Report of the Committee on Children and Young Persons.

HOME OFFICE

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Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty
October 1960

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HER MAJESTY'S STATIONERY OFFICE
Reprinted 1961
TEN SHILLINGS NET

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WARRANTS OF APPOINTMENT

I HEREBY APPOINT:—

The Rt. Hon. The Viscount Ingleby
The Lady Adrian, J.P.
The Hon. Mrs. P. L. Aitken, M.B.E., J.P.
Mr. R. H. Blundell
Dr. D. Carroll
Mr. Donald Ford, J.P.
Mr. E. H. Gwynn
Dr. R. M. Jackson, J.P.
Mrs. M. M. C. Kemball, J.P.
Professor Alan Moncrieff, C.B.E., J.P.
*Mr. A. Pickard, C.B.E.
The Viscountess Ridley, O.B.E., J.P.
†Mr. G. A. Wheatley
‡Alderman D. T. Williams, O.B.E., J.P.
Mr. J. P. Wilson

to be a Committee to inquire into, and make recommendations on

(*a*) the working of the law, in England and Wales, relating to

(i) proceedings, and the powers of the courts, in respect of juveniles brought before the courts as delinquent or as being in need of care or protection or beyond control ;

(ii) the constitution, jurisdiction and procedure of juvenile courts ;

(iii) the remand home, approved school and approved probation home systems ;

(iv) the prevention of cruelty to, and exposure to moral and physical danger of, juveniles ;

and

(*b*) whether local authorities responsible for child care under the Children Act, 1948, in England and Wales should, taking into account action by voluntary organisations and the responsibilities of existing statutory services, be given new powers and duties to prevent or forestall the suffering of children through neglect in their own homes.

AND I FURTHER APPOINT Viscount Ingleby to be Chairman and Mr. T. H. East of the Home Office to be Secretary of the Committee.

G. LLOYD-GEORGE

Home Office,
Whitehall, S.W.1.
3*rd October*, 1956.

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* Resigned, June 1960.
† Appointed C.B.E., June 1960.
‡ Now Sir Thomas Williams, O.B.E., J.P.

I HEREBY APPOINT Mr. W. F. Delamare of the Home Office in the place of Mr. T. H. East to be Secretary of the Committee that I appointed on 3rd October, 1956, to inquire into certain matters relating to children and young persons.

G. LLOYD-GEORGE

29*th October*, 1956.

I HEREBY APPOINT Dr. P. D. Scott in the place of the late Dr. D. Carroll to be a member of the Committee that I appointed on 3rd October, 1956, to inquire into certain matters relating to children and young persons.

G. LLOYD-GEORGE

14*th December*, 1956.

I HEREBY APPOINT Mr. G. H. McConnell in the place of Mr. E. H. Gwynn to be a member of the Committee appointed on 3rd October, 1956, to inquire into certain matters relating to children and young persons.

R. A. BUTLER

3*rd June*, 1957.

NOTE.—The estimated cost of the preparation of this Report is £2,402 of which £710 represents the estimated cost of printing and publication.

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REPORT OF THE DEPARTMENTAL COMMITTEE ON CHILDREN AND YOUNG PERSONS

To the RIGHT HONOURABLE R. A. BUTLER, C.H., M.P., Her Majesty's Principal Secretary of State for the Home Department.

SIR,

1. We were appointed on 3rd October, 1956, with the following terms of reference:

". . . to inquire into, and make recommendations on,

(*a*) the working of the law, in England and Wales, relating to

(i) proceedings, and the powers of the courts, in respect of juveniles brought before the courts as delinquent or as being in need of care or protection or beyond control;

(ii) the constitution, jurisdiction and procedure of juvenile courts;

(iii) the remand home, approved school and approved probation home systems;

(iv) the prevention of cruelty to, and exposure to moral and physical danger of juveniles;

and

(*b*) whether local authorities responsible for child care under the Children Act, 1948, in England and Wales should, taking into account action by voluntary organisations and the responsibilities of existing statutory services, be given new powers and duties to prevent or forestall the suffering of children through neglect in their own homes."

2. We have met on 49 days and have examined 151 witnesses. The organisations and individuals who submitted evidence to us are listed in Appendix VI. Our meetings throughout have been held in private. Individually or in small groups, we have visited a selection of the establishments providing treatment for children and young persons brought before the courts as delinquent or as being in need of care or protection or beyond control; and we have consulted a number of official reports and other literature dealing with our subject matter. Our aim has been to approach our task objectively, and we wish to record our gratitude for the help we have received from the witnesses who gave us the benefit of their experience. We would also like to express our thanks for the assistance given by Dr. A. F. Alford of the Ministry of Education and Mr. D. Emery of the Ministry of Health, who attended our meetings in the rôles of assessors, and to other officials and persons who have assisted us in our inquiry. We are sorry to record that, as a result of an accident sustained in October, 1959, Mr. Pickard felt compelled to resign before the completion of our inquiry.

3. We shall have occasion to refer frequently to the Children and Young Persons Act, 1933; and to avoid wearisome repetition we shall refer to it as "the Act" unless the context requires a more precise designation. For much the same reason we simplify certain other terms that we must frequently use. Thus, the Act defines "child" as "a person under the age of fourteen years" and "young person" as "a person who has attained the age of fourteen years and is under the age of seventeen years"; and there are certain legal provisions in which the distinction is of importance. Except in dealing with such matters, we use "child" as if it meant "child or young person". We also use "parent" as if it meant "parent or guardian".

PART ONE

CHAPTER 1

General Approach

4. At the time of our appointment the overall picture of the problems covered by our terms of reference was not altogether discouraging. This was true both of juvenile delinquency and of the general problem of children in trouble, including those in need of care or protection and those suffering through neglect in their own homes. The stability of the family, badly shaken by the disruptions of war and of the post-war period, seemed to be improving. The number of maintenance orders made by magistrates' courts under the Summary Jurisdiction (Separation and Maintenance) Acts, which rose to over 20,000 in 1947, had fallen to 13,107 in 1956 as compared with 11,177 in 1938 ; the number of affiliation orders, in spite of two small peaks in 1950 and 1952, had dropped from 4,517 in 1947, to 3,458 in 1956 as compared with 4,313 in 1938. After the war the education and welfare services had been greatly expanded and were still developing. During the nineteen forties Parliament had passed the new Education Act, the Family Allowances Act, the National Insurance Acts, the National Health Service Act, the National Assistance Act, the Criminal Justice Act and the Children Act. In 1956, when we were appointed, the Royal Commission on the Law Relating to Mental Illness and Mental Deficiency was nearing the end of its work, and legislation was expected and has since been passed. As regards delinquency the sudden steep rise in the official figures in the mid thirties was thought to have been due largely to a greater willingness on the part of all concerned to prosecute under the Children and Young Persons Act of 1933, and not necessarily to indicate a real increase in juvenile crime. The further big rise in the figures during and since the war had been more alarming, particularly as, in spite of fluctuations, they had remained well above the 1938 figure. In fact the last of the four peaks, that of 1951, had been the highest ever reached. After 1951, however, juvenile delinquency as measured by the number of boys between eight and seventeen found guilty of indictable offences per 100,000 of the population of the age group had decreased for three years in succession. In the younger age group of eight to fourteen years there had been a further decrease in the fourth year, 1955, to the lowest figure since 1938, namely, to 924 per 100,000 in the age group as against 798 in 1938. In the older age group of fourteen to seventeen years there was a small increase in 1955 to 1,603 per 100,000 from 1,548 in 1954, as against 1,131 in 1938 ; the figures for the age group immediately above had followed much the same general pattern during and after the war and in it too there had been a small rise in 1955. But in spite of these two small increases and the relatively high figure for the fourteen to seventeen age group it was possible to hope that the disturbance caused by the war and its aftermath was subsiding and that the incidence of delinquency would at the worst become stabilised at a figure not greatly in excess of that of 1938.

5. By 1958 the picture was already very different. There had been a great increase in crime in the population as a whole, both in the number and in the seriousness of some of the offences. The two age groups which had made the biggest contribution to this increase had been those of fourteen to seventeen and of seventeen to twenty-one; that is to say the older of the two age groups under juvenile court jurisdiction and the age group which had just moved into the jurisdiction of the adult court. In both these groups the number of males found guilty of indictable offences per 100,000 of the population of the age group was higher than it had ever been. In the fourteen to seventeen age group the figure (2,274 per 100,000) was just over double what it had been in 1938 and forty-seven per cent. higher than it was in 1954. In the seventeen to twenty-one age group at 1,974 per 100,000 it was more than two and a half times the 1938 figure and nearly double that of 1954. In the younger of the two age groups subject to juvenile court jurisdiction, that of eight to fourteen, although the actual number of offenders had risen owing to the bulge, the number found guilty per 100,000 had only risen from 924 in 1955 to 1,176 in 1958. It was, however, still forty-seven per cent. higher than the 1938 figure of 798 and twenty-seven per cent. higher than in 1955. It is true that the 1959 figures show that the rate of increase in the two older age groups has slowed down and that in the younger age group the rate per 100,000 has declined slightly. This is a hopeful trend but it is not enough to justify an assurance of any substantial and permanent improvement in the situation. It is perhaps relevant also that the figures for maintenance and affiliation orders started to rise again in 1957 and 1958, though not to any very spectacular extent.

6. The story that these figures tell makes it difficult to believe that most of the problems which have arisen since 1938 have been entirely due to the disruptions of the war: for example, to evacuation, air raids, the break up of family life and the absence of the father; and that once the generation affected had grown up things would improve again. It is true that the generation with the largest rise is still the one likely to have been most affected by the war, but the war alone can hardly account for the sudden large rise at the older age, nor for that in the fourteen to seventeen age group. Fifteen years after the end of the war far from improving, the situation is more serious than it has ever been. In view of this it is not possible any longer to feel sure that in spite of the temporary set back of the war years our methods of dealing with the problems of children in trouble (whether actually delinquent or not) are generally sound and sufficient and are necessarily developing along the right lines. We have therefore felt it necessary to reconsider our approach to the whole question. (A graph showing the variation since 1938 in the numbers found guilty of indictable offences per 100,000 of the population in the three age groups discussed above, is given in Appendix I.)

7. In the past the main problem has been seen as the proper treatment of juvenile delinquents, that is of children (eight to seventeen) who have broken the law, and of all children (nought to seventeen) "in need of care or protection" or "beyond control". The definition of "in need of care or protection" in section 61 of the Children and Young Persons Act, 1933, is somewhat rigid. (We deal with the question of this definition in paragraphs

85 and 86 of our report and Appendix III.) This rigidity means that, in practice at any rate, the trouble must have reached considerable proportions before legal action can be taken. The whole question has been looked at largely from the point of view of possible action by the court, and the emphasis has been on cure. Until recently, less thought has been given to the more difficult problem of prevention. Hitherto, therefore, improvement in the procedure of juvenile courts and in the forms of treatment, including punishments, available to them has been regarded as the most pressing need. While the basic pattern of the Children Act of 1908 remains, much has indeed been done to achieve this improvement through the passing of the Children and Young Persons Act, 1933, the Criminal Justice Act, 1948, and the Mental Health Act, 1959. The course of this development in the courts and in the methods of treatment at their disposal is examined in chapter 3 of the report, and suggestions are made for their further improvement. Until recently the immediate question of how best to deal with the individual offender, or with the child in other kinds of trouble, has tended to obscure the wider aspects of the problem. But the Committee on the Treatment of Young Offenders which reported in 1927 was well aware that this approach was too narrow. They said :(1)

> "We should like to make it plain that throughout this report we are dealing with methods of cure rather than prevention, though we have no doubt as to the wisdom of the old proverb. It is outside our sphere to describe the various measures—educational or social—which have helped to reduce in so striking a degree the number of juvenile offences within the last generation. In the development and strengthening of these influences lies even greater hope than can be derived from any improvement in curative measures."

Their terms of reference did not allow the members of that Committee to consider the question of prevention, but it is clear that they appreciated its importance, and understood it in a wider sense than that of the mere prevention of the commission of an offence. Thirty years later the need for prevention in this more positive sense is clearer than ever. While our terms of reference do not authorise us to make a detailed enquiry into the factors contributing towards the misbehaviour or neglect of children, the second part of them has inevitably led us to consider the efficacy of the existing preventive influences. Detailed consideration of the causes of such misbehaviour and neglect is not within our province but we recognise the need for further research and guidance regarding these primary matters.

8. We have found it impossible to consider this question of prevention from a purely negative point of view. It is not enough to protect children from neglect even if the term neglect be held to include their exposure to any physical, mental or moral danger or deprivation. If children are to be prevented from becoming delinquent, and if those in trouble are to get the help they need, something more positive is required. Everything within reason must be done to ensure not only that children are not neglected but that they get the best upbringing possible. The primary responsibility for bringing up children is parental and it is essentially a positive responsibility. It is the parents' duty to help their children to become effective and law abiding citizens by example and training and by providing a stable and secure

(1) Cmd. 2831, page 6.

family background in which they can develop satisfactorily. Anything which falls short of this can be said to constitute neglect in the widest sense, though obviously the degree of such neglect which can justify interference by a court must be more rigidly defined and restricted. Parents vary in their capacity to live up to this ideal and children also vary in the degree to which they are a problem to their parents. Some families suffer misfortune, or are the victims of difficult circumstances, others are just inadequate. Whatever the cause there are children who seem incapable of behaving properly or of conforming to recognised standards of behaviour, and some parents who appear to give up the difficult task of controlling them. Few parents are wholly selfish and unconcerned, though some adopt a "couldn't care less" attitude in self defence. It is the duty of the community to provide through its social and welfare services the advice and support which such parents and children need; to build up their capacity for responsibility, and to enable them to fulfil their proper rôle. In considering the second part of our terms of reference (namely, whether local authorities responsible for child care should be given new powers and duties to prevent children suffering through neglect in their own homes) we have had this positive aspect of the problem constantly in mind.

9. The social, educational, health and welfare services in this country have been greatly expanded in the past fifteen years, and they are still growing. This development, whether voluntary or statutory, has already done much to improve the overall conditions, both mental and physical, in which most children are brought up. Some of these services have a more direct effect on children than others and should, as they develop, exert an even greater influence. The most obvious of these is, of course, that which has been developed by the local authorities under the Children Act of 1948, to care for children deprived of normal home life. In many places this service is already attempting work of an immediately preventive character in addition to its original remedial function. Again, the range of medical services available for children has grown under the National Health Service as much on the mental as on the physical side. Although there is still ample room for expansion, the child guidance and family psychiatric clinics provided either by the regional hospital boards or by the local education authorities or by the two in co-operation, have made a very considerable contribution towards solving the problem of children and families in trouble. One of the main effects of the development of the mental health services should be to provide all children who are mentally handicapped, in whatever way, with the training and protection which will enable them to live happy and satisfactory lives in the community. Such training and protection will be provided either by the hospital service or by local health authorities and will be available on a voluntary basis to all who need, and are willing to take advantage of it. For the actual or potential delinquent, however, the most important change brought about by the new Mental Health Act is the inclusion of the intelligent psychopath among those for whom training can be provided and in respect of whom compulsion can, under certain restrictions, be used. It may well be that some older children in the sub-normal or psychopathic group who, in the past, would have been brought before a juvenile court, will now be dealt with under the new Act at an earlier

stage, either by training under psychiatric supervision in hospital, or under the guardianship of the local health authority.

10. This expansion of medical and welfare services is a new and hopeful factor in the situation. Although the development has been to a great extent piecemeal and is therefore in need of co-ordination, the experience gained by all those who have worked in these services, social workers, psychologists, psychiatrists and others, is invaluable, and has materially affected the general outlook on the question of how best to bring up children. In particular it has brought home to all concerned the important fact that the child cannot be regarded as an isolated unit. The problem is always one of the child in his environment, and his immediate environment is the family to which he belongs. It is the situation and the relationships within the family which seem to be responsible for many children being in trouble, whether the trouble is called delinquency or anything else. It is often the parents as much as the child who need to alter their ways, and it is therefore with family problems that any preventive measures will be largely concerned.

11. It is important to remember that only a very small proportion, probably less than two per cent., of the children at risk have to be dealt with by the court as offenders in any one year. No complete explanation can be given why this two per cent. get into trouble while the remaining ninety-eight per cent. do not, but it seems a reasonable possibility that one of the factors leading to the failure of this two per cent. has been the lack of a satisfactory family life. It is true that the rise in the incidence of delinquency and crime is greatest in the older age groups—in the fourteen to seventeen and seventeen to twenty-one groups respectively, and that young people, as they grow older, become progressively less affected by the family and more by other environmental and cultural influences. It can be argued that these wider influences must be at least as important and therefore that they must be largely to blame for the increase in crime. This may well be so. Very little is known about what causes a rise in crime. It is not our business to enquire into causes, but there are clearly many possibilities. During the past fifty years there has been a tremendous material, social and moral revolution in addition to the upheaval of two wars. While life has in many ways become easier and more secure, the whole future of mankind may seem frighteningly uncertain. Everyday life may be less of a struggle, boredom and lack of challenge more of a danger, but the fundamental insecurity remains with little the individual can do about it. The material revolution is plain to see. At one and the same time it has provided more desirable objects, greater opportunities for acquiring them illegally, and considerable chances of immunity from the undesirable consequences of so doing. It is not always so clearly recognised what a complete change there has been in social and personal relationships (between classes, between the sexes and between individuals) and also in the basic assumptions which regulate behaviour. These major changes in the cultural background may well have replaced the disturbances of war as factors which contribute in themselves to instability within the family. In such a climate it is no wonder that many young people are bewildered or that some parents become uncertain what standards they should insist on or what ideals they

should put before their children. It is more a matter for surprise that so few young people get into real trouble and that there are, on the whole, so few families which break down or otherwise fail their children. It seems probable, however, that those families which have themselves failed to achieve a stable and satisfactory family life will be the most vulnerable, and that the children brought up in them will be those most likely to succumb to whatever adverse influences there may be in the outside world.

12. If this be accepted, it becomes the duty of the State to discover such families and to help them in every possible way. This is not to deny that the primary responsibility for their children belongs to the parents. It is rather to emphasise the importance of the family in the best upbringing of the child. The mainspring for providing the proper care of children must come from the desire of parents to bring up their children well and there can never be a complete substitute for the good parent. The State is right to insist on this responsibility and in doing so it may well have to lay down certain legal obligations, but the State's principal duty is to assist the family in carrying out its proper functions. This should be done in the first instance by the provision of facilities such as housing, health services and education. Some families will need greater and more specialised help through the welfare services, but such help should always be directed towards building up the responsibility of the parents whenever this is at all possible.

13. We do not suggest that an element of compulsion can or should be eliminated. There are circumstances in which legal proceedings should be taken against parents, and however successful preventive methods may become, there will continue to be children who should come before juvenile courts. Nor do we suggest that court proceedings should never be taken until everything else has failed, for there are cases where such proceedings are taken too late. We recommend in chapter 3 of the report a new procedure for all children below the age of twelve who have to come before the court. We believe that this procedure will be more appropriate and better fitted to deal with these young children whose problems are essentially family ones from which the child cannot be isolated. This new procedure, while not necessarily relieving these children of some responsibility for their actions, clearly recognises the responsibility of the parents who will themselves be summoned to appear before the court with their children. We do suggest, however, that advice is more likely to be taken and treatment more likely to be successful when they can be offered and accepted at an early stage and on a voluntary basis, and that even when compulsion has to be used it is most effective when the need for it is understood and accepted by those compelled.

14. The main problem, therefore, is to ensure that the proper services exist and that they can be brought into action in the right place and at the right time. In the first place, if preventive measures are to be taken, the people working in these services, whether they are statutory or voluntary, must have the opportunity and the capacity to recognise the signs of incipient breakdown in families. Medical practitioners, ministers of religion, teachers, social workers and others must know what they are looking for and how to recognise the danger signals. It is important, for instance, to recognise both the obviously inadequate or sub-standard family, and the

much less obvious family in which there is maladjustment of personal relationships; both the classical "problem family" and what might be called the "family with a problem". In the former the standard of behaviour and of morals will sometimes be as deplorable as the material conditions, but personal relationships may remain good and helpful to the children. In the latter, on the other hand, though outwardly all seems as it should be, the disturbances of family relationships may be a real danger to them. It is important that both kinds of problem should be discovered early, before things have gone too far to be remedied, but it must be recognised that the discovery of some of these more subtle problems is a very difficult matter. It is not to be expected that even the best and most highly trained and organised welfare services will be able to reveal them all. Nor would it be right that in order to do so they should attempt to delve too actively into what are often very intimate and private matters. The most that can be done in some of these cases is to make it clear what help is available and that it is fully and freely offered. In order, therefore, to facilitate the discovery of all families in need of help there should be some centre or body to which parents and others know they can turn for advice and assistance—some door on which they can knock, knowing that their knock will be answered by people with the knowledge and capacity, and with the willingness to help them. But it is not enough simply to discover these problems, whether they are brought to light by the social services, or by voluntary agencies, or through such a "family advice centre". Appropriate community services both statutory and voluntary are necessary and they must be so co-ordinated that they can be made available quickly and fully to all families in need of them. If children are to be prevented from suffering through neglect in their own homes, and from the necessity of being brought before the courts for whatever reason, both they and their parents need help. If those in need of such help are to be given it in time they must first be discovered, and their particular needs determined; action should then be decided upon and carried out on a voluntary basis before compulsion by a court becomes necessary or justifiable. Only adequate and well co-ordinated community services with clear and appropriate powers and duties can properly perform these functions of the ascertainment, diagnosis and treatment of the problems involved. We regard such positive measures for prevention and for the building up of community services as the first and main line of defence. If in a particular instance they fail or are clearly unlikely to succeed, it will always be possible to fall back on legal sanctions but the more effective and successful the social services become, the less often will it be necessary to bring either parents or child before the court. It is for this reason that we have considered the operation of the community services before turning to enquire into the jurisdiction, procedure and powers of the juvenile courts.

PART TWO

CHAPTER 2

Should Local Authorities in England and Wales responsible for child care under the Children Act, 1948, be given new powers and duties to prevent or forestall the suffering of children through neglect in their own homes?

15. The considerations mentioned in the previous chapter, and the evidence we received, have compelled us to consider the question posed by the second part of our terms of reference in the broader setting of the community services connected with the family. It is now so widely accepted as to be a commonplace that the problem of the neglected as of the delinquent child is more often than not the problem of the family. Our terms of reference clearly do not require or enable us to conduct an investigation into the causes of family breakdown, or to consider in detail the operation and organisation of the existing community services. But the question of the powers and duties of children's authorities to prevent or forestall the suffering of children through neglect in their own homes is not one that we were able to consider in isolation from the present arrangements for helping families and for making co-ordinated use of the various statutory and voluntary services working in this field; and we make no excuse for surveying briefly the relevant services, pointing to some of the problems, and suggesting certain ways in which the existing arrangements might be made more effective.

The community services available

16. The Children Act, 1948, is concerned principally with children in the care of local authorities or of voluntary organisations, that is, children living away from their own homes.

17. Under section 1 of the 1948 Act, local authorities (county and county borough councils) have a duty to receive into their care, where it appears to them that their intervention is necessary, any child in their area appearing to be under the age of seventeen who has neither parent nor guardian or is abandoned or lost, or whose parents or guardian are, for the time being or permanently, unable to provide for him. The section does not empower a local authority to take a child into their care, or to keep him in care, against the wishes of the parent or guardian; and subsection (3) requires the local authority, where this appears consistent with the child's welfare, to endeavour to secure that his care is taken over by his parent or guardian, or by a relative or friend. This is generally treated as meaning that they should give the child's family all such help and guidance as they can to make it possible for him to return home.

18. A local authority may, under section 2 of the 1948 Act, resolve to assume parental rights in respect of a child in their care under section 1 if it appears to them that his parents are dead and that he has no guardian; or that a parent or guardian has abandoned him or suffers from some

permanent disability rendering him incapable of caring for the child, or is of such habits or mode of life as to be unfit to have the care of him. In the latter case, unless the parent or guardian has consented in writing to the resolution, the local authority must inform him of its having been passed, and he may object within one month. If he does so, the resolution lapses unless the local authority complain to a juvenile court and the court orders that the resolution shall not lapse.

19. In the child care service, as in other social services, the problem of preventing neglect of children in their own homes has received much attention in recent years, with growing emphasis on the need to treat the family as a unit and to help parents to remedy the conditions that lead to neglect or to avoidable separation of children from their parents. A Home Office circular dated 8th July, 1948(1), issued to local authorities on the passing of the Children Act, included the following paragraph :

> " While the provisions of the Act relate only to children who have had the misfortune to be deprived of a normal home life, the importance must also be kept in mind of doing all that is possible to save children from suffering this misfortune. Where a home can be so improved that it is unnecessary to remove the child from his parents or that a child who has been taken away for a time can properly be restored to his parents' care, the advantage of this course is unquestionable. Provision is made in the Act for the restoration to parents of children who have been for a time taken into care by the local authority, whenever such a course is consistent with the welfare of the child ; and the Secretary of State has no doubt that local authorities will be anxious that any of their officers whose duties either in connection with the children committee or with other committees of the local authority bring them into touch with neglectful parents shall keep in mind the desirability of doing anything that may be possible towards the rehabilitation and education of such parents and of enlisting for this purpose in appropriate cases any help that can be rendered by voluntary agencies. To keep the family together must be the first aim, and the separation of a child from its parents can only be justified when there is no possibility of securing adequate care for a child in his own home."

20. Local authorities have no power under the Children Act, 1948, to give help in cash or kind to the families of children in care or of children who may have to be received into care because of their home circumstances ; and the extent to which they may properly employ staff in their children's departments for the purpose of helping families in other ways, with a view to preventing the need for children to come into care, is doubtful. Nevertheless, an increasing part of the work of local authorities' children's departments now consists both in helping to rehabilitate the homes of children in care so that the family can be reunited, and in forestalling the need for children to come into care by taking measures, in co-operation with the other community services, to keep the family in being wherever this is in the best interests of the children.

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(1) Home Office Circular 160/1948.

21. Apart from their functions as children's authority, local authorities in their capacities as health authority, welfare authority, education authority and housing authority have extensive powers and duties to assist families generally.

22. Under the National Health Service Act, 1946, local health authorities (county and county borough councils) have a duty to make arrangements for the care of expectant and nursing mothers and of children up to the time when they attend school, and may make arrangements for the prevention of illness generally. (Illness is defined as including mental illness and any injury or disability requiring medical treatment or nursing). Local health authorities also have a duty to employ health visitors and home nurses and a power to provide domestic help. Other related services which are the responsibility of local health authorities are the provision of day nurseries; the care of unmarried mothers, including the provision of mother and baby homes; arrangements for recuperative holidays or training for mothers with young children; and care and after-care of persons in the community suffering from mental disorder. The National Health Service ensures that medical care is freely available from the family doctor, and local health authorities are encouraged to provide a domiciliary team, of which the family doctor is the clinical leader, so that, in support of any necessary medical care, he may call on the home nurse, health visitor, mental welfare officer or other social worker to help the family or its members.

23. Following the report of the Royal Commission on Mental Illness and Mental Deficiency and the passing of the Mental Health Act, 1959, the Minister of Health directed local health authorities to make arrangements as a duty for the provision of services for the prevention of mental disorder, the care of persons suffering from mental disorder and the after-care of such persons; authorities were required to submit their proposals for his approval. The services will include residential accommodation, occupation and training centres, and day centres and social clubs. The intention is that, as soon as practicable, a full range of services, including the services of trained social workers, will be provided for the mentally disordered not requiring hospital and specialist treatment.

24. We were told that it is accepted by the Ministry of Health that the arrangements which a local health authority may make under section 28 of the National Health Service Act, 1946, for the prevention of illness and for care or after-care may include the provision of material assistance, for which a charge may be made according to the means of the recipient. A few local health authorities have recently extended these arrangements to families with needs of a general character such as beds or bedding and cooking utensils. Other authorities, whether in their capacity as local health authority or in some of the other capacities we have mentioned, seek help of this kind from voluntary sources if it is necessary to supplement the additional help that may be available through the National Assistance Board.

25. The National Assistance Act, 1948, placed a duty on local welfare authorities (county and county borough councils) to provide residential accommodation for persons who, by reason of age, infirmity or any other

circumstances, require care and attention which are not otherwise available to them, and temporary accommodation for persons who are in urgent need as a result of circumstances which could not reasonably have been foreseen or for other reasons at the discretion of the local authority. This power has often been used to provide temporary accommodation for evicted families. Local welfare authorities also have a duty, in accordance with schemes approved by the Minister of Health, to provide a wide range of welfare services for handicapped persons (the blind; deaf or dumb; other persons substantially and permanently handicapped by illness, injury or congenital deformity or such other disabilities as may be prescribed by the Minister; and mentally disordered persons of any description). Under the National Assistance Act, 1948, the National Assistance Board have a duty to give help in money or kind to families whose resources are inadequate and generally to promote the welfare of families visited.

26. Local education authorities (county and county borough councils) have a duty under the Education Acts to provide for the medical inspection of pupils attending schools maintained by them, and to arrange for the provision of free medical treatment where necessary; they are also empowered to arrange for pupils to be examined for cleanliness. School nurses follow up cases to ensure that treatment is obtained. A school nurse must, subject to certain exceptions, be a qualified health visitor, and many local authorities have integrated their school health service and their maternity and child welfare services, so that the school nurse is also the family health visitor and deals with the child from his earliest years until school leaving age. (Child guidance is not specifically mentioned in the Education Acts; child guidance clinics or centres are provided either by regional hospital boards or by local education authorities; the latters' power to provide child guidance centres derives from their duty to secure the provision of medical treatment.) Regular attendance at school is compulsory for children between five and fifteen years of age unless approved alternative arrangements have been made. Teachers are in daily contact with school children and, in addition, local education authorities employ education welfare officers who visit homes and make enquiries if children are absent without proper excuse. Local education authorities are empowered to provide free school meals and clothing in necessitous cases (since 1946 all school milk has been free of charge) and may provide, or co-operate with voluntary organisations to provide, leisure-time facilities for children and young people.

27. Under the Housing Acts local housing authorities (in the administrative county of London, the London County Council and the metropolitan borough councils; in the City of London the common council of the City; the councils of boroughs (including county boroughs), urban district and rural districts) are responsible for the examination of houses as to their fitness for human habitation, the abatement of overcrowding, the provision of accommodation and the general management and control of the houses they provide. In the interests of good management, they exercise general supervision over their tenants, and advice and help on household problems are given where appropriate.

28. The foregoing, together with the probation service, are the more relevant of the statutory services; probation officers have, of course, con-

siderable contact with families and children in the home through their supervision work and other work for the courts (including matrimonial conciliation). But there are, in addition, many voluntary organisations which are concerned with the welfare of families and which assist in dealing with cases of neglect. We do not attempt to give a comprehensive account of these organisations but a few are mentioned below.

