products of war conditions. Let no one think that their evil consequences faded happily away with the smoke of the victory bonfires. Far from it. We are left in our juvenile courts a legacy of unhappy children:

children many of whom through the most vital years of childhood have never known a father's care or the security of a normal home. Some are scarcely half-educated for lack of regular schooling. There are girls whose surfeit of premature sexual excitement has made them emotionally unbalanced. Most tragic of all are the 'misfit' children who, after happy years in their foster homes, returned to parents who were strangers, and homes that were anticlimax and misery. Such is the aftermath of war.

As to the future, the incidence of juvenile delinquency depends upon much broader considerations than those we have been concerned with in these pages. Given the wisest magistrates, the most skilled probation officers, the most progressive approved schools, their functions are little more than curative. The prevention of children's troubles lies in a wider field and consists in the basic social factors of lasting peace, good housing, sound education, full employment and, by no means least, the revival of a spiritual consciousness of the duties and responsibilities of parenthood.

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