29. The National Society for the Prevention of Cruelty to Children was specially formed to deal with neglect and ill-treatment of children. The Society, whose work is too well known to need detailed description, is concerned to improve the conditions in the homes that are visited, and has appointed a number of women visitors to supplement the work of its inspectors. Few of the inspectors or visitors are, however, qualified social workers.

30. The Family Service Units, with centres (as at 1958) at Birmingham, Bradford, Bristol, Leicester, Liverpool, Manchester, Oldham, Salford, Sheffield, Stockport, and York, and in several districts in London, provide an intensive and very valuable family case-work service to families which are in great need of it. The Units are probably the best known of the organisations which tackle the "problem" families and we were greatly impressed by the accounts we received from all quarters of the work they carry out. The aim is to build up the morale of families so that they can set about managing their own affairs, if they are capable of doing so. The units operate from centres conveniently placed to the areas in which they are working, and make a concentrated attack on a family's problems by frequent, sometimes daily, visits, manual and domestic help in the home, help with the children and assistance with material needs (furniture and other necessities), always with the underlying intention, through persuasion and education, of encouraging people to help themselves, with any necessary aid from other local social services.

31. The Family Welfare Association, and allied services, give advice, guidance and help, including case-work, in personal and family problems.

32. Other large scale organisations concerned with the home include the Women's Voluntary Services, the Salvation Army, Moral Welfare Organisations, and the National Marriage Guidance Council. There are also a few training and recuperative homes maintained by voluntary organisations where mothers accompanied by their children may spend a temporary period for the purposes of rehabilitation.

Co-ordination of the existing services

33. In 1949 a working party of officials of the Home Office, Ministry of Health and Ministry of Education and the corresponding Scottish departments was appointed to consider what more might be done under existing powers to prevent the neglect or ill-treatment of children in their own homes and to consider what new powers might be necessary. As a result of the report furnished to their Ministers by this working party, the conclusion reached by the Government was that the immediate need was not for additional statutory powers but for the fully co-ordinated use of the existing statutory and voluntary services. On the 31st July, 1950, a joint

circular(1) was issued from the Home Office and the Ministries of Health and Education to local authorities in England and Wales, asking them to ensure that the most effective use was made of existing resources. The circular advocated the appointment by each local authority of a " designated officer " who should be responsible for improving the co-ordination of existing local services both statutory and voluntary concerned with the welfare of the family, and for holding regular meetings of the officers of these services at which cases of child neglect and ill-treatment coming to the notice of any statutory or voluntary service in the area could be considered and agreement reached as to how the local services could best be applied to meet the need.

34. A further joint circular(2) from the Home Office, Ministry of Health and Ministry of Education was issued to local authorities in August, 1956, asking for up to date information on the measures taken since July, 1950, to secure co-ordination. We were informed that the replies to this circular indicated that less than ten per cent. of the local authorities in England and Wales had no co-ordinating arrangements of any kind. The reasons given for the lack of co-ordinating machinery in those areas that had no formal arrangements were usually that the existing facilities for co-operation were satisfactory or, in addition to that reason, that the area was so small that no particular arrangements were necessary.

35. The problem of co-ordination of social work generally has recently been reviewed by the Younghusband Working Party on Social Workers in Local Authority Health and Welfare Services(3). Copies of the replies to the circular of August, 1956, referred to in the foregoing paragraph, were supplied to the Working Party, who summarised the information, together with replies to a questionnaire they had sent out, in Appendix F to their report. The Working Party expressed the view that " the general principle of co-ordinating machinery is sound as applied to local authority services ". Their other conclusions on this subject may be summarised as follows :—

(*a*) No one pattern of co-operation is appropriate to all areas. It is, however, better to separate the co-ordination of the policy of different services on matters of common interest from the discussion of what is to be done in individual cases. A committee comprising chief or senior officers of the statutory and voluntary services operating in a particular area can do much to establish a general pattern of co-operation and see that it keeps pace with changing social problems ; but the discussion of individual cases is best left to a conference of the officers directly concerned (paragraphs 1081-9).

(*b*) Not enough use is yet made of such co-ordinating arrangements as exist ; too few cases are brought within their scope and others are referred at too late a stage. This seems to be due in part at least

(1) Home Office Circular 157/50, Ministry of Health Circular 78/50, Ministry of Education Circular 225/50.

(2) Home Office Circular 118/56, Ministry of Health Circular 16/56, Ministry of Education Circular 311/56.

(3) Report of the Working Party on Social Workers in the Local Authority Health and Welfare Services, chapter 12 (H.M.S.O.—1959).

to a lack of understanding among social workers of each other's functions and a consequent unreadiness to co-operate (paragraphs 1091-6).

(*c*) "Multiplicity of visiting" is not necessarily a bad thing; the more complex a family's problems are, the greater the number of different skills required for their solution. What must be avoided is independent and unco-ordinated visiting by workers who have no common plan of action (paragraphs 1097-1102).

(*d*) There is a need for "a systematic study of co-ordinating committees and case conferences in relation to the general structure of local government, and to the needs of those using the services" (paragraph 1080).

(*e*) Local authorities who have not already done so should review the effectiveness of their arrangements for keeping confidential any information that is disclosed at a co-ordinating committee meeting or case conference (paragraph 1090).

36. We are in general agreement with these views of the Younghusband Working Party as applied to the field of child neglect, but there are other aspects of the problem of co-ordination to which we wish to call attention, and on which we have recommendations to make. Before dealing with them, however, we wish to record that much of the evidence we received on the second part of our terms of reference indicated that the present arrangements for co-ordination, which inevitably vary from one area to another to meet the circumstances of particular local conditions, are valuable in that they provide an opportunity for the flow of information between departments, help to give officials a better understanding of each others' duties, foster a good relationship between the statutory services and the voluntary organisations and, as a result, generally improve the quality of the service available. It is clear that much good work is being done by the present co-ordinating machinery although, as is only to be expected, much depends on the skill and interest of the designated officer and on the good will and active co-operation of the representatives, at all levels, of the services concerned.

37. Nearly all the services which have some bearing on the family have come about piecemeal and on an *ad hoc* basis; they have arisen to cope with specific problems as those problems have made impact on the public consciousness and conscience. As long as those services are organised in something like their present form, their effective co-ordination is clearly essential. The present arrangements for co-ordination, valuable as they are, have proved to be only partially successful. Not unnaturally, there still exists a certain amount of inter-departmental rivalry in this field: it was apparent from some of the evidence we received, and its existence is common knowledge. There is a tendency too for those who first make contact with a family at risk not to call in further help, or to defer doing so with consequent delay in bringing the co-ordinating machinery into operation. In some cases this may be due to failure on the part of the field worker to recognise the need for further help, or to the belief that the worker who first makes contact with a case should continue to deal with it for as long as possible. We are of opinion that much of the difficulty

which at present exists, apart from that attributable to the shortage of skilled case-work staff, is due to inter-service rivalries and above all to failure to analyse the different processes involved.

38. In dealing with the prevention of neglect in the home, it is in our opinion, essential to distinguish the following three stages:

(*a*) the detection of families at risk ;

(*b*) the investigation and diagnosis of the particular problem ;

(*c*) treatment: the provision of facilities and services to meet the families' needs and to reduce the stresses and dangers that they face.

It is most important too that arrangements should be made for making the services known to the public and for giving advice so that individuals know where they can apply for help.

39. From the evidence we received there seemed to be some confusion about these different stages and their relative importance. We in no way wish to suggest that the different stages are always clear cut, or, indeed, that every case needs skilled detailed investigation and treatment. There has been a certain reaction recently against the indiscriminate application of intensive or deep case-work for family or personal difficulties. From the point of view of the family, or of the individual or of economy, attention should first be given to the simple forms of social aid. By analogy, a person who feels ill should first attend his general practitioner rather than a consultant physician ; one does not study the blood chemistry of a hungry man, one gives him a meal. Nevertheless there is a proportion of individuals incapable of benefiting from simple aid, and some families have specific characteristics which prevent them from following advice or from applying to the appropriate agency even when this has been clearly indicated to them. Ignorance, shame or discouragement on the part of parents may be overcome by a relatively unskilled friendly approach, but deep antagonism, distrustfulness, perverse satisfaction in degradation, self-damaging tendencies and a desire to evade legal responsibilities, are likely to require a higher order of skill in the worker. In the present state of our knowledge and services, most of these difficult problems will be recognised by the failure of simple remedies. This failure should be accepted as the signal for more careful diagnostic procedures which will require a nucleus of suitably trained staff to be available.

40. Arrangements for the detection of families at risk should extend over the widest possible front. Many different sorts of agency and worker will function in this rôle. Neighbours, teachers, medical practitioners, ministers of religion, health visitors, district nurses, education welfare officers, probation officers, child care officers, housing officers, officers of the National Assistance Board and other social workers may all spot incipient signs of trouble. It may be that a particular family will come to the attention of a voluntary agency, a local authority department or some other statutory body. It is from this fact that we think much confusion arises. It seems often to be thought that field workers who first make contact with a family at risk should also continue with the next stages. Detection is obviously a vital stage, but it does not follow that the person who makes the discovery is necessarily the one who is best fitted to follow up the case.

41. The health visitor whose duty it is to visit homes to give advice on the care of young children, of persons suffering from illness, and of expectant or nursing mothers, and on the measures necessary to prevent the spread of infection, is probably the visitor most frequently in touch with families with children and has most opportunity to detect early signs of distress. But as the Working Party on Health Visiting (appointed by the Ministers of Health and Education and the Secretary of State for Scotland) said in their report (1956), it is important that the health visitor should recognise where the help of other workers is needed or is more appropriate than her own, and we understand that the present day training of health visitors encourages this approach.

42. It was suggested to us that often cases were not referred to trained case-workers because of a shortage of that class of worker. That is no doubt true, but we think it is equally true that there is a reluctance on the part of some workers to seek advice, or a failure to recognise the need. "Recognition of the point at which another worker should be consulted or a different service is required is essential in social work but this seems to be too rarely accepted"(1).

43. The second stage—investigation and diagnosis—is the one which many of our witnesses seemed to overlook; they tended to confuse it with detection, and with treatment. We think it is most important that there should be early reference of cases to a unit within the local authority that can give skilled and objective diagnosis—a unit untrammelled by departmental loyalties, and with authority to decide the best means of providing for each family at risk. The need, of course, is for reference to be made early so that co-ordination can be effected early and at the right point in the attempt to help the family. Co-ordination must begin before treatment, not after treatment has begun. Different skills may need to be brought to bear at this stage, and the process must be such as to ensure that this can be done, and that the best means of providing for the family are devised.

44. In the larger local authority areas, one way of meeting this important stage might be through the creation of a special unit (a "family advice centre" or "family bureau"), which would be a central point of reference both for the various local authority services and for members of the public. Within the setting of the local authority, such a "centre" should be independent, and we envisage that it would be headed by a senior officer of the authority with as wide an experience as possible. He should be responsible to the clerk to the authority—not to a committee—and would be supported when necessary by officers from other departments with other experience and complementary skills. The procedure must, however, vary from authority to authority, depending upon the size of the authority and the size of the problem it has to face. We therefore make no attempt to stipulate the precise form of the procedure to be followed, but we do urge recognition of the need for early reference of cases for investigation, and the need for impartiality in, and a measure of independence for, those responsible for diagnosis.

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(1) Report of the Working Party on Social Workers in the Local Authority Health and Welfare Services, paragraph 1092 (H.M.S.O.—1959).

45. The third stage—treatment—should be in the hands of existing agencies both statutory and voluntary, and should be decided upon in consultation with the various departments likely to be concerned. In this connection we should like to emphasise the very valuable work performed by many of the voluntary organisations, and we hope that local authorities will make full use of their powers to make contributions to voluntary bodies engaged in this field.

Additional powers and duties of local authorities

46. A number of organisations concerned with social work expressed the view in their evidence that, for the effective prevention of suffering of children through neglect in their own homes, a skilled intensive case-work service was required (provided either directly by local authorities or through a voluntary agency), and that local authorities should have power to give material assistance where necessary. Some advocated that responsibility for the provision of a preventive case-work service should be placed on the local children's authority, on the grounds that the prevention of neglect, the provision of alternative forms of care, and the restoration of a child to his family were all parts of what was fundamentally one task. It was pointed out that children's departments had direct experience of the damage that could be caused to a child by removing him from home, that they were responsible for providing care for the child when preventive measures failed, and that the staffs of children's departments had acquired considerable experience of case-work techniques and were well equipped to undertake preventive work, which many of them were already doing although it was only on the fringe of their statutory functions. Other witnesses considered that the prime responsibility for prevention and rehabilitation should rest with local health departments, and pointed to the importance of the rôle of the health visitor. Still others thought that a new local authority department should be created to take over the work of the existing children's departments and the preventive functions (extended as necessary) of other local authority departments.

47. It may be that the long-term solution will be in a reorganisation of the various services concerned with the family and their combination into a unified family service, although there would be obvious and formidable difficulties either in bringing all their diverse and often specialised functions into one organisation, or in taking away from the existing services those of their functions relating to family troubles in order to secure unified administration of those functions. Any such reorganisation at local authority level might well involve a corresponding reorganisation of the functions of the different government departments concerned. These are matters well outside our terms of reference, but we urge the importance of their further study by the Government and by the local interests concerned.

48. Meanwhile, the aim should be to improve co-ordination on the basis of the three-fold division of functions discussed in paragraphs 38 to 45. Departmental boundaries should not be a major consideration in the arrangements, which must be flexible enough to meet the wide variety of situations. To ensure maximum flexibility and an adequacy of power, we recommend that there should be a general duty laid upon local authorities (county and county borough councils) to prevent or forestall the suffering

of children through neglect in their own homes. In carrying out this duty local authorities should have powers, apart from those already existing, to do preventive case-work (either themselves or through the agency of a voluntary society) and to provide material needs that cannot be met from other sources. These powers should not be conferred on any particular committee of the local authority, but should be vested generally in the local authority without specifying the committee through which the local authority must act.

49. We think it is a matter of first importance that there should be adequate arrangements to make known to the public the various services, including voluntary organisations, available to help them in time of need, and where to apply for advice. This question was discussed in a wider context by the Working Party on Social Workers in the Local Health and Welfare Services(1) who thought that there should be a well planned information service as an integral part of the social services provided by local authorities. It is a matter which must be left largely to local initiative, but local authorities should have it constantly in mind and consider in what way their existing publicity arrangements can be improved and kept up to date. In the more densely populated areas particularly, the importance of a central point to which members of the public can turn for advice (the "family advice centre") seems obvious; citizens' advice bureaux may also perform a most valuable service in this respect.

50. Because of the varying conditions and requirements in different areas, we do not advocate any uniform machinery for co-ordination of local authority services, but we recommend that there should be a statutory obligation on local authorities (county and county borough councils) to submit for ministerial approval schemes for the prevention of suffering of children through neglect in their homes. The schemes should provide for:—

(*a*) the detection of families where help is needed;

(*b*) the co-ordination of information (investigation) and diagnosis of the problem;

(*c*) the provision of appropriate assistance; and

(*d*) arrangements for making the services known to the public and for advice as to where individuals can apply for help.

We consider that all local authorities should be required to submit schemes for approval.

51. In the implementation of this recommendation we are of opinion that it should be made clear to which government department a local authority should look for advice or approval on matters of co-ordination.

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(1) Paragraphs 1018–1026 of the Report (H.M.S.O.—1959).

PART THREE

CHAPTER 3

General Principles of Jurisdiction over Children and Young Persons

The evolution of juvenile courts and their jurisdiction

52. In the earlier years of the nineteenth century there was no substantial body of law relating particularly to the liability, treatment or welfare of children. Since that time there have been great changes brought about by Acts of Parliament so that today the law relating to children and young persons can properly be regarded as being in many respects separate and distinct from the law applicable to adults. Juvenile courts, for example, are distinct from ordinary magistrates' courts in their composition, in their jurisdiction and in their procedure. But this has been evolved from the old common law, as it stood rather more than a hundred years ago, and the present position must be seen against that background.

53. There were four main common law principles that have exercised a great influence.

(*a*) The principle of equality before the law meant that everyone was liable to ordinary proceedings in the ordinary courts, and accordingly no special provision was made for children: a summary offence was tried by magistrates in petty sessions whilst an indictable offence had to be tried by jury at quarter sessions or assizes.

(*b*) The principles of criminal liability had been worked out and expressed in terms of knowledge of right and wrong. This was applied to children by an irrebuttable presumption that a child under the age of seven could not have a guilty mind, and so would not have the mental elements required for criminal offences. From the age of seven to fourteen there was a rebuttable presumption that a child was *doli incapax* which meant that there would not be liability unless the prosecution established knowledge of wrongfulness of the act. In this way the age of a child could give an exemption from criminal liability; but unless the child came within the exemption his liability to conviction was the same as that of an adult.

(*c*) An exemption, being a complete defence, resulted in an acquittal, and there were no further steps that a court could take however much the child might be in need of care or protection. On the other hand if there were a conviction it was taken for granted that punishment would follow.

(*d*) Punishment was either fixed by law or graded by judicial practice according to the nature of the offence. Here little attention was paid to the age of the offender; the principle of equality before the law meant that children were hanged, transported or imprisoned on the rules and principles applicable to adults.

54. The common law system was, in its way, logical and coherent, but in the earlier years of the nineteenth century it was seen to be in need of substantial reform. The harshness of the penal code and the changing social conditions that followed the Industrial Revolution combined to produce, in the first half of the nineteenth century, a sharp increase in the number of young offenders, large numbers of whom were sentenced to imprisonment or transportation. As the century advanced there was a growing revulsion of feeling against these methods of punishment of the young and a number of reforms helped to mitigate the severity of the law. It has been a process of piecemeal change : parts of the old system have been retained as a basis though modified in varying degrees, while in other parts the changes have gradually built up a new pattern. This is apparent from considering what has happened in relation to the four principles referred to in the last paragraph.

55. First, the provisions for the trial of children have led to the institution of juvenile courts. The first step was to empower justices to deal summarily with children instead of committing them for trial at quarter sessions or assizes. In 1847 that became possible for children under fourteen charged with simple larceny. Summary trial was later extended, notably in 1879, so that virtually all cases against children came to be dealt with summarily in a magistrates' court. Further changes were however needed, for—

> " Although the majority of children were no longer tried with the formality of assizes and quarter sessions, they were nevertheless dealt with in the same courts as adults, exposed throughout to the danger of contact with hardened criminals and contamination "(1).

In some areas, justices made informal arrangements for special sittings so that children's cases could be kept separate from those of adults. This practice became obligatory under the Children Act, 1908, which required a court, when dealing with persons under sixteen, to sit in a different place, or at a different time from the ordinary sittings of the court. The next step was to secure that the justices sitting in juvenile courts should be specially selected. The Juvenile Courts (Metropolis) Act, 1920, set up a special system for London. It provided that a juvenile court should be constituted of a metropolitan magistrate nominated by the Secretary of State and two lay justices, one of whom should be a woman, drawn from a panel of justices nominated by the Secretary of State. In nominating magistrates to be presidents (chairmen) of juvenile courts, the Secretary of State was to have regard to their previous experience and their special qualifications for dealing with juvenile offenders. The Juvenile Courts (Metropolis) Act, 1920, was superseded by the Children and Young Persons Act, 1932, which provided that the Secretary of State, if he considered it advisable to do so, could nominate a lay justice as chairman. In 1936 the Home Secretary decided that, in view of the increasing pressure of work in the adult courts, stipendiary magistrates should be largely relieved of their duties as chairmen of juvenile courts and since then lay justices have usually presided over juvenile courts in London. The Departmental Committtee on the Treatment of

(1) Report of the Departmental Committee on the Treatment of Young Offenders (1927), Cmd. 2831, page 11.

Young Offenders found in 1927(1) that, with the exception of London, the selection of magistrates for juvenile courts was largely haphazard and there was an undoubted need for more justices who were really suited for work in the juvenile court and were willing to give their time to it. They recommended that juvenile court magistrates should be specially qualified for the work and should be specially selected for it; the constitution of juvenile courts outside London should be governed by rules to be made by the Lord Chancellor. These recommendations were embodied in the Children and Young Persons Act, 1932, which was consolidated with most of the 1908 Act and certain other statutory provisions into the Children and Young Persons Act, 1933. (Future references are to the Act of 1933.) Details of the present law about the composition, sittings etc., of juvenile courts are examined in chapter 5.

56. There has been little change on the second matter to which we refer, namely the age of criminal responsibility. The Act of 1933 raised the age of exemption to eight, providing that under that age no child can be guilty of any offence. The *doli incapax* rule has continued to apply, running from eight to fourteen. Judges and commentators on the law have interpreted this presumption in slightly different ways, but it has remained necessary for there to be some evidence that the child knew that he was doing wrong.

57. On the third matter, it remains true that a person cannot be punished unless he has first been found guilty, but the position has been complicated by the enlargement of the jurisdiction of juvenile courts to include "beyond control" and "care or protection" cases. Courts were empowered to deal with children found wandering and without visible means of subsistence or beyond parental control by the Industrial Schools Act, 1861; but the provisions for courts to deal with children who were in need of care or beyond control were considerably widened by the Children Act, 1908. A more general and comprehensive definition of the need for care was embodied in the "care or protection" provisions of the Children and Young Persons Act, 1933, as a result of the recommendations of the Departmental Committee on Young Offenders (1927). These are not criminal proceedings, and so there is no lower age limit, and no finding of guilt, yet the result may be what is regarded as the severest punishment for an offence, namely the sending of child to an approved school.

58. As regards the fourth principle enunciated above, the conception of a standard or ordinary punishment applicable to everyone, child or adult, has gone. As the nineteenth century advanced a number of reforms helped to mitigate the severity of the law in its application to young people, notably the establishment of a separate prison for young offenders, the evolution of reformatory and industrial schools as alternatives to prison and the origins of the modern probation system. With the passing of the Children Act, 1908, the imprisonment of persons under sixteen was abolished, except in rare cases, and the principles of treating a young offender differently from an adult and of seeking to educate and reform him rather than punish him, were given full statutory force. These developments are described in the report of the Departmental Committee on the Treatment of Young

(1) Cmd. 2831.

Offenders (1927)[1]. The recommendations of that Committee led to t passing of the Children and Young Persons Act, 1933. So far as the powe of the courts were concerned the principal changes effected by that Act the law relating to the treatment of children were the granting of ne powers to commit a child to the care of the local authority for the purpo of being boarded out with foster parents and to place under the supervisio of a probation officer or other suitable person boys and girls who had co mitted no offence but were found to be in need of care or protection. Loc authorities were required to provide remand homes as successors to t places of detention provided by police authorities under the Children A 1908, for children remanded in custody while awaiting trial or whi enquiries were being made after a finding of guilt or pending admission an approved school. The 1933 Act also removed the distinction betwe reformatory and industrial schools, which became known thereafter approved schools. The main framework of the Act of 1933 has remaine The Criminal Justice Act, 1948, further restricted imprisonment for you offenders and abolished whipping; and it provided for short periods discipline and training at attendance centres and detention centres. The is now a wide range of punishments or other forms of treatment that juvenile court may order, most of them being specially designed for childre and being available only within prescribed age limits. The table Appendix II shows the age limits for imposing the various sentences an for making other orders.

59. An overriding provision has been the introduction of the requireme that the court should always have regard to the welfare of the child befo it. We have shown in the previous paragraph how the severity of the la has been modified in its application to young people. Side by side wit these developments, it became the practice in the best juvenile courts applying the law to place greater emphasis on the welfare of the chil and the Act of 1933 in a declaration of general principles, made it statutory obligation for every court, when dealing with a child brough before it for whatever reason, to have regard to the child's welfare.

60. The combined effect of these changes has been to produce a jurisdi tion that rests, at least in appearance, on principles that are hardly co sistent. The court remains a criminal court in the sense that it is a magi trates' court, that it is principally concerned with trying offences, that i procedure is a modified form of ordinary criminal procedure and that, wit a few special provisions, it is governed by the law of evidence in crimina cases. Yet the requirement to have regard to the welfare of the child, and th various ways in which the court may deal with an offender, suggest a jurisdi tion that is not criminal. It is not easy to see how the two principles can b reconciled: criminal responsibility is focused on an allegation about som particular act isolated from the character and needs of the defendan whereas welfare depends on a complex of personal, family and social co siderations. Hence we have felt that we must examine the basis on whic future jurisdiction should rest.

The circumstances in which the State may properly intervene

61. We have set out in chapter 1 of the report our general views o parental responsibility and the principal function of the State. It is implici

(1) Cmd. 2831, pages 7–12.

in those views that although the State's main function is to assist there are circumstances in which intervention is required. The child may be subjected to punishment or other form of compulsory treatment, and the intervention may, in extreme cases, amount to the State depriving the parents of their position and the transfer of their responsibilities for the custody and upbringing of the child. Under the present system such action is taken ultimately through the agency of a court, a body which has been given the power and duty of having regard to the child's welfare and of making the order which it regards as being appropriate treatment for the problem that has arisen. The association of a law court and considerations of welfare does, however, raise the question whether intervention should continue to be dependent on proof of specified misbehaviour in the child or neglect of the child.

62. It is arguable that if regard is to be had to a child's welfare then the determining factor in deciding whether any public action should be taken should be whether the welfare of the child would be furthered by the taking of such action. That is an attitude that, broadly speaking, commends itself to a number of people who are actively concerned in many of the services. It is, for example, the normal professional reaction of a medical practitioner to feel that if a child needs some particular medical treatment then that treatment ought to be given to him. On that view the criterion for State intervention is whether the proposed action would be to the benefit of the child.

63. The other view, upon which the present law is based, is that intervention may not take place until one or more of certain defined factors have been established. Such misfortunes as illegitimacy, physical defect or loss of a parent by death, are not sufficient grounds in themselves; the grounds must be the commission by the child of a criminal offence or actions indicating a serious lack of control or care, irregular school attendance or the commission of offences against the child. All these grounds are defined by legislation and judicial decision, and they provide a clear legal basis for proceedings before a court.

64. The strength of the present system is that it is reasonably acceptable to the community because it satisfies the general demand that there should be some defined basis for State intervention. It is also important that those responsible for initiating proceedings, such as the police and local authorities, should have a reasonably clear-cut set of rules to indicate the case that they must be prepared to substantiate before a court. Further, experience has shown that the range of circumstances which come within the categories of offences, "care or protection", "beyond control", and "school attendance" is wide enough to cover virtually all cases where there may be a good case for intervention. These grounds are in fact recognised "danger signals" which indicate a need for enquiry.

65. From time to time instances do occur where intervention may well be justifiable, yet it is not clear that the facts would come within these existing categories. There has, for example, been discussion about possible intervention where medical treatment is required and the parents object. Such cases tend to attract a substantial measure of publicity because there is apt to be a dramatic element about them, but they are numerically

few and it is doubtful how far any special provision is really needed. The compulsion of parents must rest on generally accepted conceptions of what a child really ought to have. If proceedings are taken against parents for neglect of their child it must be shown that there has been a failure to apply adequate standards. Difficulty has not arisen for several years over the reasonable requirements for nutrition, housing, clothing and schooling, but there is less clarity about medical attention largely because methods of treatment have been developing so fast that there may be difficulty in establishing the consensus of opinion on which compulsion must depend.

66. The weakness of the present system is that a juvenile court often appears to be trying a case on one particular ground and then to be dealing with the child on some quite different ground. This is inherent in combining the requirement for proof of a specified event or condition with a general direction to have regard to the child's welfare. It results, for example, in a child being charged with a petty theft or other wrongful act for which most people would say that no great penalty should be imposed, and the case apparently ending in a disproportionate sentence. For when the court causes enquiries to be made, if those enquiries show seriously disturbed home conditions, or one or more of many other circumstances, the court may determine that the welfare of the child requires some very substantial interference which may amount to taking the child away from his home for a prolonged period. It is common to come across bitter complaints that a child has been sent away from home because he has committed some particular offence which in itself was not at all serious. Despite this very real difficulty we are in favour of retaining the present basic principle that specific and definable matters must be alleged and that there should be no power to intervene until those allegations have been adequately proved. We think that the maintenance of this basis is essential if State intervention is to be fitted into our general system of government and be acceptable to the community. We think that the present procedure is unsuitable and in some ways positively misleading, and we recommend in later paragraphs a new procedure that should go a long way to remove the apparent inconsistency between the charge that the court tries and the facts that it takes into account in determining the disposal of the case. Under our new procedure all younger children who appear before the courts would do so because it is alleged that they are in need of protection or discipline, and it should then be easier for people to appreciate that the outcome of the proceedings is to be determined by the wider need and so ought not to be related proportionately to a petty theft or other isolated event. An understanding of this will also be helped if, as we recommend in paragraphs 111 and 112 courts take greater care to explain to parents the reasons for the orders that they make.

67. Our conclusions in the last paragraph do not necessarily require the continuation of juvenile courts in their present form, and we have had to consider whether children charged with offences, or alleged to be in need of care or protection or beyond control, should continue to be dealt with by the juvenile courts or should come before some other kind of tribunal.

68. A number of witnesses considered that appearance before a court was not the best method of dealing with a child who was suspected of having broken the law or whose circumstances otherwise called for intervention which might result in compulsory remedial measures. They thought that the procedure of the juvenile court, although it was less formal and public than that of the adult court, was still too formal to be understood by many children, and, despite the limitation on those who may attend sittings of juvenile courts, the proceedings were often conducted in the presence of too many people. It was also unnecessarily clumsy, as in most cases the facts were not in dispute and the parents for the most part were prepared to accept some measure of intervention. The criticism was made that the legal apparatus, and in particular the rules of evidence and the need to prove specific allegations, often prevented a child from obtaining the treatment he needed. Many children, we were told, would be brought for help earlier but for the stigma of a court appearance; and the added stigma of a finding of guilt often had unduly harsh consequences for the child in later life.

69. These witnesses generally proposed that the juvenile court should be replaced by a non-judicial or quasi-judicial tribunal, most of them suggesting that the new tribunal should deal with children below a revised minimum age of criminal responsibility which would be higher than the present age of eight. Some of them favoured the setting up of non-judicial tribunals whose members would be drawn from statutory and voluntary welfare services and who would deal with cases only with the consent and co-operation of parents. Cases would be referred to the tribunal by, for example, social workers, police, parents themselves, or juvenile courts; the juvenile courts would be kept in being to deal with older children, with contested cases (or those in which the parents were not prepared to accept the tribunal's recommendation as to treatment) referred to them by the tribunals, and with appeals from the decisions of the tribunals. One of the bodies who gave evidence considered that the tribunal should have a justice of the peace as chairman and a clerk with legal training to advise on points of law. Other proposals were that children under a certain age (the lowest age suggested was twelve and the highest sixteen) should be dealt with in the first instance by the children's committee of the local authority, by a "family service" which would be the local authority children's department with enlarged functions, or by a "children's commissioner"—a legally qualified person with specialised knowledge of child care. Yet another suggestion was that "remedial boards" should deal with all children under the age of seventeen. The "remedial board" would have the same personnel and procedure as a juvenile court, and would be able to order any of the methods of treatment open to a juvenile court with the exception of detention in a detention centre. Each board would have a clerk who would compile confidential records from reports reaching him from teachers, officers of welfare services or the police, and these records would be considered by a "family welfare committee", consisting of members of the "remedial board" panel and of co-opted members, which would invoke the assistance of the person or agency best able to help. Where things had gone too far for this course to be appropriate, the case would be referred to the "remedial board" for investigation and action.

70. Most of the evidence we received on this question, however, favoured the retention of juvenile courts as the tribunals dealing with juvenile offenders and children in need of care or protection or beyond control. Those who held this view thought it necessary for the proper protection of those who are the subject of proceedings that the tribunal should be a court of law, and that the power to interfere with personal liberty should be entrusted only to a court. They emphasised also the deterrent value of appearance before a court. They admitted that some of the objections to non-judicial tribunals applied with less force where "care or protection" or "beyond control" proceedings were in question, but considered the careful proof required by a court of law, in these cases as in others, to be a valuable protection for the child and a safeguard against abuse.. They saw no sufficient reason for replacing the juvenile courts, which were generally of good standing and repute, and worked well on the whole, by committees, boards or commissioners of the kind suggested.

71. We doubt whether there is any force in the argument, used by those who favour substituting a non-judicial tribunal for the juvenile court, that the change would avoid the stigma of a court appearance and the stigma of a finding of guilt. We think it likely that any stigma there may be would come to attach to appearance, as a result of bad behaviour, before any tribunal.

72. We have some sympathy with the other points made by those who favour a non-judicial tribunal. In considering them, we have been led to examine the broad effect on juvenile courts of their descent from ordinary criminal courts and of their functions as welfare agencies. Their composition and procedure are essentially those of ordinary magistrates' courts, with modifications. But the juvenile court has acquired important characteristics and functions as a social agency, as well as being a criminal court. This duality is seen, for example, in the court's jurisdiction in "care or protection" and "beyond control" cases, a jurisdiction grafted on to the basic jurisdiction, with a procedure largely assimilated to the trial of offences. Yet juvenile courts inherited most of the principles and concepts of the criminal courts, and, while these contain much that is of value to the working of the courts, they have in some respects turned out to be unsuitable for a jurisdiction in which the concept of welfare plays a large part. A primary function of the juvenile court, as of other criminal courts, is to decide whether an allegation of a specific offence or offences is established. (In "care or protection" or "beyond control" cases, of course, the court has to decide whether an allegation of the existence of specific circumstances is established.) The prosecutor selects the charge, and if it appears to the court that the wrong issue has been selected, proceedings must be begun anew. A child may be charged with an offence which is not in itself particularly serious, but investigation of which uncovers some serious disturbance in the child or a family situation requiring a great deal of attention. But if the offence is not proved, appropriate action in the interests of the child may not be possible without the institution of new proceedings on a different basis. If, as is usual, the offence is admitted or proved, the court has wide scope for enquiries into the child's condition and background, and for selecting appropriate treatment; but the treatment ordered, especially if it involves removing the

child from home, is almost inevitably regarded by the child and his parents, and often by others who are unaware of the circumstances, as a punishment for the original offence—and as an unduly heavy punishment where the offence was not particularly serious. Such a situation increases the difficulty of enlisting the co-operation of parents and child in the measures taken.

73. Other problems and difficulties in the existing system are the need to associate the child's parents more closely with the proceedings than is commonly done at present, not of course as persons on trial but as persons having responsibility, the unsuitability in some respects of the court procedure in dealing with children, and the undesirability of using the machinery of the court for dealing with offences of a comparatively trivial kind in cases where there is no deep-seated trouble in the child or his family, or where any necessary help to them is already being given, or can be given satisfactorily without the intervention of the court.

74. Considerations of the kind mentioned in the two foregoing paragraphs certainly afford grounds for considering whether juvenile court jurisdiction should be replaced by, or perhaps assimilated to, the welfare services. A case can be made for bringing all the social welfare problems of children under one administrative authority, irrespective of whether the need for intervention arises from delinquency, bad or difficult behaviour, or misfortune. That is substantially the Scandinavian solution, although there are varying devices in the countries that have adopted it for introducing some judicial element, and for appeals against orders that involve substantial interference with personal liberty or overriding of parental rights. In these and other continental countries, however, the judiciary means a professional judge. The position in this country is very different because the juvenile court consists almost entirely of lay justices, many of them with experience of local government; and it is fairly obvious that they are much the same kind of people who would sit on committees if we had them on the Scandinavian pattern.

75. One of the difficulties that has impressed us most in considering the suggested alternatives to juvenile courts is that the treatment arranged, or other measures taken, by a non-judicial tribunal would depend for their effectiveness and continuation on the co-operation of the parents and the child. If, after agreeing initially to the course proposed, the parents or child ceased to co-operate, the only remedy would be to bring the case before a court. This would mean that numbers of children would come before the courts as a result of things that had happened or situations that had existed possibly a considerable time before. We think that the duplication and protraction of proceedings in this way would be undesirable.

76. Furthermore, the disadvantages of the present system seem to us to derive not from entrusting these functions to the judiciary, but from the historical development of the juvenile court from the ordinary criminal courts. It is not the conception of judicial decision that is at fault: the reasons referred to in paragraph 70 for retaining judicial hearings must, we think, carry great weight. What is desirable is that the juvenile court, in dealing with younger children who commit offences and with all children who need care or protection, should move still further away from its origin as a criminal court, along lines which would enable it to deal not

more leniently with the younger "offenders", but more readily and more effectively with them and with children needing care or protection, while ensuring that the child's parents are closely associated with the proceedings.

77. Our conclusion is that the juvenile court consisting of lay justices should be retained, but that, in its dealings with younger children who commit offences and with children whose primary need is for care, protection or control, it should get still further away from the conceptions of criminal jurisdiction, while keeping as far as practicable the sanctions and methods of treatment at present available.

The minimum age of criminal responsibility

78. Nearly all the evidence that we received was in favour of raising the age of criminal responsibility, but there appeared to be insufficient understanding of what would be the effect of the various proposals that were put before us. Some witnesses apparently thought that the age, whatever it might be, was essentially a line below which no legal proceedings could be brought in respect of the commission of offences, that is to say that children below that age would necessarily "get off". Another common belief is that an age line, by determining whether there can be conviction for an offence or not, automatically determines whether there is an item of "criminal record". People who are disturbed at the thought of a child who is over eight, but still a child, being labelled for life as a thief, say that the age should be raised. But as higher ages are discussed other witnesses have produced the counter-argument that at such higher age a child knows right and wrong, and should not "get off".

79. The conception of a particular age giving a dividing line between "getting off" and suffering penalties was, as we have explained in paragraph 53 above, essential to the common law, but this no longer represents the position. Under present law, the age of a person determines the kind of legal proceedings that may be taken, but it never gives a total exemption from any proceedings. In the case, for example, of stealing, a child under eight cannot be prosecuted but the circumstances may enable him to be brought before a juvenile court as being in need of care or protection or as being beyond control. After eight there can be a prosecution but special provisions as to courts and procedure govern the next stages of eight to fourteen and fourteen to seventeen. The age also determines the kinds of punishment or other forms of treatment that the court may order. The table in Appendix II shows that through childhood and adolescence there is liability to punishments and treatments which vary with the different age groups. In many countries the "age of criminal responsibility" is used to signify the age at which a person becomes liable to the "ordinary" or "full" penalties of the law. In this sense, the age of criminal responsibility in England is difficult to state: it is certainly much higher than eight.

80. As regards arguments based upon "criminal record" we examine the position further in paragraphs 233 to 236 below, but it may be convenient to say here that records are not confined to convictions but embrace a wide variety of material. Raising the age of criminal responsibility would not, therefore, make any material difference.

81. More difficult considerations arise over arguments based upon children's knowledge of right and wrong. This conception is singularly difficult to apply when dealing with children, because we have always to think in terms of the child in his environment, including the climate of opinion in the family and group, as well as the physical surroundings. Differing environments may lead to wide variations in the age at which a child comes to this knowledge, so that any rule depending on a fixed age cannot have a sure foundation. Further, the environmental factors may be pulling in different directions. A child of, say, eleven, may know quite well that stealing is wrong, and yet follow the behaviour of a group. It is, of course, common to find that a child is under stress from two opposing sets of value judgments. The standards of school teaching can be accepted intellectually, and to some extent emotionally, and yet at the same time group standards may control the behaviour. The fact that the child " knows right from wrong " does not mean that we should regard it as a personal responsibility equivalent to similar knowledge in an adult. A child's conception of right and wrong is, however, of vital importance in dealing with cases. In other words, we can properly use arguments of " knowing right and wrong " to help us deal with a child long before that child is sufficiently independent of its surroundings to be saddled with a permanent personal responsibility.

82. Our conclusion is that an age for criminal responsibility cannot be laid down except as part of the whole system of courts and legal procedures which may be involved in the protection, control and discipline of children. We accordingly proceed to discuss the new procedure that we recommend, and return in paragraph 93 to deal with the age of criminal responsibility.

Procedure for dealing with younger children who commit offences and with all children and young persons who are in need of care or protection or are beyond control as at present defined

83. In our view the question is not whether there should be legal proceedings in respect of children before any particular age, but what kind of proceedings would be most suitable. We have no doubt that offences against the law and circumstances which come within the established meaning of a need for care or protection or being beyond control should continue to be the substance of the grounds on which proceedings may be taken, and that on adequate proof of such matters the court should be able to order one or more of the punishments or other forms of treatment that are now available. The change that we recommend is essentially one of procedure, though none the less important on that score. Its basis is a recognition that ideas and practices of ordinary criminal jurisdiction are unsuitable for dealing with children, and that a similar unsuitability attaches to any ordinary civil procedure. What is needed is a special jurisdiction designed for the particular purpose, and not a modified version of something that is essentially meant for adult courts.

84. We have indicated in paragraph 81 some of the considerations that arise in assessing a child's knowledge of right and wrong. Many of us consider that, in general, a child has acquired a reasonably full sense of discretion by the time he has reached the age of fourteen. But, judged by findings of guilt before the courts, the ages of thirteen and fourteen are

peak years for juvenile delinquency and a number of children in that age group are found already to have offended more than once. This is a practical consideration of some importance and we propose that the new procedure should be applied to all children whose primary need is for care or protection and to children under the age of twelve who are alleged to have committed offences (with power for the age to be raised to thirteen or fourteen at some time in the future)(1). There are three main features. *First*, all children under twelve who come before the court would come for the same basic reason, namely, that they are " in need of care, protection, discipline or control ", or more concisely, " in need of protection or discipline ". This would include the commission of offences and all the other grounds upon which proceedings may at present be taken. *Second*, since the court would be inquiring into the whole circumstances, those persons who are *prima facie* concerned should be before the court. We recommend that the summons should go to the parents requiring them to attend and bring the child with them. It must not be thought that this would be a charge against the parents ; if there are allegations of criminal conduct in a parent, that should be the subject of separate proceedings against him, in an adult court. As parties the parents would be joined to the action partly for their own benefit, for they would be entitled to address the court and call evidence within the ordinary rules of evidence, and partly so that the court could consider whether any special direction was needed. *Third*, before any proceedings are instituted, there should be consultation between the police and the local authority. The purpose of this is to ensure that proceedings are based upon the most appropriate grounds and to eliminate proceedings where a matter can be adequately resolved without a court order.

85. At present under section 61 (1) of the Act (amended by section 1 of the Children and Young Persons (Amendment) Act, 1952), a child is " in need of care or protection " if he is :—

" (*a*) a child or young person who, having no parent or guardian or a parent or guardian unfit to exercise care and guardianship or not exercising proper care and guardianship, is either falling into bad associations, or exposed to moral danger, or beyond control or is ill-treated or neglected in a manner likely to cause him unnecessary suffering or injury to health ; or

(*b*) a child or young person who—

(i) being a person in respect of whom any of the offences mentioned in the First Schedule to this Act has been committed ; or

(ii) being a member of the same household as a child or young person in respect of whom such an offence has been committed ; or

(iii) being a member of the same household as a person who has been convicted of such an offence in respect of a child or young person ; or

(1) See Reservation I, page 166.

(iv) being a female member of a household whereof a member has committed an offence under the Punishment of Incest Act, 1908, in respect of another female member of that household ;

requires care or protection ; or

(*c*) a child or young person in respect of whom an offence has been committed under section 10 of this Act (which relates to the punishment of vagrants preventing children or young persons from receiving education)."

The "offences mentioned in the First Schedule to this Act" are mainly serious offences against the person, including infanticide, incest and cruelty to a person under sixteen years of age. In our next paragraph we recommend that this definition be materially amended. Our views upon the difficulties inherent in the present definition are set out in Appendix III.

86. We recommend that the existing definition in section 61 (1) (*a*) should be amended to provide that a person in need of protection or discipline is a child who—

(i) is exposed to physical, mental or moral danger ; or

(ii) is in need of control ;

and who, in any such case, needs care, protection, treatment, control or discipline which is likely to be rejected or unobtainable except by order of a court ; or

(iii) while under the age of twelve years, acts in a manner which would render a person over that age liable to be found guilty of an offence.

It will be observed that a definition on the above lines would contain no direct reference to the parent as is done in the existing definition ; that seems unnecessary as in the case of categories (i) and (ii) the definition could only be satisfied if the protection, discipline, etc., would be unlikely to be provided "except by order of a court". In cases coming within category (iii) the parents' position would fall to be considered when the court came to decide the method of treatment, if any, to be ordered ; if the case were proved, the child would be found to be "in need of protection or discipline", and subject to be dealt with, and the court would then have to satisfy itself that it was necessary to make an order to ensure that the child received the treatment that he needed. We describe in Appendix IV the procedure that we consider should be followed consequent upon the revised definition.

87. We recommend that authority to initiate proceedings should be confined to the police or the local authority(1). At present any local authority, constable or authorised person may bring before a juvenile court a child who appears to be in need of care or protection(2). The expression "authorised person" means an officer of a society, or person authorised by the Secretary of State to institute proceedings(3). The Secretary of State has so authorised the National Society for the Prevention of Cruelty to Children.

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(1) See Reservation II, page 166.
(2) Children and Young Persons Act, 1933, section 62 (2).
(3) Children and Young Persons Act, 1933, section 62 (4).

88. The work of the National Society for the Prevention of Cruelty to Children—of which the Society is so justifiably proud, and to which we would like to pay tribute—in investigating cases of cruelty and neglect, would not be affected by our recommendation; but under our proposal instead of bringing before the court a child who appears to be in need of protection or discipline, the Society would report the facts to the police or the local authority for appropriate action. We are very mindful of the excellent work that the Society has done, and is doing, for the welfare of children; our recommendation is in no way a reflection on the activities of its officers, but we consider it important, in the procedure we have in mind, that the initiating agents should be as few as possible, and we hope that the officers of the Society will continue to bring to light cases where a child may be in need of protection or discipline. The procedure outlined in Appendix IV would in no way affect the powers of other courts, by or before which a person is convicted of having committed in respect of a child any of the offences mentioned in the First Schedule to the Act of 1933, or any offence under section 10 of that Act (which relates to vagrants preventing a child from receiving education), to direct that the child should be brought before a juvenile court, or to exercise jurisdiction itself(1). Similarly the power of the local education authority to bring before a juvenile court a child of compulsory school age who fails to attend regularly at school would remain unaffected(2).

89. In dealing with a child who is in need of care or protection, or who persistently fails to attend school the court may—

(*a*) order him to be sent to an approved school; or

(*b*) commit him to the care of any fit person whether relative or not, who is willing to undertake the care of him; or

(*c*) order his parent or guardian to enter into a recognisance to exercise proper care and guardianship; or

(*d*) without making any other order, or in addition to making an order under (*b*) or (*c*), place him for a specified period, not exceeding three years, under the supervision of a probation officer or some other person(3).

An undisciplined child even though not criminally responsible may need to be controlled through court action if parents or other agencies have failed. We think that, even where the causes of the indiscipline seem to be a direct result of factors external to the child, and where the proceedings in respect of the child are divorced from the criminal law, there should nevertheless be an endeavour to produce or increase a sense of personal responsibility in the child and to help the parents to do so. We accordingly recommend that in order to take account of the widened definition, and the new category of children to be brought within its provisions, the juvenile court's powers in respect of a child found to be in need of protection or discipline should be widened to include power to order detention in a remand home or attendance at an attendance centre (later in the report we recommend that attendance centres should be made available for children

(1) Children and Young Persons Act, 1933, section 63.
(2) Education Act, 1944, section 40 as amended.
(3) Children and Young Persons Act, 1933, section 62 (1).

aged ten years and over). We further recommend that, where appropriate, in addition to this or any other of the above-mentioned orders, or without making any other order, the juvenile court should be empowered to order the payment of compensation up to a maximum of £100 and/or costs. We understand that frequently the costs awarded are merely nominal. We see no reason why the amounts specified in orders for costs should not be a more realistic reflection of the trouble and expense caused in bringing the case to court.

90. We have excluded the power to fine or to make an order for detention in a detention centre as inappropriate to these proceedings. The power to discharge absolutely or conditionally is excluded on the grounds that it would be unnecessary and inappropriate. The court would simply make no order.

91. We recommend that restrictions be imposed upon the making of an approved school order, a fit person order, or an order for detention in a remand home. No such order should be made unless the court is satisfied that the need of protection or discipline evidenced before it cannot be met without removal from home. A child under the age of ten should not be committed to an approved school unless for any reason, including the want of a fit person of his own religious persuasion who is willing to undertake the care of him, the court is satisfied that he cannot suitably be dealt with otherwise(1). Furthermore, an order for detention in a remand home should be made only if the court considers that the case cannot suitably be dealt with by any other method(2).

92. A feature of the existing definition considered by some witnesses to be a defect is that a girl of sixteen who contracts a valid marriage puts herself outside the scope of "care or protection" proceedings; for her parental guardianship terminates on marriage, and a court has held that for the purpose of these provisions her husband is not her guardian. We consider that it is inappropriate that married persons should be brought to court as being in need of protection or discipline and we recommend that, in order to remove any doubts, it should be made clear that the provisions do not apply to such persons; but an extant court order should not automatically be revoked on marriage.

93. Jurisdiction under the new procedure cannot adequately be described as "criminal" or "civil" as those terms are understood in the law relating to adults. If, for example, the allegations are that a child has been stealing and on that being proved he is dealt with as being in need of protection or discipline, it is largely a matter of terminology whether we say that he has committed an offence, and therefore is in need of discipline, or whether we say that he is in need of discipline because he has done something that would be an offence if he were older. The problem of the age of criminal responsibility thus turns out to be a matter of the best way of expressing the jurisdiction of the courts. Since criminal responsibility commonly denotes liability to be prosecuted and convicted in a criminal court, the effect of our recommendations would be to raise the age to twelve, with the possibility of it becoming thirteen or fourteen if the new procedure should

(1) This accords with section 44 (2) of the Children and Young Persons Act, 1933.
(2) This accords with section 54 of the Children and Young Persons Act, 1933.

be so extended(1). We must however repeat that this would have no element of "letting off". A child under the age would no longer be liable to be prosecuted and convicted, but he could still commit offences: the law would prescribe a new way in which he should come before a court.

94. We think that the *doli incapax* rule should be abolished(1). We were told that it has harmful effects in two different ways. Apparently courts find it difficult to decide how they should apply the presumption, and differ in the degree of proof they require of guilty intention so that there is inconsistency in the administration of the law, a child being found guilty in one court who would have been found not guilty if, in precisely similar circumstances, he had appeared before a court in another place. Where the presumption is strictly honoured, it appears that many prosecutions are not brought because guilty intention cannot be proved; and some of the prosecutions that are brought fail for that reason. This results in many children not receiving the treatment they need or not receiving it soon enough. In our view the rule is of doubtful value for children of any age. Under our proposed new procedure it would disappear for children under twelve and would thus apply only in the case of a child who had attained the age of twelve but was not yet fourteen. As the law stands the presumption has been held by the High Court to weaken as the child approaches the age of fourteen and it cannot usually be strong when the child is over twelve. In any case it is a survival from the times when it was more necessary to protect children from the full rigours of the law, and having regard to the difficulty in applying the presumption consistently and fairly we recommend that it should be set aside by statute.

The upper age limit for juvenile courts and the setting up of youth courts

95. The age of seventeen is at present the border-line between juvenile and adult: a person who has attained that age has passed out of the juvenile court's jurisdiction to deal with offenders or those in need of care or protection except in certain special circumstances (such as that he was put on probation while under seventeen and is brought before a court after attaining that age on the ground that he has not complied with a requirement of the probation order). For long this upper limit was sixteen. It was raised to seventeen in 1933 in pursuance of a recommendation of the Committee on the Treatment of Young Offenders (1927)(2); and a number of our witnesses urged that it should now be raised to eighteen.

96. This was in fact considered by that Committee who reported as follows (pages 24 and 25):—

> "The experience gained since the Children Act was passed would not appear to show that any serious difficulty would arise from entrusting young persons under 17 to the jurisdiction of the juvenile court. The raising of the age, however, to 18 might have the effect of bringing before the juvenile court a number of much more serious offences than it has hitherto dealt with. This would tend to change the character of the court, and we doubt whether it would induce the right feeling of responsibility for their actions in the minds of those concerned."

(1) See Reservation I, page 166.
(2) Cmd. 2831.

"On the whole, after careful consideration, we think it would be wise to proceed with some caution in this matter, and we recommend that the age should be fixed at 17. Further experience may justify the eventual raising of the age to 18."

97. It has been suggested to us that the upper age limit in the definition of "young person" should be raised so as to enable the courts, whether juvenile courts or some other, to prescribe for a wider range of young people the forms of treatment at present available only for those who have not yet attained the age of seventeen years. The majority of those who recommended that the age limit should be raised were primarily concerned that the benefit of the "care or protection" proceedings should be extended to wayward girls of seventeen who might be in moral danger or who had already started on a life of prostitution.

98. Thus the Committee on Homosexual Offences and Prostitution (the Wolfenden Committee)(1) considered whether the law could deal more effectively with the young prostitute. They said that they were anxious that the young prostitute should benefit to the fullest possible extent from the kind of help with personal problems that the various social services available to the courts were especially fitted to provide, so that she might have every encouragement to abandon the life before she became hardened to it From that point of view the Wolfenden Committee would have liked to see the age for "care or protection" proceedings raised at least to eighteen, and, if practicable, even higher. But because that would have raised wider issues which were within our terms of reference, the Wolfenden Committee placed their views before us instead of making a recommendation on the point in their report.

99. As stated in paragraph 89 above, a juvenile court, if satisfied that a person under seventeen is in need of care or protection, may

(*a*) send him to an approved school;

(*b*) commit him to the care of a fit person (usually the local authority);

(*c*) order his parent to enter into a recognisance to exercise proper care or guardianship, or

(*d*) place him under the supervision of a probation officer or of some other person.

We consider below to what extent each of the existing courses open to the court would be appropriate to the young prostitute. The additional power that we suggest in paragraph 89 would not affect the position materially.

100. The maximum age of admission to approved schools is at present seventeen and no boy or girl can normally be kept in an approved school after the age of nineteen. We accept the view of the Home Office that any general extension of these age limits would create great difficulties and that approved school training would not usually be a suitable form of treatment for young prostitutes. A boy or girl who has been committed to the care of the local authority is normally either boarded out with foster parents or placed in a children's home or hostel. Neither of these seems likely to be a suitable form of treatment for prostitutes: the local authorities' child care services are mainly for children who have been deprived of a

(1) Cmd. 247 (1957).

normal family life and they are not designed or equipped to cope with young prostitutes. The existing power to order the parents to enter into a recognisance is not extensively used and we doubt whether it would be suitable for dealing with these cases. That leaves only the power to make an order for supervision by a probation officer or other person, which seems to be the most promising possibility.

101. While it is possible that supervision would be acceptable and useful in some cases, particularly where the tendency to prostitution was not firmly established, supervision could hardly be effective unless it was supported by a suitable sanction; and that would present difficulty. The sanctions provided by the Act of 1933 would not be suitable. Under section 66 of that Act, a probation officer may bring a person who has been placed under his supervision, if he is still under seventeen, before a juvenile court, and the court may (if it thinks it desirable in his interests) send him to an approved school or commit him to the care of a fit person. For the reasons given above we do not think that either of these sanctions would be suitable for prostitutes over seventeen years of age on first committal. The alternative of borstal training, even if otherwise suitable, seems to us, in general, to be undesirable for persons who would have committed no offence.

102. We have come to the conclusion that it would not be of much help in dealing with the problem of the young prostitute or the merely wayward girl to raise the upper limit at which a person may be found to be in need of care or protection; and we have not found any other ground on which it would be justified. We accordingly recommend that the upper age limit for "care or protection" proceedings should remain unchanged. For much the same reasons we have come to the conclusion that, in relation to offenders also, the upper age limit in the definition of "young persons" ought not to be raised. In both types of case the recommendation is subject to the exception we mention in paragraph 170 which deals with the person who is over seventeen but still subject to a supervision order or a fit person order made when he was under seventeen.

103. Our conclusion that the upper age limit for juvenile court jurisdiction should not be raised is based on the view that the special methods of treatment available to them are, in general, not appropriate for young people over seventeen. We do not mean to imply that we are happy about the position of the seventeen year olds and those a year or two older who come before ordinary magistrates' courts. The principal evil is the delay that is caused by the need to commit for trial in so many cases, and by the need to commit for sentence, whether to borstal or generally. Some of us think that there ought to be some specially designed jurisdiction, which may well be called a "youth court", for those aged seventeen to twenty, or perhaps, twenty-one. One or two witnesses who gave evidence before us suggested the establishment of youth courts, but, in viewing our terms of reference, we did not feel it right to pursue the question in detail or to ask specifically for evidence on the matter. Consequently, we do not think it would be right for us to make any recommendation, but we think this matter calls for further examination.

The principles governing the exercise of the court's powers

104. The general principles of jurisdiction over children and young persons have been discussed in the preceding paragraphs as formal matters of courts

and procedures. We now turn, under this heading, to consider the bearing of these matters upon the way in which courts may exercise their powers.

105. The various kinds of punishment or forms of treatment or other action that a court can order are laid down by law, and are limited by the nature of the proceedings before the court and by the age of the child. A case, for example, of riding a bicycle without a light, cannot result in an approved school order because under the Children and Young Persons Act, 1933, an offence cannot lead to such an order unless it is one which, in an adult, is punishable by imprisonment. Being found to be in need of care or protection on the other hand can lead to such an order being made. The age of the child is also relevant as, for example, in the lower age limits of fourteen and sixteen respectively for committal to a detention centre or to borstal. We are not suggesting any substantial changes in these requirements. We do, however, recommend in paragraphs 83 to 91 a new procedure for all children under twelve and this will require the powers of the court to be expressed somewhat differently. If it is adopted, children under twelve will be before the court as in need of protection or discipline whether they have committed an offence or are there for some other reason such as non-attendance at school or being beyond control or in moral danger. Even when they are there primarily because of an offence they will not be formally charged, but the offence, if established, will be proof or part proof of the need for protection or discipline. Children between twelve and seventeen on the other hand will continue to be before the court under the present procedure, that is, either as offenders responsible in law for their own acts, or as in need of protection or discipline. In deciding how to deal with a child in either group the court will, as now, "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"(1).

106. Under both these procedures the court will often be trying to produce several different and conflicting results. It must try at one and the same time to protect the public, to promote the welfare of the child and to stress the responsibility and respect the legitimate rights of the parents. Finally it must satisfy public opinion that justice is being done. Though the individual below seventeen may not be so great a danger to society as is the older criminal, a very large number of them appear in court each year—their depredations by theft and damage are very considerable and some of them are likely to become the habitual criminals of the future. The public is entitled to expect some protection from them. In the long run if the child, preferably with the co-operation of his parents, can be made into a responsible and useful citizen, society will have been protected and the child's own welfare secured in the process. The remaining objects of the court will also probably have been obtained. But if at the time when the decision is made, the attempt to reform the child or to get the parents' co-operation is unsuccessful, there may well be conflicts of interest. Treatment designed to produce the ideal or at least the best possible solution in the particular case must take time, and must be related primarily to the individual in his particular circumstances, and only secondarily to other considerations: such treatment should certainly include the possible use of

(1) Children and Young Persons Act, 1933, section 44 (1).

punishments appropriate to the child's understanding and to his degree of personal responsibility, and the possible use of sanctions to impress on the parents their share of responsibility for the trouble. Even when used primarily as part of treatment in a particular case such methods may constitute some immediate protection to the public and may help to satisfy public opinion. So also may methods which belong more to the realm of treatment or training, such as fit person or approved school orders. Public opinion does not only demand protection, it is also concerned with what it considers fair or just. True the public feels the law-breaker should get his deserts, but a child in particular must be given a chance to reform ; it would not be fair to treat him just like an adult in his relation to society. For the child, although often an appalling nuisance, is clearly far less of an immediate danger than an adult. He is also less responsible for his actions and at the same time more amenable to training and education. The public recognises this and is willing to forgo a measure of immediate protection from the misbehaviour of its younger members, so long as it can be satisfied that the necessary long term treatment is being undertaken.

107. To attempt to make the child before it into a responsible citizen is then the court's best way of reconciling its conflicting duties. To do this it must secure for the child the best upbringing possible in the circumstances. Children come before the court because those responsible for their upbringing, the parents, the school, the community in general, have been unable in different degrees and for various reasons to bring the child up in the way he should go. They have been unable to protect him from moral or physical danger, or to teach him to behave in an acceptable manner, by example, by training, or by proper discipline. The child must learn what society regards as right and wrong and must be trained to choose between them, but during childhood the responsibility for his actions should be shared between him and his parents, and others responsible for his upbringing. As the child grows up, unless he is mentally abnormal, his own responsibility develops and that of others grows less.

108. The new procedure for children under twelve and the consequent distinction between it and the procedure for those over twelve are a recognition of the following assumptions :—

(i) that in the developing child, responsibility is shared between the child and those responsible for his upbringing ;

(ii) that responsibility in children is not an " all or none " affair and is not solely dependent on knowledge but also upon the capacity to choose between one course of action and another ;

(iii) that the knowledge of right and wrong, and both the power and the desire to choose the right, are matters of development in the child and that the first often precedes the last two ;

(iv) that there are many ways of encouraging the child to choose what is regarded as right and of deterring him from choosing what is regarded as wrong ;

(v) that as he develops the child must learn to stand on his own feet and to accept greater responsibility for his actions. The change of procedure at twelve will help to mark this.

We feel that for the younger child a procedure based on these assumptions is more in accord with the realities of the situation with which the court has to deal. It does not imply that the responsibility for his past or future actions rests on the child alone, but places some of it squarely on the shoulders of the parents who will be summoned to appear before the court and to bring the child. On the other hand, by providing for penalties appropriate to the child's understanding and power of choice it need not go to the other extreme of denying him all personal responsibility for his actions. When at twelve (or if the new procedure is extended, thirteen or fourteen), the child becomes subject to the modified penal procedure of the present juvenile court, that can be represented as the recognition of his developing responsibility. It is the court's duty to recognise equally the parents' share of the responsibility, with the developing responsibility of the child himself and to encourage and strengthen them both. It must provide the child with the protection and discipline he needs. It must bring home to the parents their share of the responsibility and wherever possible strengthen them and support them in carrying it out.

109. The court will need a wide range of possible action for children of all ages. It must be able to protect the child, if necessary, by removal from home, to deter him by punishment appropriate to his maturity and to see that he gets the constructive treatment and training he needs. Many of the methods of disposal will be equally appropriate and necessary under either procedure, that is for those over twelve and who are in need of protection or discipline, or who are charged with offences and can properly be described as offenders, and for those under twelve who, though they may or may not have committed offences, will be before the court as in need of protection or discipline. Simple deterrent penalties on the one hand and supervision or long term constructive treatment on the other, or in some cases a combination of both, may be as appropriate for the delinquent child under twelve as for his older brother, or for the child of any age who will not attend school. By way of contrast, detention centres are only appropriate for the older child whose personal responsibility is more developed. In any type of case it may at times be necessary to deprive the parents of their rights (and incidentally of their responsibilities too!) in whole or in part, and to provide a permanent or temporary substitute for them, and sanctions may also sometimes be necessary to bring home to parents their share of the responsibility.

110. In practice it is becoming more and more difficult to distinguish between punishment and treatment. Punishment (for example, a fine or an attendance centre order) can be regarded as a form of treatment, and treatment (for example, training in an approved school) will usually be looked on as a punishment, though it may only be in the case of the older and therefore more responsible child that the punitive element has been present in the mind of the court. There is also a further complication. Although it may be right for the court's action to be determined primarily by the needs of the particular child before it, the court cannot entirely disregard other considerations such as the need to deter potential offenders. An element of general deterrence must enter into many of the court's decisions and this must make the distinction between treatment and punishment even more difficult to draw.

111. This difficulty of distinguishing between treatment and punishment often leads to a feeling on the part of the child and of his parents that they have been unfairly treated (for example, if one child is sent to an approved school for a comparatively minor offence because of unsuitable home circumstances, while another with a good home is placed on probation for a similar offence). Such feelings result from the nature of the situation and are probably inevitable, but they should be recognised and dispelled by explanation as far as it is possible to do so. It is not surprising that there should be some confusion in the public mind on this subject. The feeling that fairness requires penalties to be the same for similar offences dies hard, although for many years now even in the adult courts sentence or treatment has been adjusted to the offender as well as to the offence. If the circumstances of all offenders were similar, and if all offenders could be considered equally responsible for their actions, then fairness might be said to require only such equality of penalty. But it has long been recognised that this is not so, even in the adult extenuating circumstances are allowed to modify the sentence, diminished responsibility is now accepted and taken into account, openly in the case of homicide, tacitly in other offences. If this is justifiable for adults, it is even more so for children.

112. Fairness then may require that sentence or treatment be related not only to the offence, but also to the circumstances and to the nature of the offender. But even fairness is not always the only thing to be considered. The protection of society may require that the violent offender be put under lock and key and this may be true even in the case of children. Again the ultimate good of both child and public may be for the child to undergo long term training away from home. Neither the gravity of the immediate misbehaviour nor the child's, nor even the parents', degree of responsibility may in "fairness" warrant this if it is to be regarded as a punishment. Even if it is regarded as treatment it may still be felt as punishment. In the sense that it follows as a result of misbehaviour or failure on the part of child or parent or both it will in fact be punishment. It is clear that, in practice at any rate, it is impossible to distinguish between treatment and punishment. The same thing may be either punishment or treatment, or both at the same time. The important thing is that this should be recognised by all concerned; by the court, the child, his parents and the public, and the particular mixture of punishment and treatment accepted in each case. The court should, therefore, be at pains to explain to both parents and child just what it is doing and why it is doing it, so that if possible they will be able to accept the court's decision as reasonable and appropriate, and become willing to co-operate in carrying it out.

113. In the following chapters we consider how the principles expressed in this section can most effectively be applied.

PART FOUR

CHAPTER 4

PROCEEDINGS UP TO THE TIME OF APPEARANCE BEFORE THE COURT

Bringing juvenile offenders before a court

114. The recommendations in this section refer only to offenders and do not apply to children brought to court under the new "protection or discipline" procedure for whom other arrangements, as described in Appendix IV are proposed.

115. We agree with those of our witnesses who said that there should be no avoidable delay in bringing before a court a child who has been charged with an offence. It is most important to deal with an offence while it is still fresh in the child's mind; justice for the young should always be swift.

116. A child comes before a juvenile court as an offender in one of two ways. The proceedings may be instituted either

(*a*) by a magistrate issuing a summons for the child's appearance (or, less commonly, a warrant for his arrest), or

(*b*) by the child being arrested without a warrant and charged at a police station.

A summons (or a warrant) is issued after the prosecutor, having considered the evidence he will be able to present to the court, applies to a magistrate, and this must involve some delay which will be increased if there is any tardiness on the part of the prosecutor in applying for a summons. Where proceedings are begun by way of arrest and charge, the child, who is usually released on bail, appears at the next available court: and the evidence that justified the arrest together with any statement made by the child at the time is enough to set proceedings in train.

117. We were informed by the police witnesses that it is the general practice in the metropolitan police district for the child to be arrested and charged: in the rest of England and Wales the usual procedure is to proceed by way of summons wherever practicable, although sometimes the nature of the offence or other circumstances make it necessary to arrest and charge. It was suggested to us that a child ought never to be arrested unless a breach of the peace is threatened or the offence is so grave that the child charged with it ought not to be left at large; but the Association of Chief Police Officers of England and Wales, when we discussed the point with them, were strongly opposed to any suggestion that the discretion of the police to decide between the two procedures should be fettered in any way. We agree that it would be neither practicable nor desirable to restrict by statute the manner in which proceedings should be started.

118. We were assured by the police witnesses that the police always try to avoid delay in starting proceedings against young offenders, but we are disposed to agree with the suggestion made by some of our witnesses that

this administrative arrangement should be reinforced. We accordingly recommend that there should be a statutory provision that proceedings may not be brought against a child more than twenty-eight days after the identity of the offender first comes to the knowledge of the prosecutor unless the court waives the requirement on the application of the prosecutor who must advance adequate reasons why the time limit should not be observed. (We understand, for example, that where statutory responsibility for initiating proceedings is vested in a local authority, acting through a committee, it might be difficult to comply with this time limit. It might be necessary for some relief to be given in such cases.) There would, in addition, be the overriding time limit for non-indictable offences laid down by section 104 of the Magistrates' Courts Act, 1952, which provides that, except as otherwise expressly provided by any enactment, a magistrates' court shall not try an information or hear a complaint unless the information was laid, or the complaint made, within six months from the time when the offence was committed, or the matter of complaint arose. We have considered, and rejected, a suggestion that this time limit should be reduced to three months in its application to a child.

119. A child who has been arrested and detained gives rise to another problem. Section 32 of the Children and Young Persons Act, 1933, provides that when a person apparently under the age of seventeen is arrested and cannot be brought before a court "forthwith", a police officer shall enquire into the case and shall either release him on bail or, if for any of the reasons set out in section 32(1) that is impracticable, cause him to be detained in a remand home "until he can be brought before a court of summary jurisdiction". It is clearly desirable that there should be no delay in bringing before a judicial authority any person who has been arrested, and in particular any child who is detained by the police. It is also desirable to keep children away from adult offenders.

120. Few juvenile courts sit more often than once a week and in most places it would not be easy to arrange at short notice for a juvenile court to sit specially so that a child who had been arrested and not released on bail could be brought before the court by the police. However, "a court of summary jurisdiction" interpreted with reference to section 124 of the Magistrates' Courts Act, 1952, includes "any justice or justices". Section 46 of the Act of 1933 provides generally that juvenile offenders shall be dealt with only by juvenile courts, but subsection (2) expressly saves the powers of "any justice or justices" to give bail or to remand. It would not be desirable for a child brought before a justice or justices for bail or remand to mingle with adult offenders, and it seems right that, when a child has to be brought for this purpose before any judicial authority other than a juvenile court, it should be with the safeguards and protections of the juvenile court. It is also desirable for him to appear, if possible, before a justice or justices who are members of a juvenile court panel.

121. We were informed by the Home Office and the Commissioner of Police of the Metropolis that in the metropolitan juvenile court area (where

(1) "(*a*) the charge is one of homicide or other grave crime; or
(*b*) it is necessary in his interest to remove him from association with any reputed criminal or prostitute; or
(*c*) the officer has reason to believe that his release would defeat the ends of justice."

a juvenile court is held in one place or another daily from Monday to Friday though each may try only those cases arising in its own division of the area) a child who will have to wait in custody for more than forty-eight hours to appear before the juvenile court that is to try the case is taken within that time before a justice at the juvenile court sitting on that day, who considers the application for remand.

122. We appreciate that it may be more difficult to have some such arrangement as this outside London but we recommend that everything possible should be done to ensure that a child who has been arrested and detained is brought before a judicial authority without delay—if possible within a period of seventy-two hours.

Removal of children to places of safety and arrangements for bringing them before the courts

123. A child may be removed to a place of safety

(*a*) under section 40 (1) of the Act, by a constable authorised by a justice's warrant to search for the child on the suspicion that he is being assaulted, ill-treated or neglected, or is the victim of an offence named in the First Schedule to the Act; or

(*b*) under section 67 (1) of the Act, by a constable or any person authorised by a court or any justice of the peace, if he is believed to be the victim of a "First Schedule offence", or is about to be brought before a juvenile court under the "care or protection" proceedings of the Act.

Both these sections provide for the child's detention "until he can be brought before a juvenile court", but no maximum period is specified and the duty of bringing the child before the court is not placed on any particular person.

124. We were told by witnesses that there was sometimes a long delay between a child's being taken to a place of safety and his appearance before a juvenile court, and it was argued that there should be a statutory limit (suggestions varied between forty-eight hours and fourteen days) to the time for which a child might be detained in a place of safety before being brought before a judicial authority.

125. It was argued in favour of making some such special provision that the law provides that there should be no avoidable delay in bringing before a judicial authority an offender who was taken into custody, and it is no less important that a child who had committed no offence but is taken to a place of safety in his own interests should be brought before a judicial authority without even the delay that might ensue if he had to wait a few days for the next sitting of the juvenile court; and since the court, though concurring in the child's removal, might not agree with the original choice of a place of safety, it should have the earliest opportunity of either confirming the choice or ordering the child's removal to another.

126. On the other hand, children are taken to places of safety in their own interests, frequently after gross neglect or ill treatment, and the general principle that persons detained should be detained only on judicial autho-

rity does not apply so strongly. Many of these children undergo considerable suffering and strain before removal to a place of safety and it would not always be in their best interests to subject them to the added strain of a court appearance (and the travelling involved) only a day or two after their removal. A point of practical importance is the expense and inconvenience involved in taking a child to and from the place of safety, which may be at some distance from the court: many of the children, unlike offenders, are very young.

127. On balance we think that the statutory provisions need strengthening and we recommend that a child who is taken to a place of safety should be brought within seven days of the removal either before the next sitting of the juvenile court that has jurisdiction in his case or before a magistrate (preferably a juvenile court magistrate) who should have power to make an interim place of safety order of the kind mentioned in section 67 (2) of the Act. We do not consider that there is any need to qualify the provision in section 67 (1) by stipulating that authority to remove a child should be granted only on sworn information. We recommend, however, that, in accordance with the procedure that we have proposed for "protection or discipline" cases, power to bring a child before the court, and the responsibility for doing so, should be laid upon the police and local authority alone: any other person who first removes the child to a place of safety should be required to report the facts to the police or the local authority forthwith.

128. Some witnesses suggested that section 67 should be amended to confer a right to enter and search premises because without it a person seeking to remove a child might be frustrated. To confer a new right of entry into private premises would be no light matter. Powers of search are conferred by the justice's warrant issued under section 40 (1) of the Act (see paragraph 123 above) and we have had no evidence of any practical difficulty in taking action under section 67. We do not, therefore, accept this suggestion. It might occasionally be necessary, however, to remove a child so urgently that the delay caused by obtaining a justice's warrant under section 40 would be undesirable (for example, where it comes to the notice of the police late at night that children who are believed to have been left unattended in a house are in great distress), and we recommend that the section should be amended to provide that in such circumstances an officer of police not below the rank of inspector should have power to issue a written authority to a constable to enter and search. It should seldom be necessary for the police to use the power.

Parents' powers to bring their children before the court as being beyond control

129. Section 64 of the Act, enables a parent to bring his child before a juvenile court on the ground that the child is beyond his control. If the court finds the case proved, it may

(*a*) send the child to an approved school, or

(*b*) commit him to the care of a fit person, or

(*c*) put him under the supervision of a probation officer or some other person, or

(*d*) put him under supervision as well as committing him to the care of a fit person.

But the court may not make any such order unless the parent understands what will be the effect of the order and consents to its being made.

130. Some witnesses said that proceedings under this provision were harmful to the family relationship and for the child were often a final repudiation by parents who were themselves largely to blame for the situation. Basically the parents were seeking advice for themselves and remedial treatment for the child ; and the social and welfare services existed to meet those needs. If necessary, those services (greatly developed in recent years) should be expanded(1), but it should rarely be necessary to invoke the assistance of the courts. In those rare cases it should be for the local authority, if they agree, to bring proceedings under the statutory provisions relating to children in need of care or protection.

131. Other witnesses, while agreeing that as many cases as possible should be dealt with out of court, said that by the time a parent brought proceedings under section 64 the situation in the home had usually reached a state in which it caused no shock to the child to have his behaviour condemned before the court by his parents and that, in practice, it was found that the court proceedings often led to a reconciliation. These witnesses were disposed to retain the parents' powers under section 64 as a last resort.

132. We understand that the London juvenile courts and some juvenile courts outside London try to avoid the harm to family relationships wherever possible (and, incidentally, the waste of time where the parent decides, after one or more court appearances, to let the proceedings lapse), by advising a parent who wishes to begin " beyond control " proceedings to seek first the advice and guidance of the probation officer or the children's officer who puts him in touch with some other social service if that seems the best course. As a result of the guidance given, the parent often decides against court proceedings. If the proceedings are brought the court knows that the case had already been investigated and that a report will be available to help the court in its decision.

133. This practice has much to commend it if parents are still to have the power conferred by section 64 ; but we think the power should be revoked. We accept that, to substantiate their case, parents will sometimes go out of their way to produce in court all the evidence they can against the child and that it may cause the child great unhappiness to hear himself thus publicly rejected. It has been suggested to us that much of the evidence given by parents could be given in the absence of the child, but that would be a denial of justice to the child: he must hear the evidence against himself so that he may be in a position to rebut it.

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(1) Thus we were told that there are cases in which a parent who is having to wait a long time before his child can be accepted for treatment at a child guidance clinic will bring the child before a juvenile court as being beyond control in the hope that the court's intervention will secure priority for the child at a clinic. There is some confirmation of this assertion in paragraph 353 of the report of the Committee on Maladjusted Children (1955). If it is still true, it points to the need for expansion in the provision of child guidance.

134. The number of court orders made under the section, particularly those involving the removal of the child from his home, is not large(1) and the number of cases in which a court need intervene should be fewer if full use is made of the social services. These cases should be brought under the new provisions that we propose for children in need of protection or discipline. The parent who needs help in controlling his child should first consult the local authority. They, after having considered all possible alternatives, should have power to institute proceedings which would be in accordance with the outline in Appendix IV. We appreciate that this would not entirely avoid the need for a parent to make damaging statements before his child; but at least he would appear only as a witness, not as "prosecutor", and it might be easier to restrict his evidence to pertinent facts. The local authority would be in touch with "beyond control" cases at an earlier stage, enabling better use to be made of the social services and more cases to be settled without recourse to the courts. Under these provisions, we think it would no longer be necessary to require the parent's consent to the making of a court order.

Questioning of and taking statements from children by the police

135. Several witnesses urged that, save in exceptional circumstances, a parent should be present when the police took a statement from a child who was suspected of having committed an offence or who was the victim or a witness of a sexual offence. They emphasised the need for restraint in questioning, particularly about sexual matters, and suggested that the questioning of children should always be entrusted to officers who had received special training for it, the victims of sexual offences being questioned, wherever possible, by women officers. Some witnesses recommended that police procedure in these matters should be governed by statute.

136. On the other hand, we received no evidence to indicate that the police were not fair and correct in dealing with children, and the Magistrates' Association informed us that tributes to the kindness of individual police officers by the parents of delinquent children were a common feature of juvenile court proceedings. We understand that the need for special care in questioning children is emphasised in police training: that it is the rule that a parent should, whenever practicable, be present when a child is questioned by the police unless his presence would be likely to impede the course of justice: and that statements from children about sexual offences are normally taken by women officers who receive special instruction in this aspect of their duties.

137. We are satisfied that in general the police pay proper regard to the need for care in questioning children and we do not support the view that the

(1) According to the Criminal Statistics for England and Wales issued by the Home Office, the following orders under section 64 of the Children and Young Persons Act, 1933, were made by juvenile courts during the years 1953–1959.

	Fit Person orders	*Supervision orders*	*Approved School orders*	*Total*
1953	165	330	75	570
1954	185	345	85	615
1955	175	315	71	561
1956	134	319	74	527
1957	141	357	78	576
1958	178	388	83	649
1959	184	358	81	623

matter needs to be regulated by statute. Indeed, circumstances must vary so much from case to case that the subject seems pre-eminently one for administrative arrangement and the exercise of a wide discretion by the officer who is conducting the enquiries.

Police cautioning and "juvenile liaison schemes"

138. It is generally accepted that the police are not obliged to prosecute every offender against the law who comes to their notice even when they have a clear case: they may properly exercise discretion in deciding whether to bring proceedings or merely to administer a caution. This discretion is exercised in relation to young offenders as well as to adults; but in its application to young offenders there are some special difficulties to be considered. On the one hand, it seems unnecessary and indeed undesirable to bring a child before a court if the shock of being found out and the effect of a caution from the police are enough to make it unlikely that he will offend again; on the other, it is important to ensure that one whose delinquency results from more deep-rooted causes and calls for more lasting treatment should receive the kind of help and guidance he needs at the earliest possible stage, and often the right form of treatment can be provided only by the decision of a court.

139. Since the war a few police forces have introduced what have come to be known as "juvenile liaison schemes". These schemes are founded on the existence of the discretion to which we have referred: when a young offender is cautioned, a police officer follows up the caution by keeping in touch with him and enlisting the co-operation of his family, his school and (if need be) the statutory and voluntary social services in preventing him from offending again.

140. The first of these schemes was introduced at Liverpool in 1949. In 1954, after its working had been considered by the Advisory Council on the Treatment of Offenders and by a conference of chief officers of police, the Home Office circulated details of it to all chief constables so that they could decide whether it was suitable for adoption in the local conditions of their police districts.

141. Details of the operation of the Liverpool scheme were explained to us in evidence. The work is done by specially selected "juvenile liaison officers" (both men and women) who are graded as detective officers and receive the pay appropriate to that grade. There is no special training; the main qualifications are considered to be high moral standards and a good knowledge of the kind of people living in the area and of the conditions under which they live. The decision whether to prosecute a child or to administer a caution and refer him to the juvenile liaison officer is taken by the assistant chief constable, who would, in general, be disposed to caution rather than prosecute a child who was (so far as the police knew) a first offender and whose offence was a minor one, such as simple larceny (but not breaking and entering); but the circumstances of the offence—for example, the amount stolen and the degree of temptation—would also be taken into account. If a caution is administered (and this can be done only if the offender admits the offence) the next step is for the juvenile liaison officer to have a talk with the parents. If they refused to co-operate, this would not affect the decision not to

prosecute; the juvenile liaison officer would simply withdraw from the case. But this rarely happens; the majority of parents are only too willing to co-operate. There is no limit to the length of time for which the liaison officer may follow up a case: it might be for only a month, or for as long as a year, or even longer. The officer continues to interest himself in a case until it is clear that his help is no longer needed. If a child with whom a juvenile liaison officer is dealing later comes before a court, the juvenile liaison officer will not appear either for the prosecution or for the defence, nor will his report be submitted to the court; the police would not even mention that the child had previously been cautioned.

142. The work of the juvenile liaison officers extends also to children who are below the minimum age of criminal responsibility and others who are not known to have offended against the law, but whose behaviour is such that it might lead to crime. As the scheme has become more widely known, parents have often themselves sought the help of the juvenile liaison officer for their children, and especially the help of the women officers for girls who are drifting into immorality. If the juvenile liaison officer finds that a child's home circumstances can be improved only with outside help, he enlists the aid of social and welfare agencies. We were informed that the juvenile liaison officers and the probation officers worked well together and a probation officer would sometimes refer to the juvenile liaison officer a child in need of help. The juvenile liaison officers are represented along with other statutory and voluntary agencies interested in young people, on a special committee concerned with delinquency in the city.

143. In the evidence that we received about the Liverpool scheme it was suggested that, while the scheme might not be appropriate to all parts of the country, it was particularly suited to congested areas. It was natural for the police to be responsible for such schemes because all reports of offences were made to them. A great deal depended on the selection of the juvenile liaison officers: in a city like Liverpool trained social workers alone could not achieve the same results as the right type of police officer, and it would be a pity if such officers were debarred from this kind of work.

144. Most of the witnesses who gave evidence on this subject accepted that schemes on the Liverpool pattern were, on the whole, doing useful work. Some (notably the Council of the Law Society) considered that their practical value outweighed any objections of principle to the police undertaking preventive work. The representatives of the Association of Chief Police Officers spoke of the Liverpool scheme as a natural development of the preventive work that the police, and particularly the "village policeman", had been carrying out for many years with wholehearted public approval. It was not, in their view, necessary or practicable to have such highly organised schemes in rural and other less heavily populated areas; but in the major centres of population there were greater difficulties in achieving a close relationship between police and public, and schemes on the Liverpool pattern could do much to overcome these difficulties.

145. On the other hand the Commissioner of Police of the Metropolis, who gave evidence before us separately from other chief officers of police,

said that since 1933 the practice of cautioning juvenile offenders was probably followed less in his force than in any of the provincial forces. He and his predecessors had taken the view that the intention of Parliament, as expressed in the Children and Young Persons Act of that year, was to provide in the juvenile court system a means of dealing with young offenders in the interests of their own welfare and in a way that would prevent them from taking to a life of crime. The police would be open to serious criticism if they took upon themselves to withdraw some children from the operation of this system to be dealt with in a different way. The Commissioner regarded the juvenile liaison schemes set up in certain provincial forces as "a courageous departure from this orthodox outlook" and considered that they had done valuable work; but he still doubted whether the police were the most suitable body to carry out work of that kind.

146. These doubts were also felt by representatives of juvenile court justices and the probation service who appeared before us. They expressed the view that the rôle of the policeman was incompatible with that of the social worker. The police had admittedly a duty to prevent crime as well as to detect it, but this did not justify them in assuming the functions of magistrates and social workers. Young offenders were often of extremely low intelligence or emotionally maladjusted: police officers, however good their intentions, lacked the special training necessary to help those who suffered from such handicaps. Trivial offences were often only a symptom of an underlying condition, requiring early and specialised treatment, that was revealed only by the full enquiries made when the child came before a court.

147. We were impressed with what we heard of the results obtained by juvenile liaison schemes in Liverpool and elsewhere, and of the way in which juvenile liaison officers had devoted themselves unsparingly to their work. It seems clear, however, that the process of "following up" the caution by a period of supervision, help and guidance for the child and his family involves the juvenile liaison officer in work that nowadays is recognised as a skill to be acquired by special training in case-work which the juvenile liaison officer has no opportunity to receive. It is work that should be done by other social agencies. While, therefore, we have nothing but commendation for the aims and achievements of those who have instituted and worked police juvenile liaison schemes, we are unable to recommend that the Government should encourage their general adoption.

148. One argument used in favour of juvenile liaison schemes is that they enable the younger children especially to avoid the stigma of appearing in court as offenders and so acquiring "criminal records". We think that whatever validity this argument may have had will disappear if the new procedure that we recommend is introduced, so that younger children who have committed acts of delinquency will appear in court as in need of protection or discipline instead of being charged with a criminal offence.

149. None of our witnesses wished police officers to be discouraged from taking part, as so many do, in organising boys' clubs and sporting activities in their off-duty hours. We are convinced that nothing but good can come of their undertaking such public-spirited work.

CHAPTER 5

THE CONSTITUTION, JURISDICTION AND PROCEDURE OF THE COURTS THAT DEAL WITH YOUNG PEOPLE

Juvenile court magistrates

150. A juvenile court consists of not more than three justices of the peace drawn from a panel of justices specially qualified for dealing with juvenile cases. It must, save in exceptional circumstances, include a man and a woman.

151. In the metropolitan stipendiary court area (which comprises the County of London, excluding part of the Borough of Hampstead, and includes, though only for juvenile and domestic court purposes, the City of London) the juvenile court panel is appointed by the Home Secretary from among the justices for the County of London ; appointment is for three years at a time. The Home Secretary also nominates as chairmen of the metropolitan juvenile courts the Chief Metropolitan Magistrate, four other metropolitan stipendiary magistrates and fifteen of the lay justices on the panel. At one time it was exceptional for lay justices to act as chairmen, but in 1936 the Home Secretary decided, in view of the increasing pressure of work in the adult courts, to relieve the stipendiary magistrates of their duties as chairmen of juvenile courts. Since then lay justices have presided regularly over the juvenile courts ; the stipendiary magistrates also take tours of duty as chairmen from time to time when their other commitments allow them to do so.

152. Outside the metropolitan stipendiary court area there is a separate juvenile court panel for each city or borough having a separate commission of the peace, for each county that is not divided into petty sessional divisions and usually for each petty sessional division of a county ; but paragraph 1 (3) of the Second Schedule to the Act enables the Home Secretary " after considering any representations made to him by the justices of the petty sessional divisions concerned " to make an order directing that there shall be only one panel for any two or more petty sessional divisions. A juvenile court panel is appointed for three years by the justices for the area that it serves ; they choose the members of the panel from among themselves, except that if the justices for a petty sessional division cannot find enough qualified justices among their own number they may appoint justices from other divisions in the same county. The members of each panel elect from among their number by secret ballot a chairman and enough deputy chairmen to ensure that every juvenile court in the area sits under a chairman so elected. A stipendiary magistrate who exercises jurisdiction in the area for which a panel is appointed is a member of the panel *ex officio*, but acts as chairman or deputy chairman only by virtue of election.

153. A lay justice appointed to a juvenile court panel outside the metropolitan area automatically ceases to be a member of it on reaching the age of sixty-five, unless the Lord Chancellor has directed that he may continue to serve for some specified period ; such a direction may be given if the Lord Chancellor thinks it necessary in order to ensure a sufficient number of justices on the panel(1). In the metropolitan area a lay justice

(1) During the three-year period ended 31st October, 1958, the Lord Chancellor found it necessary to grant exemption from the age limit in only eight cases

is not re-appointed to the panel for the full period of three years if he will reach the age of sixty-five within that period; the appointment is made to expire on his sixty-fifth birthday. Stipendiary magistrates may continue to serve in juvenile courts until they retire from all magisterial duties; the age of compulsory retirement is seventy-two, which may be extended by the Lord Chancellor to seventy-five.

154. There is no upper age limit for first appointment to a juvenile court panel. The Royal Commission on Justices of the Peace (1946-48) expressed the following views on this point[1]:

> "It is important that a justice should retire from the juvenile court panel before he becomes too old: it is also desirable that he should be appointed in the first instance when he is comparatively young so that he may be able to acquire the special technique which the work of the juvenile court undoubtedly demands—especially from the chairman. The most suitable age for appointment is between 30 and 40 and we recommend that no one, save in exceptional circumstances, should be appointed for the first time to a juvenile court panel when over 50."

We understand that the Home Secretary usually acts in accordance with this recommendation in selecting the members of the London juvenile court panel, although the present need to increase the membership of the panel has made it necessary to consider more readily than hitherto candidates over the age of forty; and that justices in the provinces are reminded of the Royal Commission's views by the Home Office when appointments to the panels are due to be made.

155. Our witnesses were generally in favour of continuing the present system under which the magistrates sitting in juvenile courts are nearly all lay justices; and we have found no reason to recommend any general replacement of laymen by professional magistrates. We should like to urge on the Lord Chancellor's advisory committees the importance of including in their recommendations for appointment to the commissions of the peace persons of the right age and experience who are willing and able to give the time necessary for juvenile court work. The proposals put forward in paragraphs 165 and 166 in regard to the combination of juvenile court panels will, we hope, have the result of affording justices greater opportunities of acquiring experience of juvenile court work, particularly in rural areas. If our suggestions on these points are met we are confident of the ability of lay justices to continue to carry out effectively the work of the juvenile courts. At the same time we welcome the participation in this work of stipendiary magistrates who have an interest in it and are qualified for it by age and experience.

156. We agree with the view expressed by the Royal Commission on Justices of the Peace that juvenile court justices should be between thirty and forty years of age on first appointment; but we do not think that this can or should be made an inflexible rule. We consider, however, that it is necessary to fix an age of compulsory retirement from the juvenile court panel, and that the present age limit of sixty-five is right. The reasons for requiring lay justices to give up juvenile court work at that age seem to

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[1] Cmd. 7463 (1948) paragraph 185.

us to apply with equal force to stipendiary magistrates. We recommend that stipendiary magistrates as well as lay justices should cease to be members of juvenile court panels when they reach the age of sixty-five.

157. None of our witnesses suggested any alternative to the present methods of selecting justices to serve in juvenile courts; these methods seem to work as well as any that it is practicable to devise. We are unable to accept a suggestion that was put to us for the appointment of chairmen of juvenile courts by the Home Secretary: he and his staff would rarely have personal knowledge of those suitable for appointment or any source from which they could properly obtain advice except the local justices to whom the power of appointment now belongs.

158. We do not agree with the suggestion that it should be mandatory for every juvenile court panel to include one or more qualified teachers. This was considered by the Royal Commission on Justices of the Peace(1) who foresaw a number of practical difficulties in the proposal. We would endorse the Royal Commission's conclusion that advisory committees should judge people on their merits and not regard the occupation of teacher as a qualification or disqualification.

159. It was suggested to us that in rural areas magistrates ought not to serve in juvenile courts for the district in which they reside: they might have knowledge of matters concerning children before them that were not given in evidence but might influence or appear to influence their decisions. This suggestion does not seem to be specially applicable to juvenile courts; and in our view any advantage gained by adopting it would be entirely outweighed not only by the inconvenience to magistrates in scattered rural areas but by the loss of the knowledge of local conditions and the local statutory and voluntary welfare services that is often so helpful to a magistrates' court.

160. It is now generally accepted that every justice of the peace needs training if he is to carry out his judicial functions adequately and we think this is particularly true of those who are to sit in juvenile courts. Section 17 of the Justices of the Peace Act, 1949, requires every magistrates' courts committee to make and administer a training scheme for the justices in their area in accordance with arrangements approved by the Lord Chancellor. The intention was to allow room for variations made necessary by differing local conditions. A longer and more comprehensive course of instruction can be provided in, say, a county borough than in a rural area where travelling is difficult and the number of recently appointed justices at any one time is small. In some rural areas the only practicable form of training is a course of instruction by post and there is one available, based on a study course prepared by the Magistrates' Association. It includes material on the work of juvenile courts. In October, 1958, the Lord Chancellor's Office circulated to all magistrates' courts committees a model scheme of training for members of juvenile court panels. More recently the Magistrates' Association issued an admirable publication entitled "Lectures on the work of the Juvenile Courts".

161. It is our view that every member of a juvenile court panel, whether lay or stipendiary, should be adequately trained for his duties. He needs

(1) Cmd. 7463 (1948) paragraph 189.

not only a grasp of law and court procedure—which the professional magistrate will already have—but a knowledge of the services available to the court, including the medical and psychiatric services, and the ways in which it can deal with the children who come before it ; and not least important, familiarity with the technique of handling young people that the best juvenile courts have so successfully developed. We hope that magistrates' courts committees will lose no time in drawing up schemes of specialised training for juvenile court magistrates on the lines of the model scheme to which we have referred. While we do not consider it practicable for the law to require a magistrate to complete such a course of training before he adjudicates in a juvenile court, we should like to see this rule adopted in practice.

162. There was some division of opinion among our witnesses on whether it is preferable for a juvenile court magistrate to have had experience of sitting in adult courts. In the metropolitan area, where lay justices take a smaller part than elsewhere in the work of the adult courts, the lay members of the juvenile court panel do not as a general rule sit elsewhere than in the juvenile courts ; and this does not seem to prevent them from reaching a high standard of competence. On the whole, however, we think that experience in the adult courts is an advantage: it helps the juvenile court justice to understand the general principles of practice and procedure that are common to all magistrates' courts.

Combination of juvenile court panels

163. Many of our witnesses (among them representatives of the Magistrates' Association, the Justices' Clerks' Society and the Council of the Law Society) wished to see more use made of the Home Secretary's power to set up a combined juvenile court panel for two or more petty sessional divisions(1). We understand that this power is not often exercised. For example there were only seven combining orders between 1951 and 1956 ; in one county, Cambridgeshire, all the separate juvenile court panels outside the City of Cambridge were combined into one, but elsewhere the combination affected only a few petty sessional divisions, and four of the seven combining orders have since been superseded by orders under section 18 of the Justices of the Peace Act, 1949, amalgamating the petty sessional divisions for all purposes.

164. We have reason to believe that there are still many petty sessional divisions that have separate juvenile court panels of their own but not enough juvenile cases to give the members of the panel an opportunity of gaining sufficiently wide experience of their work. Combination of the panel with that of a neighbouring division would help to remedy this defect : it would also be easier to find among the justices for the combined area a sufficient number whose age and personal qualities made them suitable for appointment to the panel ; and it should be possible for juvenile courts to sit more frequently than they do in many rural areas at present.

165. One obstacle in the way of progress with the combination of juvenile court panels is that the Home Secretary seldom knows enough about local conditions to suggest where combination would be appropriate, while the justices of a particular petty sessional division may not be sufficiently

(1) Children and Young Persons Act, 1933, Second Schedule, paragraph 1 (3).

sensible of the advantage of combination to suggest the merger of their own division with another, even for this limited purpose. We think that it would be better if the responsibility for drawing up proposals for combining juvenile court panels in counties were given to the magistrates' courts committees. These committees are already charged with the duty, under section 18 of the Justices of the Peace Act, 1949, of reviewing the boundaries of petty sessional divisions and, on their own initiative or at the request of the Home Secretary, submitting proposals for alterations, including the amalgamation of divisions. We recommend that the magistrates' courts committee in every county should have the duty of reviewing the work of the juvenile court panels within the county and of submitting to the Home Secretary, on terms similar to section 18 of the Justices of the Peace Act, 1949, proposals for the combination of juvenile court panels in the county or reasons why no such proposals are considered necessary; power should be reserved to the Secretary of State to make such order as he thinks fit if dissatisfied with the proposals or the reasons for suggesting no change.

166. Both the Magistrates' Association and the Justices' Clerks' Society considered that it should be possible to combine the juvenile court panel for a borough having a separate commission of the peace with that for a neighbouring (county) petty sessional division. This cannot be done as the law stands because the borough justices have no jurisdiction in the county division and the county justices in many cases have none in the borough. We recommend that this difficulty should be cured by legislation; but that the Home Secretary's power to combine the panel for a borough with that for a county division should be exercisable only after consultation with the magistrates' courts committee for the county and of the justices for the borough (acting by the borough magistrates' courts committee if there is one).

Application of the upper age limit in juvenile courts

167. It appears that the law is not clear in its application to the following two classes of case—

(*a*) the person who has not attained the age of seventeen years when proceedings are started but does so before the proceedings are completed; and

(*b*) the person who, when proceedings are started, is believed not to have attained the age of seventeen years but is later found to have attained that age before proceedings were started.

Section 48 (1) of the Act provides as follows—

> "A juvenile court sitting for the purpose of hearing a charge against, or an application relating to, a person who is believed to be a child or young person may, if it thinks fit to do so, proceed with the hearing and determination of the charge or application, notwithstanding that it is discovered that the person in question is not a child or young person."

This provision may have been intended to apply to the first class of case mentioned above. But many courts take the view that it does not apply because the use of the word "discovered" and the previous reference to belief as to age seem to limit the application of the subsection to cases

in which there has been some mistake or misrepresentation. On this view, the juvenile court that is dealing with a young person who is nearly seventeen years may well be faced with a choice of evils : to deal with the case hurriedly before the young person attains the age of seventeen or to pass the case on to an adult court that will not be familiar with the earlier course of the proceedings. In our view the juvenile court should be responsible for seeing the case through to its end ; and section 48 (1) of the Act should, if necessary, be amended accordingly.

168. In the second type of case, if the discovery is not made until after the juvenile court has made an order, the position is safeguarded by section 99 of the Act which provides that an order of the court shall not be invalidated by any subsequent proof that the age has not been correctly stated to the court. But where the discovery is made at an earlier stage in the proceedings, there is doubt about the juvenile court's powers of disposal. We recommend that the juvenile court should explicitly be given power either to remand the case to be dealt with by an adult magistrates' court or, at the discretion of the juvenile court, to deal with the case in any way that an adult magistrates' court would have power to deal with it.

169. Under section 48 (2) of the Act the attainment of the age of seventeen years by an offender who has been put on probation or conditionally discharged does not deprive a juvenile court of jurisdiction to deal with him for any failure to comply with the requirements of the probation order or the commission of a further offence ; but there is a technical complication in some cases, whether they are dealt with by a juvenile or an adult magistrates' court. Sections 6 (3) (*a*), 8 (5), and 8 (7) of the Criminal Justice Act, 1948, give a magistrates' court power to deal with the original offence as if it had just convicted the offender of that offence. But sometimes the original offence was one that was properly dealt with by a juvenile court but is not an offence for which an adult can be tried summarily, so that a magistrates' court has no power to deal with the offender " as if it had just convicted him of that offence ". We recommend that the law should be amended to enable a magistrates' court to deal with the offender in such circumstances as if he were an adult being dealt with summarily for an indictable offence.

170. Under section 66 (1) of the Act, the probation officer or other person who is charged with the supervision of a child under a supervision order may, if it appears to him in the child's interest to do so, bring the child before a juvenile court at any time while the order remains in force and the child is under the age of seventeen years ; and the court may order the child to be sent to an approved school or may commit him to the care of a fit person. Under section 84 (8) of the Act, the local authority to whose care the child has been committed by a fit person order may, if the child is under seventeen years of age and the local authority think he should be sent to an approved school, apply to a juvenile court ; and the court may order the child to be sent to an approved school. We have been told by some witnesses that supervising officers and local authorities, as the case may be, are faced with a serious problem in dealing with some of their charges for whom they may be responsible to the age of eighteen, or in some cases even longer, though there is no sanction that the courts can apply to any who have attained the age of seventeen. We

recommend that the power of a juvenile court under sections 66 (1) and 84 (8) of the Act should be extended to enable the court to deal with young people under eighteen years of age who are subject to supervision or fit person orders made before they attained the age of seventeen. We think that this change, which will enable the courts to commit to approved schools a few young people over seventeen on first committal, should be practicable despite the arguments (which we accept) against opening the approved school system generally to those over seventeen on first committal.

171. It was suggested to us that the jurisdiction of juvenile courts should be extended to enable them to deal with approved school absconders over seventeen years of age who commit offences that would ordinarily be dealt with on indictment. But we see no reason why such persons should be treated differently from any other person over seventeen years of age who commits an indictable offence and we make no recommendation on the point.

Areas of jurisdiction for juvenile courts

172. In accordance with paragraph 2 (1) of the Second Schedule to the Act, each juvenile court in the metropolitan stipendiary court area has a division assigned to it by Order in Council and has jurisdiction to deal only with offences committed, or other cases arising, in that division. We were told that it would help in the despatch of court business and in reducing delays if each juvenile court in the metropolitan stipendiary court area could, like the stipendiary courts, deal with cases arising anywhere within that area. The suggestion seems reasonable and we support it.

173. Some witnesses suggested that a child should be brought before the court in his home area instead of, as at present, the court for the area (which might be the home area or might be remote from it) in which the offence was committed or, in a "care or protection" case, the circumstances arose. The advantage claimed was that the "home" court would have access to background information more readily than a court that was far from the child's home and so would be in a better position to decide on the appropriate treatment. We think there is something in the argument but circumstances vary greatly from one case to another and it would not be in the public interest in all cases. Section 56 (1) of the Act provides that any court by or before which a child or young person is found guilty of an offence, other than homicide, may remit the case to a juvenile court acting either for the same place as the remitting court or for the place where the offender resides, and the juvenile court may deal with him in any way in which it might have dealt with him if he had been tried and found guilty by that court; but there is doubt whether this section allows one juvenile court to remit a case to another. We think it would adequately meet the point put to us if the doubt were resolved by amending legislation to enable one juvenile court to remit any case to another.

Joint charges : children appearing before other courts

174. Section 46 (1) of the Act assigns to juvenile courts the hearing of all charges against children other than a charge made jointly against a child and a person who has attained the age of seventeen years or a charge against a child if a person who has attained the age of seventeen

years is charged at the same time with aiding or abetting the offence with which the child is charged; and section 56 (1) of the Act provides that any court by or before which a child is found guilty of an offence, other than homicide, may remit the case to a juvenile court to be dealt with. The evidence we received suggested the need for only two slight amendments to these provisions.

175. Where a child is charged with aiding or abetting an adult or is separately charged with what may be termed an "allied" offence (for example, in a case in which there is a cross summons for assault or a separate charge arising out of the same facts, where one of the defendants is over and the other under seventeen), the two cases have to be heard in separate courts even though the circumstances may be identical. Such cases are difficult enough to deal with when both defendants are of an age to come before the same court, and it must be a serious complication to have separate hearings in different courts based on substantially the same facts. We think that justice would be better served if both charges could be heard by the same court even where one defendant has and one has not attained the age of seventeen; and since we think it would be best to preserve the principle that adult offenders should not be dealt with in juvenile courts, we recommend that both should appear before the adult court.

176. Some witnesses suggested that whenever a child was found guilty of an offence, other than homicide, by a court other than a juvenile court it should be compulsory for that court to remit the case to a juvenile court for the child to be dealt with. These witnesses no doubt considered it best that children should be dealt with by the courts that are specially designed to deal with children and most accustomed to using the facilities for obtaining background information about a child before the court. We do not accept this suggestion to the extent that we think the discretion whether or not to remit the case should be entirely removed; but we recommend that section 56 (1) of the Act should be amended to provide that the court should remit such a case to the juvenile court to be dealt with unless it finds special reason to the contrary.

177. Similarly, under section 63 (1) of the Act, the court before which a person is convicted of one of the offences listed in the First Schedule to the Act may require the child who is the victim of the offence to be brought before a juvenile court as being in need of care or protection or may itself make any order that a juvenile court might have made. Here too we think that, if the child is to be dealt with under this provision, he should be brought before a juvenile court unless there is special reason to the contrary.

Should juvenile courts try adults in some cases?

178. It was suggested to us by some witnesses that juvenile courts should—

(*a*) try adults charged with cruelty to, neglect of, or sexual offences against children (i.e. the offences, other than homicide, listed in the First Schedule to the Act); and

(*b*) hear any proceedings against an adult for securing his child's attendance at school.

The juvenile court would have power to commit to a higher court for trial in the more serious cases, and the offender would keep his right to elect to go for trial. The object of the change would be to ensure that proceedings in which the welfare of a child might depend on the court's decision should take place before a court accustomed to dealing with children. A secondary consideration would be that in many of these cases a child has to give evidence.

179. If these were sufficient reasons for the change, they would justify bringing a great many other categories of case before the juvenile court: a decision by a court in proceedings under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949, a decision to send or not to send an adult offender to prison, even a decision to attach or not to attach earnings under the Maintenance Orders Act, 1958, may affect the welfare of a child if there is one in the family of the person before the court. Similarly, there are a great many other cases in which a child has to give evidence in court. It would not be practicable to carry this suggestion to its logical conclusion, and those who make it seem to have forgotten or mistaken the object of juvenile courts. It is to enable children to be dealt with separately from adults in courts where—

(*a*) the magistrates are "specially qualified for dealing with juvenile cases";

(*b*) the procedure is specially modified to suit children coming before the court;

(*c*) there are restrictions on the time and place at which the court may be held and the persons who may be present at a sitting; and

(*d*) there are restrictions on newspaper reports of the proceedings.

In general it would, we think, be retrograde to have adults and juveniles being dealt with again by the same courts.

180. Apart from these general considerations, a great many of the offences listed in the First Schedule to the Act are offences that must be dealt with on indictment when committed by an adult. In such cases there can be little advantage in having a juvenile court rather than an ordinary magistrates' court as the court of first instance. We recommend in paragraph 177 that as a general rule the court before which an adult is convicted of any of the offences against a child listed in the First Schedule to the Act should, if it has reason to think that the child may be in need of care or protection, direct that he should be brought before a juvenile court, instead of exercising its power under section 63 (1) (*b*) of the Act to deal with him itself. That would, we hope, go some way towards meeting the point made by those who suggest the change proposed at (*a*) of paragraph 178.

181. While, in general, we are in favour of preserving the principle that adult offenders should not be dealt with in juvenile courts, we think that an exception might be made in school attendance cases.

182. Under the Education Act, 1944, if a registered pupil fails to attend school regularly, or if there is failure to comply with an attendance order made by a local education authority, the parent becomes liable to penalties which, in the case of a third or subsequent offence may include imprisonment

vithout the option of a fine. Proceedings are in the adult court. The court before which the parent is prosecuted may direct that the child shall be brought before the juvenile court and the juvenile court may, if it is satisfied that it is necessary so to do for the purpose of securing the regular attendance of the child at school, make any order which it has power to make in the case of children in need of care or protection; additionally the local education authority may of their own volition bring a child before the juvenile court if they consider that course to be necessary for securing regular attendance(1).

183. The operation of the existing provisions can result in a large measure of duplication and while the publicity of the adult court is likely, in some cases, to have a more salutary effect on parents than appearance before a juvenile court, we consider that it would be a distinct advantage to the juvenile court if it were able to deal with the parent as well as the child. Juvenile court magistrates know from experience that the failure of a child to attend school regularly is often an indication of indiscipline or neglect. Extension of the juvenile court's jurisdiction in this way would also save time and could avoid the need for parents to make two appearances at court. We therefore recommend that juvenile courts should be empowered to hear any proceedings against an adult under the Education Act, 1944, for the purpose of securing his child's regular attendance at school.

Procedure in juvenile courts

184. The degree of formality in the proceedings of a juvenile court is a matter for the discretion of the justices themselves; but it is important that, as far as possible, the atmosphere of the court should create the right impression on all who come before it, including not only the child but his parents and, where appropriate, the complainant as well. In some cases it is desirable to maintain the dignity of the law and impress on the offender and on his parents that the law cannot be defied with impunity: in others it is important that the child and his parents should feel able to speak freely and with confidence to the magistrates if the family situation is to be fully understood. The children who come before juvenile courts vary so much in age and character that it must be difficult for the court to strike the right level of formality in all cases. It would not be surprising if, in trying to ensure that the proceedings are not too formal for the young child of ten or eleven, the court should tend to be too informal in its dealings with the adolescent boy or girl of fifteen or sixteen. Indeed, that is what often happens according to witnesses closely concerned with juvenile courts. We endorse their suggestion that more formality is needed when the more mature children are being dealt with; and we think it will be easier to adopt if our proposed new procedure for children under twelve is accepted.

185. As a matter of general principle we see no reason why policemen and policewomen should not wear uniform when attending juvenile courts—a point that was raised by several witnesses. It is a matter that can safely be left to the discretion of the courts. There is this to be said for it that it enables the police to be easily recognised; anything that helps the child and his parents to follow the proceedings is to be encouraged.

(1) Education Act, 1944, section 40, as amended by the Education (Miscellaneous Provisions) Act, 1948, and the Education (Miscellaneous Provisions) Act, 1953.

186. Children (and their parents too) are likely to have more respec for proceedings in court if they understand what is going on. We receive evidence that, despite the simplicity of the juvenile court procedure, ther was often confusion in the mind of a child or his parent about what wa happening and who the various people in court were. It is well wort while explaining beforehand what the child and his parent can expec and we commend the practice of those courts that try to do so. Poste displayed in the waiting rooms might help, and we reproduce as Appendix V an explanatory leaflet recently introduced by one court.

187. The forms used by juvenile courts should also be in as simpl language as possible. We appreciate that some of those prescribed b statutory rules are worded so as to convey a precise legal meaning an cannot easily be put into every-day language; but even those might b explained orally, where practicable, or might have appended to ther brief explanations in simple language. All reasonable efforts should b made to ensure that forms and orders are understood and it may b desirable to explain the position more than once; at the time of their firs appearance before the court parents and children may be too upset t understand what they are being told.

Restriction on those who may attend sittings of juvenile courts

188. Some witnesses said that too many people not directly concerne were allowed into court. Under section 47 (2) of the Act,

> "no person shall be present at any sitting of a juvenile court except—
>
> (*a*) members and officers of the court;
>
> (*b*) parties to the case before the court, their solicitors and counsel and witnesses and other persons directly concerned in that case
>
> (*c*) bona fide representatives of newspapers or news agencies;
>
> (*d*) such other persons as the court may specially authorise to b present."

Thus the court has full discretion to limit the number of people presen and we think it necessary to say only that in our view proceedings in a juvenile court should be as private as possible: if too many people are present they change the character of the court.

Court premises

189. Under section 47 (2) of the Act, a juvenile court is required to si either in a different building or room from that in which other courts are sitting, or on different days from those on which other courts are held Section 31 requires arrangements to be made for preventing a child while waiting before or after attendance in any criminal court from associating with an adult who is charged with any offence, other than a relative or an adult with whom the child is jointly charged.

190. In some places accommodation for the juvenile court has been provided away from the adult court and some witnesses recommended that this should always be done. The arrangement has obvious advantages but we see no objection to juvenile courts being held in the same building as other courts provided the accommodation is satisfactory and, if the juvenile court is to be held at the same time as another court, its ancillary

:commodation is self-contained, with a separate entrance and exit from :at in use for the adult court.

191. Several witnesses told us, however, that the juvenile court accom-odation, particularly the waiting rooms and other ancillary accommoda-on, was deplorable in many places. We realise that the provision of :tter premises for juvenile courts has been hampered by the restrictions n building in recent years; but we consider that necessary improvements ıould not be longer delayed, particularly in view of the increase in the umber of cases coming before the courts. It is difficult for the courts to reserve their dignity and command the respect that is their due, or even) perform their duties efficiently, in unsuitable and inadequate premises, nd we recommend that every effort should be made to provide more ıitable accommodation where courts are at present inadequately housed.

192. The ancillary accommodation is no less important than the court ɔom itself. Children and their parents are likely to spend more time 'aiting outside than in the court room, and the work of the justices may e greatly hampered if all are compelled to wait in one overcrowded room. 'he premises should enable all who attend to be properly organised and ontrolled. There should, ideally, be several waiting rooms rather than ne large waiting hall, so that children remanded in custody can be kept :parate from those not in custody and, in a busy court, boys can be kept :parate from girls. There should also be separate rooms, or, at least, separate waiting space, for the use of witnesses, officials and others having usiness in the court. Adequate lavatory accommodation is essential; uitable canteen facilities are also desirable where the demand justifies ıem.

193. It is not necessary to provide accommodation solely for juvenile ourt purposes; in the majority of areas, where the court sits only once a veek or less, that would not be economical. Courts might, for example, e housed in premises used for other local authority services; we think here is considerable advantage to be derived from a "multi-purpose" entre. The combination of juvenile court panels, which we recommend in aragraphs 165 and 166, should materially facilitate the provision of better ourt accommodation.

194. As for the furnishing and arrangement of the court room, we agree vith the views of the Committee on the Treatment of Young Offenders vho said(1):

> "No dock or witness box or lofty bench is required; ordinary tables and chairs are suitable, and they should be so arranged that the child or young person can stand as near the presiding Magistrate as is convenient, and understand clearly who are the persons adjudicating on his case."

Frequency of court sittings

195. Section 47 (1) of the Act requires juvenile courts to sit as often as nay be necessary for the purpose of exercising the jurisdiction conferred ıpon them. As we have said already, justice for the young should be swift, so even if a particular court has few cases to deal with, it should ıot space its sittings out too widely. In busier courts, infrequent sittings

(1) Cmd. 2831 (1927) page 36.

will cause over-crowded lists with consequent inconvenience and waste of time for all those who are required to attend the court. Adequate consultation between the clerk and the police should make it possible for courts to arrange their business to minimise inconvenience to witnesses and others. We have the impression from our evidence that a number of juvenile courts ought to sit more frequently.

The oath

196. Many witnesses urged that a simpler form of oath should be prescribed for children. No particular form of words for the oath is prescribed by law apart from the opening "I swear by Almighty God that . . . " (section 2 of the Oaths Act, 1909), and the precise form of words to follow that opening is within the discretion of the court. Objections to the form commonly in use were to the words "swear" and "evidence" which many children apparently misunderstand, and the references to the Deity. It was suggested that a simple but solemn promise to speak the truth would be more meaningful to children and could therefore be more reliably acted upon than the oath as at present phrased.

197. We accept this suggestion to the extent of recommending that for children in all courts the opening words of the oath should be "I promise before Almighty God . . . ". This would need legislation to amend section 2 of the Oaths Act, 1909. The complete oath for children might be—"I promise before Almighty God to tell the truth, the whole truth, and nothing but the truth". We recommend also that this simplified form of oath should be taken by adults who give evidence in juvenile courts.

Right to make an unsworn statement

198. Whether or not the form of oath is simplified, we think that a child who is brought before the court should, like anyone else, still be entitled to make an unsworn statement instead of giving evidence on oath. We have been told, however, that children and their parents often do not understand the distinction and we recommend that the court should always be at pains, when putting the choice, to explain the pros and cons in language that will be understood by both parent and child.

Attendance of parents at court

199. Section 34 of the Act provides that when a child is charged with any offence or is for any other reason brought before a court his parent may in any case, and shall if he can be found and lives within a reasonable distance, be required to attend court at all stages of the proceedings, unless the court considers it unreasonable in a particular case. It is the parent "having the actual possession and control" of the child whose attendance may be required, but if that person is not the father the father may also be required to attend. When a child is removed from home before attending court, either by being arrested or by being taken to a place of safety, it is the duty of the police or other person taking the child away to warn the parents to attend court when the child appears. Under Rule 30 of the Summary Jurisdiction (Children and Young Persons) Rules, 1933, a summons or warrant may be issued to enforce the parent's attendance and a summons to the parent may be included in the summons to the child.

200. Though section 34 appears to give the court adequate power to secure the attendance of both parents where necessary, we were informed that courts did not always appreciate this fact and that frequently only one parent, usually the mother, attended. It is important that parents should appreciate their responsibilities towards their children and one way to bring that home is to require their attendance at court when their child's case is being heard. We agree with many of our witnesses in thinking that both parents should be required to attend unless the court is satisfied that the attendance of one may be dispensed with, and we recommend that section 34 of the Act, which refers to "parent" in the singular, should be amended to make it clear that the court has power to order the attendance of both parents. Great value is to be derived from the presence of the child's father and his absence from the proceedings is to be deplored. Under our proposed new "protection or discipline" procedure we envisage that as a rule both parents will be summoned to attend the court and bring the child with them (paragraph 84 and Appendix IV).)

201. We understand that when a child who is charged with an offence is released on bail it is customary for the police to warn the parent who comes to the police station to attend the court when the child appears. The parent may be required to act as surety for the child's attendance at court. It was suggested to us by the Magistrates' Association that to secure the father's attendance at the court hearing, it should be possible to require him to enter into a recognisance for his own as well as his child's appearance. We think it would be helpful if this suggestion could be adopted.

202. As we have already stated in paragraph 199, Rule 30 of the Summary Jurisdiction (Children and Young Persons) Rules, 1933, provides for the issue of a summons or warrant to enforce the parent's attendance at court. We were told that it is not clear from the Rule whether a warrant can be issued without any information on oath. We are of opinion that such a warrant should not be issued without an information in writing and on oath and recommend that, if necessary, the Rule should be amended to make this clear.

203. Under section 34 (5) of the Act, the provisions for requiring the parent's attendance do not apply when the child was "before the institution of the proceedings removed from the custody or charge of his parent by an order of a court". The Home Office pointed out to us that, interpreted strictly, this provision exempts the court from its duty to require a parent's attendance in a variety of circumstances in which it seems right that the parent should at least have the right to be informed that the proceedings are to take place. When the "order of the court" is an order permanently transferring the parent's rights and duties to another person, there seems to be no reason why the parent should be informed of the proceedings. But where the child is the subject of a fit person order or an approved school order, which has the effect of transferring the parent's rights and duties to another person only for a time, the parents may continue to take an interest in the child, and ought to have the opportunity of being present when he appears in court, particularly where the child has been removed for only a short time (for example, where a child who has been remanded to a remand home for a short period (and so is

temporarily " removed from the custody and charge of his parent ") commit another offence for which he is brought before a court). We recommen that the person initiating the proceedings should be made responsible fo informing the child's parents, if they can be found, of the time and plac of the proceedings so that the parents can attend if they wish.

Taking evidence : revealing contents of " background " etc., reports

204. One or two witnesses suggested that in " care or protection " pro ceedings the rules of evidence should be varied to permit the acceptanc of hearsay evidence, on the ground that such proceedings sometimes fail or cannot be brought, because of lack of legal proof in accordance wit the rules of evidence. Others considered that the rules of evidence shoul continue to be observed in " care or protection " proceedings as in pro ceedings in respect of offences. The methods of treatment that the cour may order are similar in the two types of case, and considerations affectin the liberty of the subject may arise in either.

205. This question gives rise to two matters—

(*a*) the standard of proof required to justify a finding that a juvenile is in need of care or protection (to use the current expression) and

(*b*) the methods whereby such proof should be established.

On the first matter it may be relevant that justices and those who advise them spend the greater part of their judicial time dealing with criminal proceedings where an overriding onus is placed and remains on the prosecution and it is frequently asserted that the allegation must be proved beyond any reasonable doubt. In civil proceedings, while an onus rests on the initiator, the standard of proof is usually less stringent. Judicial pronouncements on this matter do not always provide a clearly defined distinction, but it is generally recognised that a civil action may succeed on the basis of evidence that would be inadequate to secure a criminal conviction. In dealing with proceedings now described as " care or protection ", a juvenile court is concerned with a civil proceeding. Rule 21 of the Summary Jurisdiction (Children and Young Persons) Rules, 1933, prescribes the procedure when the court " is satisfied that the child . . . comes within the description mentioned in the application ". This phrase adequately describes the standard of proof that " care or protection " cases should demand and provided that a court deals with such a matter on this basis there seems nothing to be gained by modifying the existing requirements. The methods whereby proof should be established should generally accord with those prevailing in civil proceedings, bearing in mind that the child's parents and even the child himself is a competent and compellable witness. We would not agree that the recognised rules of evidence (for example, the exclusion of hearsay) should be disregarded but on the other hand we recommend the provision of new rules whereby evidence of prescribed matters could be furnished on certificate(1) subject to adequate safeguards in the event of information contained in the certificate being disputed.

(1) An example of such a certificate (relating to school attendance) is contained in the Education Act, 1944, section 95 (2).

206. It was represented to us that the power in section 37 of the Act to clear the court while a child was giving evidence in proceedings arising out of an offence against or conduct contrary to, decency or morality was sometimes overlooked. It is for the clerk to remind the court of their powers, where necessary, and we hope that the point may be brought to the notice of clerks to justices. Reference might be made at the same time to the power, of which several witnesses recommended that courts should make more use, to hear certain evidence in "care or protection" or "beyond control" cases, in the absence of the child concerned (Rule 19 of the Summary Jurisdiction (Children and Young Persons) Rules, 1933). We do not think there is sufficient justification to make this power a duty, as some witnesses suggested.

207. Under Rules 11 and 21 of the Summary Jurisdiction (Children and Young Persons) Rules, 1933, a juvenile court, before deciding on the method of treatment for a child who has been found guilty of an offence, or in need of care or protection or beyond control, must take into consideration any report furnished by a local authority or a probation officer in pursuance of section 35 of the Act(1). The provisos to Rules 11 (iv) and 21 (iii) require the child to be told the substance of any part of the report bearing on his character or conduct which the court considers material to the manner in which he should be dealt with; and require the parent, if present, to be told the substance of any material part of the report relating to his character or conduct, or the character, conduct, home surroundings or health of the child. The child or the parent may produce evidence in rebuttal.

208. We have heard much evidence about the divergence of practice among courts in observing these provisos, and about the undesirable effects of some practices. We were told that in some courts the whole of the reports were read aloud, even in the presence of the child; in some copies were handed to parents; in some very little or even nothing of the reports was disclosed; and in some the chairman summarised the reports, omitting or paraphrasing items that he considered it unnecessary or harmful to reveal, or to reveal in the form in which they were reported.

209. Many witnesses have pointed to the undesirability of indiscriminately reading aloud these reports in the presence of the child. It is obvious that harm and distress may often be caused to a child when he hears spoken in public an analysis of his character, the causes of his behaviour and commentaries on his background and inter-family relationships. If, for example, a child hears for the first time in court that he is illegitimate, or that his mother is a prostitute, or that his father is in prison, the effect upon him may well be disastrous.

210. Apart from the effect on the child, the disclosure to parents of certain matters properly referred to in reports may sometimes be undesirable, for example, when one parent learns for the first time in court of some circumstance which the other had kept secret. Disclosures made in this way may prejudice the maintenance or the restoration of marital harmony, and therefore the interests of the child.

(1) Section 35 places a duty, except in cases of a trivial nature, on the local authority to provide the court with information as to a child's school record, health and character, and on the local authority or the probation officer to furnish information as to the child's home surroundings.

211. Another disadvantage of revealing indiscriminately the contents of reports is that it may deter reporting agents, for example schoolmasters, from producing full and frank reports.

212. On the other hand, if nothing in the reports is disclosed, or if material parts of them are not disclosed, the parents and the child are denied the opportunity of refuting allegations which may affect the court's decision on the appropriate method of treatment for the child, and even where no injustice results there may often be the appearance of injustice.

213. The best procedure is when the chairman is able successfully to summarise the reports, disclosing all material matters in a way that avoids harm to the child and to the relations between the parents, and retains the confidence of reporting agents. But this requires a high degree of skill and experience, the more so as the court has to consider and deal with the reports immediately after their presentation.

214. None of the witnesses who referred to this difficult problem was able to propose a solution which we found satisfactory. Some suggested that medical and psychiatric reports should not as a rule be disclosed, but we consider that such a prohibition would involve the possibility of injustice or the appearance of injustice, and we think that in any event there is insufficient justification for distinguishing between these reports and others that may contain confidential matter. Some other witnesses suggested that written reports need not, or should not, be read aloud, but that the parents should be allowed to read them. Such a provision would avoid the harmful effect on the child of hearing certain matters for the first time in court, but would deprive him of the opportunity of refuting allegations that concerned him, and would not solve the difficulties that may be caused between parents, or those felt by reporting agents.

215. We have given much thought to this problem, and have considered whether a solution might be found by submitting reports in two parts ; the main part of the report would be composed of factual information and material that in the opinion of the reporting agent could be revealed without undue harm, and it would be read aloud or a copy supplied to the parents. Where appropriate, the report might contain a second part, comprising information of a " confidential " nature. This need not be read aloud or supplied to the parents unless the court proposed to send the child away from home, in which case the parent would be informed of the substance of the second part, or provided with a copy of it, and given an opportunity to make representations about it. The degree to which information in either part of the report was disclosed to the child would be at the discretion of the court.

216. In considering a scheme on these lines, some of us thought it would be necessary, wherever a report contained a " confidential " section, for the court to inform the parents of its existence (although not of its contents unless the child was to be sent away from home). But most of us considered it undesirable that parents should be told that a report contained information of a confidential nature but should be precluded from knowing what the information was, except in certain circumstances ; they would feel that the court's choice of the method of treatment had been influenced by " secret " information which they had no opportunity to refute. There are

difficulties either way, and while an amendment of the Rules to provide for a scheme on these lines might go some way towards meeting the difficulties to which we have referred, we do not feel sufficient confidence in it to make it the subject of a recommendation.

217. We have concluded that the difficulties can be met, in the long run, only by the skilled summarising of reports by the chairman, as permitted under the existing Rules, which were carefully drafted with those difficulties in mind. It is impossible to secure by legislation that only the best practices obtain in all courts, and we feel that improvement in the present practices can better be achieved by administrative guidance, coupled with more training for magistrates, than by formal regulation. We recommend, therefore, that the attention of juvenile court magistrates should be drawn to the considerations referred to in paragraphs 209 to 212, and that they should be reminded that, while relevant information in reports should not be withheld from parents and children, reports will often contain confidential matter over which the court will need to exercise great care. To facilitate their work and to minimise the difficulties of dealing with "background" etc. reports, the courts might encourage reporting agents to submit such confidential matter, where necessary, in a separate section appropriately marked, and to state their reasons why they considered that any particular items of information should not be disclosed, or should be disclosed only with circumspection.

Enquiries for the information of the court

218. The Committee on the Treatment of Young Offenders (1927)(1) recommended that the juvenile court should be supplied with the fullest information, including reports on the home surroundings, and school and medical records, concerning those brought before it, and that there should be closer co-operation between the court and the local authority. Section 35 of the Act gave effect to this recommendation. Subsection (1) provides that when a child is to be brought before a justice or justices in respect of an offence alleged to have been committed by him or before a juvenile court as being in need of care or protection, the probation officer or the appropriate local authority must be notified by the police or other person bringing the child before the court. Under subsection (2), the local authority must

> ". . . . except in cases which appear to them to be of a trivial nature, make such investigations and render available to the court such information as to the home surroundings, school record, health, and character of the child or young person and, in proper cases, as to available approved schools, as appear to them to be likely to assist the court:
>
> Provided that a local authority shall be under no obligation to make investigations as to the home surroundings of children and young persons in any petty sessional division in which by direction of the justices or probation committee arrangements have been made for such investigations to be made by a probation officer."

The Summary Jurisdiction (Children and Young Persons) Rules, 1933, provide that after a case has been found proved the court shall, unless it

(1) Cmd. 2831, pages 34 and 35.

is a trivial one, obtain such information as to the general conduct, home surroundings, school record and medical history of the child as may enable it to deal with the case in his best interests, and shall take into consideration the reports furnished in accordance with section 35 ; and if such information is not fully available the court must consider remanding the child or, as the case may be, making an interim order for such enquiry as may be necessary (Rules 11 and 21).

219. There was a cleavage of opinion among our witnesses on whether the enquiries into the child's home surroundings should be made before the trial in anticipation of the case being found proved. Most witnesses opposed the practice. They said that it was improper, and an invasion of liberty, to act on the assumption that the child would be found guilty or, as the case might be, in need of care or protection. They also said that enquiries made before a plea had been considered could not be as full or as helpful to the court (for example, there could not be enquiry into the underlying causes of an offence of which the child had not yet been found guilty), and that, however thorough those enquiries, still others (for example, by a psychiatrist) might be thought necessary before the court reached a decision. Other witnesses, although they accepted these criticisms, thought that the advantages of the practice outweighed its disadvantages. They pointed out that it was a convenience to the court, and often of value to the child because it avoided delay, if the court was in a position to decide what order to make at the hearing at which the case was proved. This was particularly true of cases that came before those courts that did not meet frequently. Indeed, there must be a temptation to dispense with enquiries if the alternative is a long delay. Apparently enquiries before the trial into a child's home surroundings are made only with the consent of his parents and they are assured that the enquiries are not an indication that the case has been prejudged.

220. We do not think it would be right to lay down any hard and fast rule ; circumstances vary so much from one court to another and from case to case that the decision must be left to the discretion of the court. We think that as a general rule home surroundings enquiries should be made only after the case has been proved, but we appreciate that because of the infrequency of court sittings it may sometimes be necessary for enquiries to be made before the trial. The important thing, in our view, is that full information should be available to the court in all but trivial cases ; it is of less account whether the enquiries on which the information is based are made before or after the case has been proved.

221. We wish to draw attention to the need for the whole family situation to be reviewed when a child is remanded for enquiries. It would be wrong to assume that in every case observation of the child in custody and apart from his family will provide the court with the best information on which to base a decision. It may often be possible and better for the observation to be made during a period of remand on bail: courts should make full use of the services available to them when calling for reports and the evidence we received indicates that they could make greater use of the child guidance clinics where they exist.

Responsibility for presenting reports to courts

222. Until 1948, local authorities discharged their duty under section 35 of the Act through the education committee and its officers, but the Children Act, 1948, transferred the responsibility to the children's committee. The associations representing the superintendents and officers of education welfare departments gave it as their view that the interests of children had suffered since the responsibility for providing these reports had been transferred from the education department to the children's department of the local authority, and urged that it should be restored to the education department. They said that the home circumstances and character of children, as well as their school history, were usually well known to education welfare officers, who, they considered, were in a better position than officers of children's departments, who often had no previous knowledge of the children, to present the reports to the court and amplify them, where necessary, at the hearing. The probation officers' associations were in favour of the reports being presented by the probation officer, because presentation of some parts of the reports will always be at second hand no matter who presents them, and because the probation officer always attends the court in the ordinary course of duty.

223. We recognise that the education welfare officer will often have knowledge about a child's background and history, and may sometimes be able to supplement the written reports in a valuable way by oral evidence. But the same considerations often apply to officers of other services, and to teachers. It would clearly be inconvenient and uneconomical if several agencies presented reports to the courts and were habitually represented at the hearing. We think it reasonable, having regard to their functions and experience, and to their responsibility for many of the children as a result of the court proceedings, that the children's department, or the probation officer where the court wish him to present the home surrounding's report, should continue to perform this task. The court can always ask for the attendance of any officer or other person who they think might usefully supplement any part of the reports in oral evidence. The Association of Children's Officers told us that they found no difficulty in presenting reports of which some part had been prepared by other departments of the local authority, but we have little doubt that there is scope in some areas for better co-operation among the local authority departments concerned with furnishing information to the courts, and we hope that local authorities will give attention to this matter. We were informed that the quality of reports varied considerably and we are of opinion that consultation between the magistrates and reporting officers about the content of reports could help to improve their value to the courts.

224. We were told by one body of witnesses that, although a headmaster was always informed of a charge against one of his pupils, he was not always told of the result of the case. We understand that it is the usual practice in many areas for the local authority to notify head teachers of the results of court proceedings in respect of their pupils, and to tell them of any matters relevant to the school treatment of the children concerned. We think this practice should be generally followed.

Remands for enquiries

225. Under sections 14 (3) and 26 (1) of the Magistrates' Courts Act, 1952, the court may, after a finding of guilt but before an order is made, adjourn the case and remand the offender to enable enquiries to be made or the most suitable method of dealing with him to be determined. The adjournment may not be for more than three weeks at a time, but there may be two or more consecutive periods of three weeks. Remand may be either on bail or in custody.

226. Some witnesses recommended that the maximum period of remand should be increased to twenty-eight days at a time. They pointed out that where the child was brought as being in need of care or protection or beyond control the court already had power to make an interim order for detention in a place of safety or committal to the care of a fit person for up to twenty-eight days(1) and said that often more than twenty-one days were required to complete enquiries. Apparently it would also be more convenient administratively for many courts to have a four-weekly maximum period of remand. Some witnesses recommended that the present maximum period of twenty-one days should, in future, be made the minimum period of remand.

227. We appreciate that if a court usually sits once a fortnight it would be convenient to be able to remand for a multiple of that period but we do not think that the convenience of the court should be a governing factor. Nor do we see any need for the period of remand to correspond with that of an interim order under section 67 of the Act. If the maximum period of remand that courts could order were increased there would inevitably be a tendency for courts and reporting agents to work to the new maximum even with cases that could be dealt with more quickly. The need for justice to be reasonably swift and (where the remand is in custody) the need to avoid unnecessary restriction of liberty must be put in the balance against the suggestion. In most cases it should be possible for the necessary observations to be made within three weeks and if more time is needed the court can order a further period of remand. We recommend that the maximum period of remand should not be increased and we do not recommend that a minimum period should be prescribed.

228. The Magistrates' Association said that where a child on probation committed a breach or a fresh offence it was not always possible to determine the most suitable method of dealing with him after a short remand. In a difficult case (for example where it was doubtful whether probation should be continued) it would be useful to be able to postpone making a decision, the original order continuing meanwhile. While the Association agreed that in the normal case a child should be dealt with as soon as practicable and not be left in doubt as to his future for longer than was necessary, they suggested that it might sometimes be wiser to postpone making a decision about a recidivist probationer. They suggested that the court should have powers in such cases to remand on bail or adjourn without recognisance for up to three months. We have come to the conclusion that, for the particular type of case illustrated in this paragraph, it would be useful if courts had power to adjourn without recognisance for up to three months and we recommend accordingly. The power should be exercisable only in respect of children on probation.

(1) Children and Young Persons Act, 1933, section 67 (2).

229. Under section 27 of the Criminal Justice Act, 1948, the court has power until a remand centre is available, to remand an offender between the ages of fourteen and seventeen to prison if he is of so unruly a character that he cannot safely be detained in a remand home or of so depraved a character that he is not fit to be so detained. There is no comparable provision for young persons found to be in need of care or protection or beyond control, and it is probable that the definition of a place of safety in section 107 of the Children and Young Persons Act, 1933(1), would not be held to include a prison. Some young persons who are in need of care or protection are also unruly or depraved and, we understand, occasionally cause great difficulty in remand homes and other places of safety; and we have been invited to consider what provision should be made for them. We are strongly of opinion that young persons, whether offenders or not, should not be lodged in prison pending a decision as to their ultimate disposal and we recommend that every effort should be made to provide suitable alternative accommodation—either by way of remand centres, with a definition amended to enable them to be used as places of safety, or by way of closed facilities at classifying approved schools or selected remand homes—for those certified to be so unruly that they cannot safely be lodged, or so depraved that they are not fit to be lodged, in an ordinary remand home or place of safety.

Attendance of children at adjourned hearings etc.

230. When a child offender is remanded for further information about him to be obtained he must attend the court at the adjourned hearing except that, if the period of remand is for less than twenty-one days, the court may extend the period in his absence provided he appears before a court or justice of the peace at least once in every twenty-one days(2).

231. When a court makes an interim order in respect of a child who is the subject of "care or protection" proceedings the child is required to attend at the adjourned hearing except that, where the child appears to be under five years of age, the court may direct that he need not attend unless or until required to do so(3). We were told that many courts did not avail themselves of this power, so that often a child of tender years was required to attend at all stages of the hearing. It was suggested that children of tender years should never be required to attend at court for more than the initial hearing, and that the discretion of the court to waive attendance at adjourned hearings should be extended to all applications for renewal of interim place of safety orders and for revocation of fit person orders, whatever the age of the child.

232. We think it would be wrong to have any inflexible rule, but that it would be well to remind courts of their power and the advantages of exercising it in suitable cases. We recommend that the power should be enlarged to enable courts to dispense with the attendance of any child (whatever his age) at the hearing of an application for the renewal of an interim (place of safety or fit person) order or the revocation of a fit

(1) "any home provided by a local authority under Part II of the Children Act, 1948, any remand home, or police station, or any hospital, surgery, or any other suitable place, the occupier of which is willing temporarily to receive a child or young person."
(2) Children and Young Persons Act, 1933, section 48 (3).
(3) Rule 20 (A) of the Summary Jurisdiction (Children and Young Persons) Rules, 1933, as amended by the Summary Jurisdiction (Children and Young Persons) Rules, 1938.

person order, if they consider that it would not be in the child's interests to require him to attend.

Record of previous convictions

233. Several witnesses said that findings of guilt in children ought not to be permanently recorded. There is a widespread feeling that a child should not be saddled for life with a criminal record arising from an episode that occurred at a young age. It seems unfair that a child should have a permanent personal responsibility for behaviour that may well have arisen from circumstances of his home and other surroundings. Further, there is a large element of chance in whether a child comes before a juvenile court : some children are dealt with by schoolmasters for offences which in different social conditions are handled by the police and courts. The two practical points made to us were that "a record" is a handicap to a person in seeking employment or making various applications, and that childhood offences may be cited against a person who commits some offence much later in life when such references are unduly prejudicial. Hence some witnesses recommended that a child should be able to regain a blameless record by not offending for a period of, say, five or six years, and others that non-indictable offences should in any case be expunged from the record when the child reached the age of seventeen.

234. We have every sympathy with the spirit of these proposals, but suggestions that youthful offences should not be recorded, or should be expunged, are based upon a misconception. There is a widely held belief in the existence of an official record of a person. It has been common to find that people take the same view over mental illness, and requests have often been made that a certification should be "removed from the record". The reality is that there are many records kept by different authorities for different purposes. If proceedings against children come to be based on "protection or discipline", and not specifically on criminal offences, the police may well wish to record the results in many if not all of the cases. Whatever language is used to describe the conduct of a child it would seem likely that if the police have had a good deal to do with the episode in the way of detecting it and catching the offender and so on, they would be concerned with the result. Hence, changes in procedure will not necessarily mean that the police will cease recording such cases. Other agencies that have occasion to deal with children and adults also keep such records as they think desirable. It is quite unrealistic to suggest that there should be legal limitations upon the matters that the police, local authorities, approved school managers, the Prison Commission, or anyone else wish to write down and retain in their possession. The point to consider is not the extent or permanency of the recording but the use that may be made of the records.

235. As regards the view that "a record" is a handicap to a person seeking employment or making other applications, any handicap does not arise from entries in police or other records, but from the facts. The records of the police and of other authorities are not made available to employers, who must seek for such information as they want by asking the applicant himself and his referees. An employer naturally frames the questions in

the way that he thinks most suitable, and disclosure of earlier court proceedings depends on the wording of the questions that are asked as well as on the truthfulness of the replies. Any substantial alteration in nomenclature may lead to a change in the formulation of questions. The position is similar when enquiries are made by overseas or foreign governments in relation to immigration or visas: it must rest with those governments to seek such information as they think is relevant for their purposes.

236. When a defendant has been convicted his record is relevant to assist the court in sentencing. Legislation has provided a simple method of proving convictions if formal proof should be required, but these and other matters may be given in oral evidence and may be hearsay. A police "antecedents" statement, prepared for assizes or quarters sessions, commonly contains a fair amount of material other than any previous convictions. There would seem to be no reason why an "antecedents" statement should not refer to a defendant having been brought before a juvenile court whether the case was one of "care or protection" or otherwise. References are quite often made to a defendant having been involved in civil proceedings for debt, matrimonial matters or anything else that may help the court to appreciate the way he has been living. There seems to be no limit to the material that may be put before the court if the court wants to have it. The courts may, of course, decide that they do not want to hear about some things. It was settled in *R* v *Van Peltz*(1) that generally prejudicial statements should not be made unless the police were prepared to substantiate them, and since *Maxwell* v. *Director of Public Prosecutions*(2) there are no longer references to previous charges that resulted in acquittal. When a defendant has a more or less continuous record of offences from childhood onwards, a court would presumably wish to be given a complete list of convictions. But when appearances in juvenile courts have been followed by several years without any convictions, the early record might well be disregarded. This is not, however, a matter of law or practice relating to children, but a matter of the way a court should proceed when dealing with an adult, and clearly outside our terms of reference.

The right to elect to go for trial

237. Every child under fourteen years of age charged with any offence except homicide must be tried summariiy unless charged jointly with a person over fourteen years of age when the court may, if it considers it necessary, commit both for trial(3). A young person has the right to be tried by jury for any indictable offence and certain summary offences, but most are dealt with summarily with their own consent. The right of a child under fourteen to claim trial by jury was taken away in pursuance of a recommendation of the Departmental Committee on the Treatment of Young Offenders (1927) who considered and rejected a suggestion that offenders between fourteen and seventeen should also be deprived of the right(4).

(1) 1 KB [1943] 157.
(2) AC [1935] 309.
(3) Magistrates' Courts Act, 1952, section 21 (1).
(4) Cmd. 2831, pages 30 and 31.

238. Some witnesses represented to us that the right of election to be tried by jury should no longer be given to young persons on the grounds that the right was seldom understood and seldom exercised, that juvenile courts were specially created to deal with all persons under seventeen years of age, that the handling of cases in juvenile courts was of a standard that made it unnecessary to preserve the right to elect to go to trial, and that the right of appeal was an adequate safeguard. Other witnesses considered that the right, though seldom exercised, was fundamental and should not be withdrawn. They said that a young person was likely to elect to go for trial only at the instance of a parent or solicitor, or when he felt that earlier appearances before the magistrates might have prejudiced them against him; and it was well that the choice should be open in such cases.

239. The right is so seldom exercised that no great hardship would be done by abolishing it; but, equally, abolishing it would have little practical effect. We recommend that the right of a young person to go for trial should not be withdrawn, and that to ensure that he understands what is involved a written notice explaining it in simple terms should be given to him when the summons is served or charge made.

Should juvenile offenders charged with minor offences be enabled to plead guilty in their absence?

240. The Departmental Committee on the Summary Trial of Minor Offences (" the Sharpe Committee ")(1), which reported in July, 1955, recommended that a new procedure should be adopted to enable persons charged with most summary offences to plead guilty without appearing in court either in person or by a solicitor. The Magistrates' Courts Act, 1957, implements most of the Committee's recommendations, but does not apply to juvenile courts.

241. Formerly a court had power to proceed in the absence of a defendant if it was proved to the satisfaction of the court that the summons was served on him in good time. But the court had no power to accept a plea of guilty from an absent defendant, and so to dispose of the case without hearing evidence. In consequence witnesses (especially police witnesses) had to spend time attending court to give evidence in cases in which the defendant did not dispute his guilt.

242. The new procedure is briefly as follows. When a person is to be charged with a summary offence (other than a summary offence which is also triable on indictment or for which a sentence of more than three months' imprisonment may be imposed) the prosecution may at its discretion serve on the accused, with the summons, a notice setting out the new procedure and a statement of the facts that will be put before the court if the accused person chooses to avail himself of the new procedure and plead guilty by letter. The prosecution must inform the clerk of the court that they have served these notices on the accused. If the accused notifies the clerk of the court that he desires to plead guilty without appearing, and does not appear, the court may at its discretion proceed as if the accused had appeared and had pleaded guilty. If the court takes this course, it must before accepting the plea of guilty consider any written statement in mitiga-

(1) Cmd. 9524.

tion that the accused may send. If the court does not accept the plea, it may adjourn and require the accused to appear before it. It may not sentence the accused to imprisonment or detention without giving him an opportunity to appear.

243. The Sharpe Committee recommended that the new procedure should apply to young persons (i.e. those of fourteen but less than seventeen years of age) though they did not think that it would be used in many cases. They made no recommendation as to children under fourteen years of age(1). The Magistrates' Courts Act, 1957, excluded juvenile courts from the new procedure because in the meantime we had been appointed with the task of reviewing juvenile court procedure in general and had been invited to consider the matter.

244. The following arguments may be advanced in favour of extending the new procedure to young offenders of whatever age.

(*a*) Since a main object of the new procedure is to save the time of police and other witnesses, it should be adopted as widely as possible.

(*b*) Juvenile offenders and their parents ought not to be denied without good reason an advantage that is granted to adult offenders: many young offenders of fifteen or sixteen who are charged with minor offences will suffer loss of earnings, as will their parents, if they are obliged to attend court.

(*c*) There is some force in the argument put forward in the report of the Departmental Committee on the Treatment of Young Offenders (1927)(2) that a boy or girl who has committed only a trivial offence (for example, riding a bicycle at dusk without lights) ought not to be made to associate with those who have committed more serious offences.

(*d*) Few of the offences to which the new procedure applies are of a kind for which juvenile courts would be likely to order "constructive" treatment.

(*e*) Since the new procedure would be adopted at the discretion of the prosecutor and the court, there would be adequate means to ensure that the offender would appear before the court in the exceptional case where it seemed probable that the juvenile court might wish to order "constructive" treatment for a minor offence.

245. The following arguments may be advanced against extending the proposed new procedure to juvenile offenders

(*a*) A court dealing with a juvenile offender is obliged by statute to have regard to his welfare, and it seems difficult to reconcile this provision with a procedure by which the court may deal with young offenders without their appearing before the court, even if the offences are trivial.

(*b*) Section 35 of the Children and Young Persons Act, 1933, requires reports to be made to the court on the health, home surroundings, etc. of a boy or girl who is to appear before a court except in trivial cases. It is by no means certain that all cases to which the new

(1) Cmd. 9524, paragraphs 49 and 50.
(2) Cmd. 2931, page 67.

procedure would apply would be considered by a local authority or probation officer to be trivial; and it is doubtful whether a court could consider these reports in the absence of the child and his parent.

(*c*) If the procedure were to be extended to juvenile courts it would need to take account of section 34 of the Act, which requires the parent's attendance unless such a requirement would be unreasonable. Section 55 of the Act, which empowers a court to order the parent to pay the child's fine, would also produce complications, since the parent would have to be given an opportunity of objecting.

(*d*) Although most of the offences to which the procedure would apply are trivial, quite trivial offences in a child may be symptomatic of graver trouble which the court might discover if he appeared in person. Where a child pleaded guilty to an offence without appearing, the court would usually dispose of the case finally without requiring the offender's appearance, although in some such cases constructive treatment might have been applied had the offender appeared in court.

(*e*) Particularly with offenders under fourteen years of age, and to some extent with those between fourteen and seventeen there is a tendency to deal with offences at first by cautioning, and to take proceedings only when cautions have failed to have the right effect. In such cases an appearance in court is more likely to do good than correspondence.

(*f*) A main object of introducing the new procedure for adults is to save witnesses' time; the number of young offenders that would be affected by the procedure is far smaller, and the need for the new procedure correspondingly less.

246. We consider that the arguments against extending the new procedure to juvenile offenders outweigh those in favour and we recommend that the provisions of the Magistrates' Courts Act, 1957, should not be extended to juvenile courts.

Legal Aid

247. A person charged before a court of summary jurisdiction with an offence may, at his discretion, conduct his own defence or be legally represented. Under section 2 of the Poor Prisoners' Defence Act, 1930, and section 2 of the Summary Jurisdiction (Appeals) Act, 1933, defendants who cannot afford legal assistance may obtain free legal aid if the court deems it necessary in the interests of justice. These Acts apply to children as to other people. There is at present no provision for the granting of free legal aid in civil proceedings before magistrates' courts. The Legal Aid and Advice Act, 1949, contains provisions that will give power to magistrates to grant legal aid certificates in respect of certain civil proceedings(1) in courts of summary jurisdiction, but these provisions are not

(1) (*a*) Proceedings for or relating to an affiliation order within the meaning of the [Affiliation Proceedings Act, 1957,] or an order under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1925;
(*b*) proceedings under the Guardianship of Infants Acts, 1886 and 1925;
(*c*) proceedings under the Small Tenements Recovery Acts, 1838. (Legal Aid and Advice Act, 1949, First Schedule, paragraph 3).

yet in force and will not in any case apply to "care or protection" or "beyond control" proceedings under the Children and Young Persons Act, 1933.

248. Many of our witnesses recommended that free legal aid should be made more readily available when children were brought before juvenile courts charged with offences, particularly to enable the child or his parents to prosecute an appeal against the court's decision, and that the provision of legal aid should be extended to "care or protection" and "beyond control" cases. They pointed out that the provisions which enabled a child to be assisted in his defence by his parent were not always applicable—for example, where the child was accused of stealing from his parent—and that when a child was brought to court as beyond parental control there was no provision at all for assistance in conducting his case. Witnesses also said that many children and their parents were unable to handle their own cases and found it difficult to follow evidence; the child who was legally represented was in a much stronger position than the child without representation and most appeals against juvenile court decisions—many of them successful appeals—were in cases in which the children were legally represented before the appellate tribunal. In support of the contention that legal aid should be made available in "care or protection" or "beyond control" cases it was argued that a child was as liable in those proceedings as in criminal proceedings to be deprived of his liberty and the fact that he had not been charged with an offence was, if anything, an added reason for providing him with aid.

249. All courts are required to have regard to the welfare of children brought before them and in the juvenile court there are special provisions for assistance to a child in the conduct of his case. Thus, when a child is brought before a juvenile court as an offender or as being in need of care or protection, he may be assisted in his defence (or his opposition to the application) by his parents or, if his parents cannot be found or cannot reasonably be required to attend the hearing, by any relative or other responsible person(1). If a child accused of an offence is not legally represented or assisted in his defence, and, instead of asking questions by way of cross examination, makes assertions, the court is required to help him by putting on his behalf such questions to the witness as it thinks necessary; for this purpose the court may question the child in order to bring out or clarify any point arising from his assertions(2).

250. Provisions of this kind make it less necessary for a child to be legally represented. The methods and procedure of a juvenile court, even in criminal cases, differ from those in other courts. The justices are in a closer relation with the parties and depend on having the child's full understanding of his situation for making the right impression on him: the salutory effect of appearing in court may be diminished if legal argument, however well justified as such, obscures the substance of the proceedings. But be that as it may, we do not assert that there is no need for legal representation in juvenile courts. On the contrary, there are certainly cases in which the child needs help quite apart from any that his parents or the court can give him.

(1) Summary Jurisdiction (Children and Young Persons) Rules, 1933, Rules 5 and 18.
(2) Summary Jurisdiction (Children and Young Persons) Rules, 1933, Rule 9 (2).

251. We therefore think that the existing power to allow free legal aid should be readily exercised in criminal cases in juvenile courts and we also recommend that provision should be made for legal aid in "care or protection" and "beyond control" proceedings both of which we propose should be embodied in the new "protection or discipline" procedure. The need for the extension will be the greater if our new procedure is adopted and children between the ages of eight and twelve years who commit what would otherwise be criminal offences are brought to court as being in need of protection or discipline.

252. While many members of the legal profession are experienced in juvenile court procedure, particularly in criminal matters, we were told that a good number had no such experience. This was accepted by the representatives of the legal profession who appeared before us and who agreed that it was desirable that there should always be available a sufficient number of solicitors willing to undertake legal aid work in these courts. We understand, however, that if the provision of free legal aid were extended as we suggest, the Council of the Law Society would be prepared to assist in ensuring that a panel of suitably qualified solicitors would always be available, and that where necessary, facilities would be provided to enable additional members of the profession to acquire information about juvenile court work and methods of treatment; we have had regard to this in making our recommendation.

Protection against publicity for children who appear in the courts

253. Section 49 of the Act, which gave effect to a recommendation of the Departmental Committee on the Treatment of Young Offenders (1927)(1), places restrictions on newspaper reports of proceedings in juvenile courts. It requires that newspaper reports should not contain the name, address, school, photograph, or other identifying particulars of any child concerned in the proceedings; but provides that the court or the Secretary of State may allow publication if satisfied that it is "in the interests of justice" to do so. We were told that occasionally newspaper reports that appeared to contravene the provisions had come to notice but in general the section seems to be well observed and we heard little by way of criticism.

254. Some witnesses suggested that, in its application to children charged with offences, section 49 should be amended to permit the publication of full particulars of proceedings in court (but not a photograph of any child concerned) on the grounds that most juvenile delinquency could be traced back to a lack of parental responsibility and publicity might make parents more anxious to ensure that their children did not stray into delinquency. The court should be given power to prohibit publication in any particular case and would no doubt use that power to forbid publication of identifying particulars if it suspected that the delinquent might be harmed, for example, by getting an inflated sense of his own importance from seeing his name in the newspapers. On the other hand we were told that publicity might not have the salutary effect that was hoped for: it might provide the child with an enjoyable notoriety, it was least likely to be needed in the kind of family that would be ashamed of publicity, it was likely to be least effective where it was most needed, and it might increase the risk of

(1) Cmd. 2831, page 37.

children being contacted by adult criminals. We do not recommend any alteration in the existing provisions of section 49.

255. Section 39 of the Act supplements these provisions by giving any court power, in any proceedings arising out of any offence against or conduct contrary to decency or morality, to direct that no newspaper shall publish anything that would lead to the identification of any child concerned in the proceedings. We were told that in 1955 the Press Council represented to the Secretary of State that this provision was not protecting young witnesses effectively because the attention of courts was not drawn to it at the outset of the proceedings to which it applied: in consequence the court either did not consider making a direction or considered it too late to prevent publication. As a result of these representations the Home Office sent circular letters to the clerks of adult courts and to chief constables suggesting that they should arrange for the courts to be informed at the outset of any case to which the section applied that a child was to be concerned in the proceedings. We have heard no other criticism of the way in which the power is exercised and we do not think that the provisions of section 39 need be strengthened.

256. The protection conferred by section 49 of the Act extends only to proceedings in a juvenile court while that conferred by section 39 extends only to the specified classes of case and is at the discretion of the court. We have considered whether, despite the principle that criminal proceedings should in general be public, protection from publicity should be extended to children who appear as defendants, appellants, and witnesses in courts other than juvenile courts or in circumstances to which section 39 does not apply.

257. As regards appellants, it seems right that a child who appeals against the decision of a juvenile court should have the same protection as he received in the juvenile court itself. We therefore recommend that section 49 of the Act should apply to the hearing at quarter sessions of appeals from juvenile courts.

258. A child who is charged jointly with an adult must appear before an ordinary magistrates' court where the provisions of section 49 of the Act do not apply and could not be made to apply unless there were introduced at the same time some means of ensuring in each case that reporters present were warned whenever a defendant was under seventeen. That would be too cumbersome for the few cases in this category, and too likely to be overlooked. At present the newspapers usually exercise a reasonable discretion in reporting cases involving children in an ordinary magistrates' court, and we do not recommend any change in the law in this respect.

259. Any child charged with homicide must be committed for trial by jury, and those between fourteen and seventeen years of age who are charged with indictable offences may elect to be tried by jury though few choose to exercise the right. Juvenile offenders who are tried at quarter sessions and assizes are for the most part those charged with the more serious offences and the arguments for protecting children from publicity apply less strongly to them than to others. We are not convinced that there are sufficient grounds for applying the provisions of section 49 of the Act to this class of case.

260. We have considered whether the protection against publicity afforded by section 39 of the Act should be extended to cases not involving indecency or immorality. In general it is desirable that the names of witnesses in criminal cases should be known: we received no evidence that would support an extension: and we conclude that there is no justification for it.

261. Section 42 of the Act empowers a justice to take the deposition of a child in respect of whom any of the offences mentioned in the First Schedule to the Act is alleged to have been committed, and section 43 empowers a court to admit such a deposition in evidence, provided that the justice and the court are satisfied that the child's attendance before the court " would involve serious danger to his life or health ". We think that these words are too restrictive and should be replaced by words in the sense of " would involve injury to his health " ; and that, if there is any doubt, it should be made clear that " health " includes " mental health ". Even then it would remain a weakness that no particular person or authority is charged with the duty of drawing the court's attention to the point. We recommend that a prosecutor in each relevant case should be required to consider whether application should be made to a justice or the court (as the case may be) to invoke the appropriate section.

262. One suggestion put to us was that in every sexual offence in which a child under fourteen was concerned as either witness or defendant, a statement should be taken from the child by an approved welfare officer who would report to the court without the child's needing to appear ; apparently a procedure of this kind has recently been introduced in Israel. We consider, however, that unless there are good reasons to the contrary the bench, or where the trial is before a jury, the jury, should see and hear the witnesses, and the accused should have the opportunity of cross examining any witness before the court that is trying him. In addition to sections 42 and 43 of the Act, there are other provisions designed to spare the child. The court has power to dispense with the attendance of a child if satisfied that his attendance is not essential to the just hearing of the case(1) ; and there is also power to exclude from the court all persons not directly concerned in the case when evidence is being taken from a child in relation to an offence against, or conduct contrary to, decency or morality(2). These provisions and sections 42 and 43 (modified as we have suggested) go as far as is reasonable, we think, towards enabling a child who is the victim or a witness of a sexual offence to be excused from giving evidence in court.

The hearing of cases involving child witnesses

263. We consider it important that everything possible should be done to avoid delay in hearing cases involving children. But section 14 (3) of the Act prevents a magistrates' court from dealing summarily with an offence mentioned in the First Schedule to the Act, if the offence was committed more than six months before the laying of the information. We were informed that the operation of this subsection caused undesirable delay and repetition of evidence when cases involving child witnesses that could, but for the time limit, have been dealt with summarily had to go

(1) Children and Young Persons Act, 1933, section 41.
(2) Children and Young Persons Act, 1933, section 37.

forward to quarter sessions. We see no merit in retaining the time limit for this type of case and recommend that section 14 (3) of the Act should be repealed (see also paragraph 544).

Constitution of the appeal court of quarter sessions when hearing appeals from the decision of juvenile courts

264. An appeal lies to quarter sessions against most of the decisions of juvenile courts(1) and appeals to quarter sessions against conviction are by way of re-trial; but the special provisions that govern the constitution and procedure of juvenile courts do not extend to courts of quarter sessions when hearing appeals from juvenile courts. Many of our witnesses (and, we understand, the Advisory Council on the Treatment of Offenders) have recommended that appeal courts of quarter sessions should be specially constituted when hearing appeals from juvenile courts.

265. Appeals to quarter sessions for a county (other than the County of London) are heard by the appeal committee. Section 7 (3) (*a*) of the Summary Jurisdiction (Appeals) Act, 1933, as amended, requires quarter sessions to select as members of the committee, so far as is practicable, justices who have special qualifications for hearing appeals, including justices specially qualified for dealing with juvenile cases. This provision, while it goes some way towards ensuring that an appeal committee when hearing appeals from juvenile courts is suitably constituted, does not require that any of the justices sitting on it shall be, or shall have been, members of a juvenile court panel, or that they shall be within the age limit prescribed by law(2) or recommended by the Royal Commission on Justices of the Peace(3) for juvenile court justices. Section 7 (3) of the Summary Jurisdiction (Appeals) Act also provides that the appeal committee shall consist of not less than three and not more than twelve justices, and that where there is a paid chairman or deputy chairman of quarter sessions he shall be chairman or a deputy chairman of the committee. Thus the appeal committee may be a much larger body than a juvenile court. Its chairman will generally be legally qualified, but he will often have had no experience of juvenile court work.

266. In the County of London it is a requirement that juvenile court justices shall sit in the appeal court of quarter sessions. Section 8 of the Summary Jurisdiction (Appeals) Act, 1933, as amended by section 18 of the Criminal Justice Administration Act, 1956, provides that appeals to quarter sessions in the County of London shall be heard by a court consisting of the paid chairman or paid deputy chairman of quarter sessions and justices from a panel nominated from amongst the justices themselves. This panel includes a special section of sixteen juvenile court justices, and so far as is practicable at least half the justices that sit to hear an appeal from a juvenile court must be members of the juvenile court section of the panel.

267. We recommend that arrangements similar to those now in force in London should as far as practicable be adopted for appeal courts of quarter sessions for all counties.

(1) Children and Young Persons Act, 1933, section 102; Magistrates' Courts Act, 1952, section 83.
(2) Justices of the Peace Act, 1949, section 14 and rules made thereunder.
(3) Cmd. 7463 (1948), paragraph 185.

268. In boroughs with a separate quarter sessions the recorder sits alone to hear appeals. Few recorders have had juvenile court experience and we recommend that when hearing appeals from a juvenile court the recorder should have sitting with him, either as members of the court or as assessors, a man and a woman drawn from a panel of justices elected for the purpose by the juvenile court panel for the borough from amongst their own number. Justices who adjudicated on the original hearing, should, of course, be ineligible to sit on appeal.

Arrangements for supplying to courts other than juvenile courts background information about children who may appear before them.

269. Under section 35 of the Act, when a child is to be brought before any justice or justices in respect of any offence that he is alleged to have committed or is to be brought before a juvenile court as being in need of care or protection, the local authority is obliged to prepare reports about his school record, health and character, and either the local authority or a probation officer to prepare a report about his home surroundings, to assist the court in dealing with him; and the rules that govern juvenile court procedure provide for these background reports to be received and considered(1). But in a variety of circumstances a child may appear before a court other than a juvenile court: he may appear before an ordinary magistrates' court charged jointly with an adult, before the appeal court of quarter sessions as an appellant, before assizes or quarter sessions for trial if he is charged with homicide or if having attained the age of fourteen he is committed for trial, before quarter sessions if he has attained the age of sixteen and is committed with a view to a borstal sentence, or before the Court of Criminal Appeal as an appellant from the decision of assizes or quarter sessions. Save for the provisions of section 20 (7) of the Criminal Justice Act, 1948, and section 28 (2) of the Magistrates' Courts Act, 1952, which require the court to consider a report from the Prison Commissioners when borstal training is in question, there is no statutory machinery for ensuring that background reports are received and considered by any of these courts.

270. Under section 44 of the Act, every court when dealing with a child who is brought before it must have regard to the child's welfare. In our view it is important that information about a child's background should be available to courts in order that they may properly perform that duty.

271. As indicated in paragraph 269, section 35 of the Act, applies to a child's appearance in an adult magistrates' court. We consider that care should be taken to comply with this section in every applicable case. We recommend that the Magistrates' Courts Rules should be assimilated to those relating to juvenile courts and should provide that an adult magistrates' court should be required, except in cases of a trivial nature, to obtain and consider background reports in any case where a juvenile offender appears before them unless they remit the case to a juvenile court. A juvenile offender may appear at quarter sessions on appeal against conviction or following committal with a view to borstal training. In such cases all written reports presented to the juvenile court or other magistrates' court should be forwarded by the clerk to the justices to the clerk of the

(1) Summary Jurisdiction (Children and Young Persons) Rules, 1933, Rules 11 and 21.

peace and we recommend that the Magistrates' Courts Rules should be amended to provide accordingly. We consider that the reports that would thus become available to courts of quarter sessions and assize would be of great assistance to them in reaching decisions as to treatment. We understand that the foregoing changes in procedure have also been advocated by the Advisory Council on the Treatment of Offenders.

272. When a child is committed in custody to await trial or sentence he may stay a month or more in the remand home. We agree with the view of the National Association of Remand Home Superintendents and Matrons that, if the child has been under observation for as long as that, the remand home superintendent should be in a position to submit a useful report on the child to the court of assize or quarter sessions, and we recommend that the superintendent should be required by law to submit to the court of trial a report on every child who has been in a remand home for a period of fourteen days or more.

CHAPTER 6

Methods of Punishment or other Treatment Available to the Courts in Dealing with Children and Young Persons

General

273. The methods of disposal at present available to the courts are as follows(1). Where a child is found guilty of an offence the court may:—

(*a*) discharge absolutely;

(*b*) discharge conditionally;

(*c*) order the payment of a fine, damages or costs;

(*d*) order the parent to give security for the good behaviour of his child;

(*e*) make a probation order;

(*f*) order attendance at an attendance centre;

(*g*) commit to the care of a relative or other fit person who is willing to undertake the care of him;

(*h*) commit to an approved school or to a remand home, detention centre, borstal or prison.

Attendance centres are available only for boys who have attained the age of twelve years, and detention centres for boys who have attained the age of fourteen. Only offenders who have attained the age of sixteen may be sent to borstal, and, unless the charge is one of absconding from an approved school or serious misconduct while in an approved school, a borstal sentence may not be passed by a magistrates' court. A prison sentence may not be passed by a magistrates' court on anyone under seventeen and by a court of assize or quarter sessions on anyone under fifteen. Where the child is

(1) Apart from the methods of punishment or treatment mentioned in this paragraph, the court will, as from 1st November, 1960, be able, in certain circumstances, to order hospital admission or guardianship under the Mental Health Act, 1959.

found to be in need of care or protection, or beyond parental control, or a persistent truant from school, the court may:—

(*i*) order him to be sent to an approved school;

(*j*) commit him to the care of a fit person who is willing to undertake the care of him;

(*k*) (except in "beyond control" cases) order his parent to enter into a recognisance to exercise proper care and guardianship;

(*l*) without making any other order or in addition to making an order under (*j*) and (*k*) place him for a specified period not exceeding three years under the supervision of a probation officer or some other person.

274. We do not propose any additions to this range of methods of disposal but in the succeeding paragraphs and elsewhere in the report we recommend certain modifications of the existing provisions and changes in their applicability. (A table showing the ages at which different court orders may be made is given in Appendix II.)

Fines and compensation

275. The present limits on the amounts that courts may impose as fines upon, or award as costs and compensation against, young offenders seem to us unrealistic. Section 32 of the Magistrates' Courts Act, 1952, (which stems from the Summary Jurisdiction Act, 1879) provides that a court may not impose a fine of more than £2 on a child under fourteen years of age; and under section 55 (1) of the Children and Young Persons Act, 1933, the court must order the parent to pay any "fine, damages, or costs" imposed on the child, unless satisfied that the parent cannot be found or did not conduce to the commission of the offence. As "fine" is defined in section 126 of the Magistrates' Courts Act, 1952, to include any "pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under a conviction", it has been argued (though there is a difference of opinion on the point) that the compensation, or the total of fine and compensation, ordered must not exceed £2. Section 55 (1) of the 1933 Act is silent about compensation, so there is doubt whether the parent can be required to meet the cost of compensation that a child has been ordered to pay. There is no limit, other than the maximum prescribed in the enactment creating the offence, to the fine that can be imposed on a young person found guilty of a summary offence; but where a young person is tried summarily for an indictable offence the maximum fine that can be imposed is £10(1). The definition of "fine" mentioned above applies here also.

276. These limits are now too low. We think that for a child under fourteen found guity of an offence the maximum for a fine should be £10, and for a young person, for all offences tried summarily, whether summary or indictable, £50. These limits should apply to fines alone: compensation should be treated separately, subject to the same limits as for adults, and it should be placed beyond doubt that section 55 (1) of the 1933 Act applies to compensation as to fines.

(1) Magistrates' Courts Act, 1952, section 20 (5).

Probation[1]

277. The general view among our witnesses was that the probation system had been well tested in practice and found to work well. We deal below with the minor changes suggested to us.

278. At present a probation order may be made at the same time as a fit person order or an order for costs, damages or compensation but not in conjunction with any other order in respect of the same offence. Some witnesses suggested that a court should have power to combine probation with punishment, for example by imposing a fine or making an attendance centre order and a probation order for the same offence. We think this would be incompatible with the principle of probation, which is generally regarded as an alternative to punishment. Moreover, if a probationer fails to comply with a requirement of his probation order, or is dealt with for a further offence committed during the currency of the order, the court now has power to deal with him as if it had just found him guilty of the original offence; but if a penalty had already been exacted for the original offence it would be necessary either to forego this sanction or to punish the offender twice for the same offence. These objections do not apply, however, where two or more offences are proved in the same proceedings and we agree that there may be cases in which the offender would benefit from both the hurt of punishment and the support of supervision. It may well be appropriate that in such cases the court should put the offender on probation for one offence and order some other form of treatment, not involving detention, for another. Since the decision in *R* v. *Evans*[2] doubt has been cast upon the legality of this proceeding and this doubt should be dispelled, if necessary, by legislation.

279. Some witnesses suggested that it should no longer be necessary for the court to obtain from a young person over fourteen his consent to the making of a probation order, on the ground that "willingness" is readily expressed and often valueless where the alternative may be removal from home. Others said that the need to ask a young offender after a stern admonition whether he was willing to abide by the conditions of the order prejudiced the court's ability to impress its authority on him. We were not convinced by either argument. If probation is to have much prospect of success the court and the probation officer must secure the co-operation of the offender and, if he is young, of his parents as well. The National Association of Probation Officers, who are specially qualified to speak on this subject, informed us that by expressing his willingness to comply with the requirements of a probation order the probationer usually accepted some measure of self control and promised his co-operation; and that this could be used therapeutically by the probation officer. We see no need to amend the law on this point.

280. A probationer who does not comply with a requirement of the order may be brought back to court. We were told that sometimes a change of circumstances beyond a child's control and not amounting to a

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(1) The Departmental Committee on the Probation Service was appointed on 27th May 1959, to inquire into:—

(*a*) all aspects of the probation service in England and Wales and in Scotland; and
(*b*) the approved probation hostel system in England and Wales and in Scotland.

(2) 3 All E.R. [1958] 673.

breach of a requirement made it desirable to bring him back to court to be dealt with as if for the original offence, and it was suggested that there should be power to bring a juvenile probationer back to court "in his own interests" on the analogy of a child who is subject to a supervision order. But, in a sense, a probation order marks a pact between the court and the probationer, and the court should not be free to go back on it unless the probationer has first broken its terms. It is enough that the court already has power to amend the requirements of a probation order at any time, on application by the probation officer or the probationer(1), and that a child who is on probation can be brought before the court as being in need of care or protection just as can any other child. There is more justification for the proposal where the offender was under fourteen years of age when the order was made and the court was not required to obtain his consent before making it; and a younger child is more likely to be subject to circumstances beyond his own control. We would not, therefore, dissent from the substance of the proposal but we think a better way of carrying it out would be for offenders under fourteen to be placed under supervision instead of on probation, in the same way as a child who is brought to court as being in need of care or protection. It would then be possible to bring an offender back to court "in his own interests", the court being free to deal with him in the new circumstances as if for the original offence.

281. If that change were made, we think that, despite what we say in paragraph 278 above, there would be no objection to combining a supervision order with punishment (for example, a fine or an attendance centre order) for the same offence. It might seem that an offender who was fined and placed under supervision and then brought back to court for further action in his own interests was liable to be punished twice for the same offence; but on being brought back to court the child would be dealt with because new circumstances existed at the time of his recall, and there need be no reference to the original offence.

282. We recommend that for a child below the age of fourteen found guilty of an offence (that is, a child between the ages of twelve and fourteen, if the new procedure that we recommend for those under the age of twelve is accepted) the power to make a probation order should be replaced by a power to make a supervision order, and the court should be given power to order supervision in addition to punishment. We further recommend that when a child who is the subject of a supervision order under these provisions is brought back to court in his own interests, the court should have power to deal with him in any manner in which it could have dealt with him if it had just convicted him of that offence, but must base its decision, not on the circumstances of the original offence but on the child's circumstances at the time of recall.

283. The provisions for dealing with a breach of a requirement of a probation order or the commission of a further offence while on probation, contained in sections 6 and 8 of the Criminal Justice Act, 1948, contain no power for the court to vary the requirements of the order. We understand that the normal method of amending an order in such circumstances is by a separate summons on complaint for variation, a cumbersome

(1) Criminal Justice Act, 1948, First Schedule, paragraph 3.

process. We recommend that the law should be amended to provide that when a court is dealing with a breach of probation or the commission of a further offence while on probation it should also have power to amend the requirements of the probation order.

284. When a child is required to reside in an approved probation home or hostel or other institution as a condition of probation the period of residence must not be for more than twelve months from the date of the order(1); and if the period of residence required is in excess of six months, the supervising court must review the requirement at the end of six months(2). Some of our witnesses recommended that the supervising court should have power to extend the period of residence beyond that maximum. But those most closely in touch with the probationers and the institutions advised against any extension of the existing limit. They said, and we agree with their point of view, that probation is essentially supervision in the open and that twelve months is quite long enough for a probationer to reside compulsorily in an institution.

285. Those who did not favour any extension of the time limit also said that the statutory six-monthly review should be discontinued in favour of a more frequent use of the power to vary the requirement on the application of the probationer or the probation officer. Apparently the fixed six-monthly review leads the probationer to expect that he will be allowed home at the end of that time, and if he is not he may regard the decision as an additional "sentence". Be that as it may, it is clear, we think, that the aim should be to return the probationer to normal living conditions as soon as is compatible with his future welfare, and we recommend that the requirement for a six-monthly review by the supervising court should be abolished. Instead there should be a continuous review by the supervising court on regular reports by the probation officer. We also think that the requirements of the probation order should always allow a period of supervision in the open to follow upon the completion of a compulsory period of residence in an institution.

Attendance centre orders

286. Attendance at an attendance centre was one of the forms of treatment for young offenders introduced by the Criminal Justice Act, 1948. A person who has reached the age of twelve but not twenty-one and who has been found guilty of an offence for which an adult could be sent to prison may, if a centre for persons of his age is available to the court, be ordered to attend at an attendance centre for up to twelve hours in all, in periods of not less than one hour and not more than three hours on any one occasion(3). An order for attendance at an attendance centre may also be made in respect of a probationer who fails to comply with the requirements of his probation order(4). An attendance centre order may not be made in the case of a person who has been previously sentenced to imprisonment, borstal training or detention in a detention centre, or has been ordered to be sent to an approved school(3).

(1) Criminal Justice Act, 1948, section 3 (4).
(2) Criminal Justice Act, 1948, section 5 (2) and (3).
(3) Criminal Justice Act, 1948, section 19.
(4) Criminal Justice Act, 1948, section 6 (3).

287. The Criminal Justice Act, 1948, authorised the Home Secretary to provide attendance centres and to make rules for their regulation and management(1). Forty attendance centres for boys between the ages of twelve and seventeen years are now available to courts in the larger urban and industrial areas in England and Wales. Most are run on behalf of the Home Office by the police. An experimental centre for youths between the ages of seventeen and twenty-one years was opened in 1958; it is run on behalf of the Home Office by the Prison Commissioners.

288. The aim of the treatment at attendance centres is to vindicate the law by imposing loss of leisure, a punishment that is generally understood by children: to bring the offender for a period under discipline and, by teaching him something of the constructive use of leisure, to guide him on leaving the centre to continue organised recreational activity by joining youth clubs or other organisations. Attendance is on Saturdays, the older and younger boys coming at different times, generally for a period of two hours. A period of physical training is usually followed by a lecture, employment in handicrafts or other instruction. The boys remain under firm discipline throughout the period of attendance. Those who fail to attend or who commit grave breaches of the rules of the centre may be brought back to court and dealt with for the original offence as though an attendance centre order had not been made.

289. The attendance centre is not regarded as being suitable by itself for those who need the sustained influence of a probation officer or removal from bad home surroundings, or for those with a long record of offences. This view is endorsed in a report recently issued by the Cambridge University Department of Criminal Science on research that it has conducted into the effect of attendance centre treatment(2). The research was carried out at nine centres distributed throughout the country and covered the records of boys who had attended those centres between 1950 (when the first attendance centre was opened) and 1955. The general conclusion drawn from the survey is:

> ". . . that attendance centre orders are quite effective when applied to a young offender with little or no previous experience of crime, coming from a fairly normal background. But, when applied to the recidivist with two or more previous offences, especially one who has already failed to respond to probation, the results are not at all encouraging."

290. The bulk of the evidence that we received on this subject favoured a lowering of the minimum age for attendance at an attendance centre to ten or eleven years, an increase in the maximum aggregate hours of attendance and a widening of the range of offences for which an attendance centre order might be made.

291. Attendance centre treatment seems particularly suited for dealing with offenders appearing for the first time in a juvenile court, since their minds are then most likely to be open to the effects of punishment and the influence of the attendance centre staff in teaching them to respect the law

(1) Criminal Justice Act, 1948, sections 48 (2) and 52.
(2) "Attendance Centres." A report of the Cambridge Department of Criminal Science on the use of section 19 of the Criminal Justice Act, 1948. (Not yet published.)

and property of others. We think that many younger children might benefit from attendance centre treatment and we recommend that the lower age limit should be ten years. We understand that at present offenders are not usually expected to travel more than ten miles to reach an attendance centre: if a lower age limit for attendance were introduced, courts would have to consider carefully whether boys of ten and eleven years could reasonably be expected to travel even as far as that.

292. The maximum hours of attendance suggested ranged from eighteen to thirty-six and some witnesses suggested a minimum period of twelve. We were told that the present maximum of twelve hours attendance is not usually long enough to enable the training given at the centre and the personal influence of the officer-in-charge and his staff to have a lasting effect. The report of the Cambridge University Department of Criminal Science, mentioned above, supports an increase in the maximum period of attendance. But the main purpose of attendance centres is to impose punishment through loss of leisure and we are not convinced at present that a longer period of that kind of punishment would be justified by results; this can only be decided in the light of further investigation. For the present age range there is little or no value in ordering four or six hours attendance, and twelve hours might be made the standard award for them, but if the minimum age were lowered, or where travelling difficulties occur, the courts might find the existing discretion useful and we think it might be kept for those reasons.

293. If the new procedure that we recommend for children under the age of twelve were to be adopted, a child of ten or eleven years of age could no longer be charged with an offence. But we suggest in paragraph 89 that a child under twelve who is found to be in need of protection or discipline because of an act that would be an offence but for his age should be liable to punishment. In that event, lowering the minimum age for attendance centres to ten would enable them to be used for some such cases. Taking this into account, we see little point in retaining the restriction that confines attendance centre treatment to offences punishable in the case of an adult by imprisonment and we recommend that the law as it relates to children and young persons should be amended accordingly. This would enable the court to make such an order, where appropriate, in the case of any child or young person needing discipline, even though he had not committed any offence.

294. Attendance centres have been or are being set up in the main centres of population in which there is a demand for them, and we have considered whether the system could be extended to provide centres (for example, at police stations) for courts in less densely populated and, especially, rural areas.

295. Centres must be within reasonable travelling distance of the offenders' homes and the chief difficulty in the way of providing centres in areas that are not well populated is that few offenders could be sent to any one centre at a time and, apart from the uneconomic use of supervisors' time, it would be hard to devise a suitable occupation for those who attend. We were informed by the Home Office that the régime of the existing centres (see paragraph 288 above) became artificial if the number of boys regularly in attendance fell below about six. At a centre where only one or two boys attended each session there would be no alternative to the imposition

of merely punitive tasks, such as writing lines or routine work about the premises (for example, washing floors); and that, we think, is to be avoided. Even at existing centres we understand that there are times when the attendance falls below the desirable minimum of six, and it is unlikely that centres in less densely populated areas could function well at the present rate of committals by the courts. We do not think it will ever be practicable to provide centres for rural areas, and it seems likely that there will always be some parts of the country for which attendance centres cannot be made available; but if the minimum age for attendance at a centre were to be lowered, that and the increased number of children in the age group should result in more attendance centre orders being made unless there is a significant decline in the rate of delinquency. This may make it worth while to provide attendance centres in a few more places than at present.

Fit Person orders

296. Any child who is found guilty of an offence punishable in the case of an adult with imprisonment, or who is found to be in need of care or protection or beyond parental control, may be committed to the care of a fit person. This places the boy or girl, without extinguishing the rights of the parents, in the care of a third party who is clothed temporarily with the same rights and duties as the parent, and with prior right of custody. Sometimes a relative or friend may be willing at his own expense to bring up the child on this basis. More usually the local authority are named as the fit person and must then provide for the child in the same way as children received into their care under the Children Act, 1948. In selecting the person to whose care a child is to be committed the court is required if possible to select a person of the same religious persuasion as the child or one who undertakes that the child will be brought up in accordance with that religious persuasion(1).

297. An order committing a child to the care of a fit person remains in force until the boy or girl attains the age of eighteen, but the order may at any time be varied or revoked on further application made to the court by any person. A probation order or supervision order may be made at the same time as the fit person order.

298. If it appears to the local authority that it will or may be for the benefit of any child committed to their care as a fit person, the authority may, without prejudice to their powers in respect of the child, allow him to be under the charge and control of a parent, guardian, relative or friend. The authority must make application for revocation of the order in respect of any person allowed to return home under this provision if at any time it appears to the local authority that the order is no longer necessary(2).

299. Some witnesses recommended that the duration of fit person orders should be for the courts to decide according to the circumstances of each case, and that it should be possible to make orders for periods of, for example, six months, twelve months or two years at the discretion of the court. This, it was said, would make for greater flexibility; it would also make for better rehabilitation work, as parents would be more willing

(1) Children and Young Persons Act, 1933, section 75.
(2) Family Allowances and National Insurance Act, 1956, section 5.

to co-operate if they thought that there was a prospect of an early return of their child.

300. We think there are drawbacks to this proposal. At present a fit person order remains in force until the child attains the age of eighteen years, but it may at any time be varied or revoked on application being made to the court by any person(1). To supersede this by a power to make orders for fixed periods would, in our opinion, make the position less, not more, flexible than it is at present. Furthermore we doubt whether the court would often be in a position to foresee with any certainty the length of time that would be required in any given case and there might therefore be a tendency to make orders for a longer period than proved to be necessary. We do not think that, if the position is adequately explained at the outset, rehabilitation need necessarily be hampered because the period of committal is indeterminate, and we do not recommend any amendment of the court's powers in this respect.

301. Nor do we favour a recommendation that juvenile courts should be empowered to make interim fit person orders for offenders (as can at present be done for non-offenders). If a juvenile court is not in a position to decide what order to make in respect of a child brought before it as being in need of care or protection it may make an interim order for the child's detention in a place of safety or for his committal to the care of a fit person(2); such an order remains in force for not more than twenty-eight days and at the end of that time a further interim order may be made if it is considered necessary. If a court is uncertain how to deal with an offender it can remand him, for not more than three weeks at a time, either on bail or in custody. If remand is in custody the child is sent to a remand home. These arrangements seem to us to be quite satisfactory, and we see no need to amend them in the manner proposed.

302. Under section 84 (8) of the Act, if a local authority consider that any child committed to their care should be sent to an approved school they may apply to a juvenile court and the court may, if it thinks fit, order him to be sent to an approved school. The court is not empowered to make any other order under this section. Several of our witnesses considered that this was too limited a provision, and that the court should have power to make a supervision order if it considered that to be more appropriate to the circumstances of the case. Some thought that the court should have at its disposal all the methods of treatment that were available to it when the fit person order was made. On the other hand we received evidence from other witnesses that there was no need to increase the court's powers. We were told that local authorities were reluctant to bring back to court children who had been committed to their care, that every effort would have been made during the trial period to advise and help a child before there was any question of proceedings under section 84 (8), and that if the efforts of the local authority officers had failed it was doubtful if much would be gained from substituting supervision by somebody else.

303. We think that there is much force in these latter arguments, and that it is unlikely that a local authority would bring a child back to court

(1) Children and Young Persons Act, 1933, section 84 (6).
(2) Children and Young Persons Act, 1933, section 67 (2).

unless they were convinced that regular training under the conditions in an approved school was necessary. Nevertheless, the court must be the arbiter in these cases, and, although we think it is unlikely that the court would often consider making other than an approved school order, we do not think it should be prevented from doing so if, in a particular case, the circumstances seem to justify such a course. For this reason we are of opinion that the court, in dealing with applications under section 84 (8) of the Act, should be empowered to make any order that it could have made originally, and we recommend accordingly. Similar arrangements should apply to children brought to court by the local authority under section 65 of the Act, which relates to children who have been received into care under section 1 of the Children Act, 1948. The exercise of powers under section 65 should, we consider, be confined to cases where the parents agree to action being taken or where the local authority have assumed parental rights under section 2 of the Children Act, 1948.

304. A juvenile court is empowered, under section 84 (6) of the Act, to vary or revoke a fit person order on the application of any person. When revoking a fit person order the court may also, if application is made, substitute a supervision order for the order that is being revoked. We see no reason why the court, when revoking a fit person order, should not be empowered to substitute a supervision order whether or not application for it has been made by any other person. We recommend that a juvenile court should be empowered to make a supervision order of its own volition when revoking a fit person order, and that section 84 (6) (*b*) of the Act should be amended by deletion of the words "upon the application of any person".

305. We were informed that when application for the revocation of a fit person order was made there was no provision for notifying the original complainant, who, it was claimed, might be able to assist the court. We were given to understand that, in practice, notification was sometimes given either by the local authority children's officer (fit person orders usually name the local authority as the fit person) or by the clerk to the court; but that did not always happen, and the witnesses suggested that the law should be amended to make it compulsory for such notification to be given. We think it is good practice for the person who made the original complaint, if different from the applicant, to be notified of the pending application for revocation and to be given an opportunity of putting forward his views, but we do not consider that notification should be made compulsory. Nor do we agree with the suggestion made to us that local authorities, when acting as fit persons, should be prohibited from returning children to their homes for trial periods without a court order.

306. Before 1948 the consent of any fit person was required before an order committing a child to his care could be made. By the Children Act of that year, however, it was provided that a local authority must accept appointment as a fit person except where a probation order or supervision order is already in force or the court intends to make one at the same time as the fit person order, in which case the consent of the local authority to the making of the fit person order is still required. (Where the consent of the local authority is not required to the making of a fit person order, the court must, unless to do so would cause undue delay,

permit the authority to make representations, and must consider the representations before making the order(1).) Our attention was drawn to the fact that when a child under supervision is brought back to court the local authority's consent is required even though the court intends to substitute a fit person order for the supervision order (it is not possible to revoke the supervision order before making the fit person order). This appears to us to be an anomaly that should be corrected, and we recommend that in these circumstances the consent of the local authority should be required only when the court intends that the supervision order should continue in operation with the fit person order.

307. Some of our witnesses recommended that fit person orders should be subject to periodic review by the courts. The object of this suggestion was to enable courts to be kept advised of the progress of children committed to the care of fit persons, and to provide an opportunity for local authorities (who were usually nominated as fit persons) to give magistrates an insight into the case-work performed by the children's departments and the problems involved. It was not suggested that the court should have power to issue directions to the fit person. We are of opinion, however, that once a court has made an order committing a child to the care of the local authority it has discharged its responsibility, and local authorities must be regarded as fully responsible for children committed to their care. We were told that many courts continue to take an interest in children committed to care and that local authorities are often prepared to co-operate by furnishing reports. We think that unofficial co-operation of this kind can be of great value and is to be encouraged, but we consider that there should be no requirement for cases to be kept under review by the courts.

308. We were informed that there is at present no obligation on the parent of a child committed to the care of a fit person to notify changes of address unless a contribution order is in force(2). Witnesses recommended that it should be the duty of parents of children committed to care (or to approved schools) to notify any change of address whether or not a contribution order is in force. This seems to us to be right and we recommend accordingly. It is already required where a child has been received into care under section 1 of the Children Act, 1948(3), and helps the local authority not only to enforce payment of contributions towards the child's maintenance but also to preserve the link between parent and child.

309. Under section 76 (1B) of the Act, periods during which a child resided in a prescribed institution or in accordance with certain orders and statutory provisions are disregarded in determining a child's place of residence for the purpose of naming the appropriate local authority in a fit person order. Some witnesses suggested that the present exemptions should be extended. In our opinion, however, further exemptions would not necessarily assist the court in deciding where a particular child was resident. They would only serve to complicate provisions that are already difficult to apply and we do not think they can be justified merely for the purpose of transferring responsibility from one local authority to another.

(1) Children and Young Persons Act, 1933, section 76 (1) as amended by section 5 of the Children Act, 1948.
(2) Children and Young Persons Act, 1933, section 87 (5).
(3) Children Act, 1948, section 10 (1) and (4).

(Similar considerations apply to the exemptions, under section 70 (2) of the Act, in the case of approved school orders.)

310. Under section 85 of the Act any child under seventeen who absconds from the care of a fit person may be apprehended without warrant. We have recommended, in paragraph 170, that the jurisdiction of juvenile courts should be extended to enable them to deal with young people aged seventeen who are subject to fit person orders made before they attained that age. In line with that recommendation we recommend that the police should be empowered to detain an absconding child under the age of eighteen; and that section 85 should be amended accordingly.

311. We were informed that juvenile courts were sometimes reluctant to make a fit person order in respect of a child whose custody was already the subject of an order made by the High Court in divorce proceedings. But the fact that a child is the subject of a custody order should not preclude the right of a magistrates' court to take subsequent action in respect of the child if circumstances justify it, and in our view there is no need for legislative action on this point.

312. Some witnesses recommended that, in dealing with maladjusted or educationally sub-normal children, courts should have power to make orders for compulsory treatment in special schools for handicapped pupils instead of committing the children to the care of the local authority under a fit person order, with a view to the authority arranging suitable treatment; other witnesses were not in favour of giving courts such a power; but all drew attention to the need for more special schools. Special schools are not and, in our view, should not be regarded as places of detention, and the use of court proceedings to secure priority of admission to special schools is open to strong objection. We are of opinion that courts should not be given power to commit direct to special schools; the difficulties giving rise to this recommendation appear to result largely from the general shortage of special school places which we hope will be remedied as soon as possible.

Punitive detention in remand homes

313. Under section 54 of the Act a child who is found guilty of an offence for which an adult could be sent to prison, may, if the court considers none of the other methods of treatment to be suitable, be committed to detention in a remand home for a period not exceeding one month. This is the shortest form of institutional treatment available to juvenile courts. Section 54 re-enacted section 106 of the Children Act, 1908, which gave courts power to detain children in a place of detention instead of sending them to prison. Until detention centres were set up under the Criminal Justice Act, 1948, for young offenders who had reached the age of fourteen, detention in a remand home was the only form of detention available to juvenile courts for offenders who did not need the prolonged training of an approved school. Detention in a remand home and detention in a detention centre are alternatives: section 18 (4) of the Criminal Justice Act, 1948, provides that a court may not commit to detention in a remand home an offender who is not less than fourteen years old if a detention centre for offenders of that age has been made available to the court.

314. Several witnesses favoured an increase in the maximum period of detention in remand homes to two months or three months, and most considered that the increase should be coupled with a provision for some form of after-care (for example, earlier release on licence for good conduct). An increase in the period of detention would, we were told, give remand homes a better opportunity of reforming the young offenders committed under section 54 of the Act and would make for equality between offenders sent to remand homes and those sent to detention centres where the normal period is three months.

315. Other witnesses considered that punitive detention in remand homes should be abolished because it is incompatible with the more important responsibility of remand homes for studying offenders sent there by the courts for observation. Remand homes are primarily places where untried children are sent for safe custody and where children found guilty by the courts are sent for observation. They are not large establishments and it can seldom be practicable to segregate those sent for punishment from the rest or even to make any great distinction between the treatment given to the two groups.

316. The following statistics show the extent to which detention in remand homes as a punishment is used by the courts.

Detention under section 54 of the Children and Young Persons Act, 1933 (*All offences*)

Year	Age Group		Total
	8 and under 14	14 and under 17	
1950	623	317	940
1951	626	336	962
1952	615	354	969
1953	357	212	569
1954	403	175	578
1955	350	182	532
1956	308	105	413
1957	400	146	546
1958	503	158	661
1959	469	181	650

317. We consider that there are exceptional cases where punitive detention is the appropriate treatment, and would exemplify the case where a probationer commits another offence during a period of supervision, in circumstances that indicate that further supervision may ultimately prove beneficial. Detention centres are not yet generally available and do not provide for those under fourteen years of age. We received no evidence that orders made under section 54 of the Act were made inappropriately and the statistics indicate that the section has been used sparingly, and, we believe, with discretion. We therefore recommend that the existing power to order detention in a remand home within a maximum of one month should be retained, and should be available in cases of " protection or discipline ", subject, however, to the existing restriction, that is, that the court considers that no other method of treatment is suitable. We do not consider that this method of treatment is appropriate where residential training is required.

Detention centre orders

318. Detention in a detention centre is the second of the new forms of treatment for young offenders introduced by the Criminal Justice Act, 1948. Under section 48 (1) of that Act(1) the Secretary of State is empowered to provide detention centres where persons who have attained the age of fourteen but not the age of twenty-one, and who have been found guilty of an offence for which an adult could be sent to prison, may be detained for short periods under suitable discipline. Four centres have so far been set up: two for boys aged fourteen and over but under seventeen and two for youths aged seventeen and over but under twenty-one. They are administered by the Prison Commissioners. The two junior detention centres are at Campsfield House, Kidlington, Oxfordshire, available to courts in London and some midland and southern counties, and at Foston Hall in Derbyshire, available to courts in some of the midland and northern counties.

319. We were told that the existing detention centres were fully used by the courts and that vacancies were not always available. We understand that the number of detention centres is to be increased in the near future and we hope that it will then be possible to make one available to every court and to have enough accommodation for all the offenders the courts are likely to commit.

320. The purpose of the centres is to provide a method of treatment for young offenders who do not require a prolonged period of institutional training of the kind provided by approved schools and borstals, but with whom milder measures have failed or are inappropriate. The régime is brisk with strict discipline and close supervision. The normal term of detention is fixed by statute at three months(2). Courts that have been notified that a detention centre for boys aged fourteen or over but under seventeen is available to them may not commit boys of that age to detention in a remand home under section 54 of the Children and Young Persons Act, 1933.

321. We have considered whether there is any need to alter the court's powers to commit young persons to detention centres. Some of our witnesses recommended that courts should have a general power to order detention from a minimum of one month up to a maximum of six months in special circumstances.

322. Although the normal period of detention is three months, there are certain circumstances in which a court can commit for a longer period. When a boy is found guilty of a non-indictable offence, and the maximum term of imprisonment that can be imposed for the offence exceeds three months—for example, driving while disqualified—and the court is of opinion, having regard to any special circumstances, that three months' detention would be insufficient, detention for not more than six months or for the maximum term of imprisonment, whichever is the shorter, may be imposed. But, by virtue of section 20 (5) of the Magistrates' Courts Act, 1952, a magistrates' court may not impose more than three months' detention on a boy under seventeen years of age found guilty of an indictable offence. The distinc-

(1) Now the Prison Act, 1952, section 43.
(2) Criminal Justice Act, 1948, section 18.

tion between the penalty that can be imposed for the two kinds of offence is an anomaly that should be removed.

323. Most of the boys committed to a detention centre are committed for three months and the programme has been devised to suit them. We think it would be difficult to cater effectively at the same time for a minority committed for much longer or much shorter periods. Furthermore, we are of opinion that if a longer period of detention is imposed on a young person, it should be associated with more positive remedial training than is provided at a detention centre. In our view it would be preferable to fix three months as the maximum period of detention for any offence for which imprisonment could otherwise be imposed. We appreciate that in expressing this opinion we differ from the recommendation made by the Advisory Council on the Treatment of Offenders in respect of youths between the ages of seventeen and twenty-one(1) but the considerations which the Council had to take into account (for example, the replacement of terms of imprisonment for six months or less) have not the same force when related to young persons under the age of seventeen.

324. In certain circumstances the period of detention ordered by the court may be less than three months. If the maximum term of imprisonment that could be imposed for the offence is less than three months the period of detention must be equal to that maximum term of imprisonment. If the offender is of compulsory school age and the court is of opinion that three months' detention (or the maximum term of imprisonment that could otherwise have been imposed, if less) would be excessive, the court may order a period of less than three months' but at least one month's detention(2). The latter provision was included in the Criminal Justice Act, 1948, because it was thought that three months would be too long an interruption of an offender's ordinary education (though we were informed that full-time schooling is provided at the centres for boys of school age). We were told that the power to order less than three months' detention was not much used and we accept the view that in order to obtain the best results from detention centre treatment uniformity in the lengths of sentences is desirable. We therefore consider that the provisions referred to above should be revoked.

325. We recommend that for offenders aged fourteen and over but under seventeen there should be a standard period of detention of three months.

326. The absence of provision for compulsory after-care following a period of detention in a detention centre is considered by many to be a weakness in the present law. All the organisations that submitted evidence to us about detention centre treatment recommended that a period of compulsory after-care should be provided ; and those who recommended that the maximum period of detention should be increased coupled their recommendations with a proposal that where more than three months' detention was ordered there should be provision for release on licence on completion of that period.

327. Where a boy is found guilty of more than one offence it has been fairly common practice for courts to make provision for after-care by

(1) Report on the Treatment of Young Offenders (H.M.S.O.—1959).
(2) Criminal Justice Act, 1948, section 18 (1) (*a*) and (*c*).

making a probation order in respect of one offence while at the same time sentencing him to detention on another. But courts are now precluded from adopting this expedient as a result of the decision of the Court of Criminal Appeal in the case of *R.* v. *Evans*(1) in which it was held that a probation order should not be made against an offender at the same time as an order for detention, even though the orders were made on different charges.

328. The problem of after-care for youths between the ages of seventeen and twenty-one has been considered by the Advisory Council on the Treatment of Offenders, and in their report(2) they have recommended that sentences of detention in a detention centre should be followed by a period of statutory after-care. Twelve months was considered to be a reasonable period in which to build up a satisfactory relationship between the offender and his supervisor, and the Council recommended that after-care should normally be for a period of twelve months from the date of release, but that there should be a compulsory review after six months, and that if the supervisor considered it justified he should make a recommendation for discharge.

329. Hitherto the main obstacle to compulsory after-care has been the difficulty of finding a sanction. Under the Advisory Council's recommendation the sanction for misbehaviour during after-care would be recall to the detention centre to serve the unexpired portion of the period of detention. This sanction, which would amount to two weeks if the period of detention were for three months (remission is earned at the rate of one sixth), is admittedly small; but the Advisory Council were given to understand that young people much disliked having to return to detention even for such a short period and that, in fact, the sanction of recall was hardly ever needed for youths who had served sentences of three or six months imprisonment. The Council concluded that the sanction would prove to be adequate.

330. We endorse these views and recommend that compulsory after-care with similar provisions should be introduced for boys under seventeen. We further recommend, for the reasons accepted by the Advisory Council on the Treatment of Offenders (namely that there may be occasional cases in which there appears to be no need to make provision for statutory after-care) that the power to release on licence should be at the discretion of the Prison Commissioners.

Approved school orders

331. A child may be committed to an approved school because he has been found guilty of an offence punishable in the case of an adult with imprisonment, or because he is in need of care or protection, or beyond parental control, or fails to attend school regularly, and is judged to need removal from home for a fairly long period of education and training(3).

332. A child may also be committed to an approved school if he is brought back to court "in his own interests" while under supervision by a probation officer or some other person, or if he absconds from the care of a fit person(4).

(1) 3. All E.R. [1958] 673.
(2) Report on the Treatment of Young Offenders (H.M.S.O.—1959).
(3) Children and Young Persons Act, 1933, sections 57 (1), 62 (1) and 64.
(4) Children and Young Persons Act, 1933, sections 66 (1) and 85 (1).

333. A local authority may apply to a juvenile court for an order to commit to an approved school (*a*) a child in their care under the Children Act, 1948, if they consider that he is refractory and (*b*) a child committed to their care as a fit person, if they think tnat he ought to be committed to an approved school(1).

334. A child under the age of ten may not be committed to an approved school unless for any reason, including the want of a fit person of his own religious persuasion who is willing to undertake the care of him, the court is satisfied that he cannot suitably be dealt with otherwise(2). No person who has reached the age of seventeen may be committed to an approved school.

335. Where a court has been notified that a classifying approved school is available, the court is required to send the child first to the classifying school (unless there is a special reason for not doing so), where he will be assessed and allocated to a suitable training school(3). The Secretary of State has power to transfer a child from one approved school to another(4).

336. The period for which a child may be legally detained in an approved school is not determined by the court but is governed by the provisions of the statute.

337. A child under the age of twelve years and four months at the date of committal may be kept in an approved school until he reaches the age of fifteen years and four months; if he has reached the age of twelve years and four months he may be kept in a school until the expiry of three years from the date of committal or until he reaches the age of nineteen, whichever is the shorter period(5). The school managers are under an obligation to review the progress of each child in their school towards the end of the first year of detention and thereafter as often as may be necessary, and at least quarterly, with a view to releasing him on licence as soon as he is fit to go out(6); licensing within the first year requires the consent of the Secretary of State(7). Most boys and girls are released on licence before the end of the permissible period of detention and on release they are subject to the managers' after-care during the periods of licence and supervision. The period of licence is the unexpired portion of the period of detention, during which the boy or girl may be required to return to the school if necessary. The period of supervision lasts for three years more or until the age of twenty-one, whichever is the shorter period; during that time the managers have power to recall the boy or girl but only for a limited stay.

338. One important question put before us by some witnesses was whether courts should continue to have power to commit children to approved schools. Several recommended that the courts should have power to decide only that a child needed to be removed from home. If so, the court would

(1) Children and Young Persons Act, 1933, sections 65 and 84 (8).
(2) Children and Young Persons Act, 1933, section 44 (2).
(3) Children and Young Persons (Amendment) Act, 1952, section 6.
(4) Children and Young Persons Act, 1933, Fourth Schedule, paragraph 9 (1).
(5) Children and Young Persons Act, 1933, section 71, as amended by section 71 of the Criminal Justice Act, 1948.
(6) Rule 40 (1) of the Approved School Rules, 1933, as amended by the Approved School Rules, 1949.
(7) Children and Young Persons Act, 1933, Fourth Schedule, paragraph 6 (1).

commit him to the care of the local authority under a fit person order. The local authority would then assess the child's needs and arrange for what they considered to be the best form of treatment (approved school, special school for educationally sub-normal or maladjusted children, boarding out, local authority children's home, etc.).

339. Those in favour of transferring the power of disposal to the local authority argued that it would give greater freedom of choice to an authority (the children's authority) that had special knowledge of children's needs and of the local facilities: approved school training would be one of several forms of treatment available for all children removed from home: transfer difficulties would be lessened: trial periods at home or in other services would be easily secured: parents would be able to apply for revocation of the order and the stigma that attached to committal to an approved school would be removed or reduced: children who were refractory under other forms of treatment could be placed in approved schools without reference to the court: uniform arrangements for after-care would be possible.

340. We have considered this suggestion and have reached the conclusion that it would not be wise to extend the local authority's powers of disposal, under a fit person order, to include committal to an approved school.

341. We are not convinced that individual county and county borough councils are better equipped than juvenile courts to decide whether a child brought before the court needs long-term training and education in residential conditions affording a measure of discipline, or some more open form of treatment. Nor do we think that individual local authorities would often have means of making a reliable choice of school when they had decided that compulsory residential training was appropriate. Approved schools provide a necessary form of treatment for young offenders and others whom it is inappropriate to deal with by other methods. Residence in an approved school involves considerations affecting the liberty of the subject, and we think it important that a decision to commit a child to an approved school should be taken, and be seen to be taken, by a judicial body which could not be said to have been influenced by administrative considerations. Again, the admission, at the discretion of local authorities, of children who have been received into care to establishments providing compulsory training would be alien to the conception of "reception into care" under the Children Act, 1948. Such children come into care with the consent of their parents, who can take them out of care at any time (unless the local authority have by resolution(1) assumed parental rights and powers). For the local authority to be able to place such children with those (mostly offenders) who have been removed from home by order of a court so that they may receive compulsory residential training would in our view be inappropriate, and would be opposed by many parents of children in care. If a local authority find that a child received into their care is refractory and requires approved school training, or that a child committed to their care should be sent to an approved school, they may bring him before a court with a view to an approved

(1) Under section 2 of the Children Act, 1948.

school order being made(1); while we suggest some modifications of these provisions in paragraph 303, we consider that they are right in principle, and that it should be for the court to decide whether a child in care should be placed in an approved school.

342. We consider that it is highly desirable that magistrates should explain clearly to parents and children the effect of an approved school order. We believe that it is the accepted practice in many courts to hand to the parents and children a leaflet setting out the position supplemented sometimes by an oral explanation. This is in accord with what we have already said about forms generally (paragraph 187); the giving of both documentary and oral explanation is a practice that should be encouraged and one that should be followed by all courts, although we do not consider, as did some of our witnesses, that it should be made a statutory duty.

343. We have recommended, in paragraph 170, that the power of a juvenile court to commit to an approved school should be extended to young people under eighteen years of age who are subject to supervision or fit person orders made before they attained the age of seventeen. Apart from this we consider that there should be no amendment to the present law under which no person who has reached the age of seventeen may be committed to an approved school on first committal.

344. The duration of approved school orders and the questions of licence, supervision and after-care are discussed in chapter 8 dealing with the approved school system. We deal below with other matters that were raised with us.

345. Section 70 (2) of the Act provides that an approved school order must name the local authority within whose district the child was resident, or if that is not known, the local authority or one of the local authorities within whose district the offence was committed or the circumstances arose rendering him liable to be sent to an approved school, and section 90 (1) provides that the local authority named in the order shall be required to contribute to the expense of keeping the child in the school. Under section 90 (2) of the Act a local authority named in an approved school order can appeal on the ground that the person to whom the order relates was resident in the district of some other local authority or was resident outside England. Many of our witnesses referred to the absence of a provision for appeal on the ground that the child's place of residence was not known. We recommend that this acknowledged defect in the law should be cured, and that a local authority named in an approved school order should be enabled to appeal on the ground that the child's place of residence is not known and that the local authority to be named should be the one in whose district the offence was committed or the circumstances arose rendering him liable to be sent to an approved school.

346. When making an approved school order, the court is required, if it has been notified that a classifying school is available, to name the classifying school in the order, unless in a particular case the court considers that for some special reason it is undesirable to send the child to a classifying school; in such a case the court may specify some other approved school,

(1) Children and Young Persons Act, 1933, sections 65 and 84 (8).

provided the reasons for so doing are stated in the order and provided the managers of the approved school in question are willing and able to receive the child concerned(1). The Home Office suggested that the power to decide to which approved school, if other than a classifying school, a child should be sent, should be transferred from the court to the Secretary of State, on the ground that ordinarily no individual court could be expected to have the requisite knowledge of the resources of the approved school system to enable the best choice of school to be made, and that it was the usual practice in such a case for the Home Office to be consulted and asked to recommend a suitable school. We were told also that in the case of persons sentenced to imprisonment or borstal training, the court did not select the prison or borstal institution ; nor, in the case of children committed to the care of a local authority, was the court concerned in the choice of a children's home or foster home. We consider that there may be occasions when a court has the requisite knowledge and has adequate reasons for recommending that a child should go to a particular school, and we recommend that the law should be amended to provide that, when sending a boy to a classifying school, the court should be enabled to indicate, in a special case, the training school to which it would like the boy to be sent, stating the reasons. Such a request should be considered by the classifying school authorities who should be required to notify the court if for any reason they decided that the recommendation should not be complied with. Where for any reason the child is not sent to a classifying school, the choice of training school should rest with the Secretary of State, who should be required to take into account any recommendation that the court might make.

347. Under section 68 (3) of the Act, the parent of a child committed to an approved school may apply to have him removed to an approved school for persons of his religious persuasion, provided he can name such a school and show that accommodation is available there. The Home Office expressed the view, with which we agree, that this proviso was inapposite, in that it demanded a detailed knowledge both of the child's needs and of the training schools available which no ordinary applicant could be expected to have. We recommend that the section should be amended to provide more simply that the applicant's request should be complied with if it is reasonably practicable.

348. A child who has been committed to an approved school may, for reasons of health for example, be sent home instead of to a remand home pending admission to the school. Section 72 (4) of the Act provides that any person who harbours or conceals a child after the time has come for him to be sent to the school is liable to be fined or imprisoned or both. But if that person still refuses to send the child to the school there appears to be no power under the Act to enable the police to enter and apprehend the child. We think it would be an advantage if the section could be strengthened by the inclusion of powers of entry and arrest in order to meet such an eventuality.

349. When a child is committed to an approved school the rights and powers of a parent are vested in the school managers(2) ; when a child is

(1) Children and Young Persons (Amendment) Act, 1952, section 6.
(2) Children and Young Persons Act, 1933, Fourth Schedule, paragraph 12 (1).

committed to a local authority as a fit person parental rights are vested in the local authority(1). Unless previously revoked a fit person order remains in operation until the child in respect of whom it is made attains the age of eighteen. We were told that, because the approved school order did not extinguish the earlier order, an anomalous position arose when a child who was the subject of a fit person order was committed to an approved school during the currency of the fit person order; and it was suggested to us that, in order to clarify the position and resolve doubts as to responsibility, the law should provide that when an approved school order was made in such circumstances, the fit person order should cease to have effect. But we think that there may well be an advantage in keeping the fit person order in being. We are of opinion that the approved school order should supersede but not terminate the fit person order, which should revive if the approved school order comes to an end before the child reaches the age of eighteen. In order to clarify the position, we recommend that the legislation should provide accordingly. It is of course open to anyone, including the fit person, to apply to the court at any time for the fit person order to be revoked(2).

Borstal training

350. The borstal system was established under the Prevention of Crime Act, 1908, to provide suitable training for adolescents in conditions other than those in prison.

351. A person who has attained the age of sixteen but not the age of twenty-one may be sentenced to borstal training if convicted of an offence punishable with imprisonment, where the court is satisfied, having regard to his character and previous conduct and the circumstances of the offence, that he should undergo such training. A magistrates' court is not, however, empowered to pass a sentence of borstal training (except where the charge is that of absconding from an approved school or serious misconduct while in such a school) but must commit the offender to quarter sessions for sentence to be imposed by the higher court if it agrees(3).

352. No period is specified in a sentence of borstal training, but it is in effect a period of four years' training of which not less than nine months and not more than three years may be spent in an institution, the balance of the period being in controlled freedom under supervision(4). The Advisory Council on the Treatment of Offenders have recommended that the present scheme of borstal training should be modified to provide that a period of six months to two years is spent in detention followed by after-care for two years from the date of release(5).

353. Several of our witnesses recommended that juvenile courts should have power to order borstal training in order to avoid the need for a young person to be detained in prison, often for quite long periods, while waiting for the next sitting of quarter sessions (or the appeal committee of quarter sessions). We agree with this view.

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(1) Children and Young Persons Act, 1933, section 75 (4).
(2) Children and Young Persons Act, 1933, section 84 (6).
(3) Criminal Justice Act, 1948, section 20 as amended by section 28 of the Magistrates' Courts Act, 1952; Criminal Justice Act, 1948, section 72.
(4) Criminal Justice Act, 1948, Second Schedule.
(5) Report on the Treatment of Young Offenders (H.M.S.O.—1959).

354. Before committing any person with a view to a sentence of borstal training the court must obtain and consider a report from the Prison Commissioners on the offender's physical and mental condition and his suitability for borstal training. We think it is most undesirable that, under the existing procedure, after all the necessary enquiries have been made, young persons should be detained in custody (at present in prison, but in a remand centre when such centres become available) for periods which in some cases have lasted as long as twelve weeks.

355. Those who are opposed to granting to magistrates' courts generally power to commit to borstal training consider that it would not be appropriate for them to have power to deprive persons of their liberty for periods of this nature. But juvenile courts, and ordinary magistrates' courts when dealing with children under seventeen, already have power to commit to approved schools for periods that may be as long as three years or more. Moreover juvenile courts obtain detailed reports on a child before deciding the form of treatment that is considered appropriate; these reports are undoubtedly more comprehensive than those commonly obtained in respect of offenders over seventeen years of age.

356. No order removing a child from his home should be made unless the court has received and considered full reports on the child's personal and social history, including medical and, where necessary, psychiatric reports. If these conditions are observed we consider that juvenile courts are fully competent to order borstal training. In fact it would seem that in the large majority of cases (approximately eighty per cent. in 1958) submitted to quarter sessions under section 28 of the Magistrates' Courts Act, 1952, in respect of offenders aged sixteen, the higher court takes the same view as the summary court.

357. In all the circumstances we recommend that, in dealing with a young person who has attained the age of sixteen years, a court of summary jurisdiction should be empowered to order borstal training, subject, of course, to obtaining a report from the Prison Commissioners as mentioned in paragraph 354 above. Further reference is made to this matter in paragraphs 499 to 505 dealing with the relation between approved schools and borstal institutions.

Imprisonment

358. Under section 17 of the Criminal Justice Act, 1948, no court may impose imprisonment on a person under the age of fifteen and imprisonment may be imposed on a person under the age of twenty-one only if the court is satisfied that no other method of dealing with him is appropriate; no magistrates' court may impose imprisonment on a person under the age of seventeen(1). (The Criminal Justice Act, 1948, contemplated that eventually magistrates' courts should be prohibited from imposing imprisonment on persons under the age of twenty-one when adequate alternative methods of treatment became available(2).)

359. Offenders under the age of seventeen are usually dealt with summarily, consequently we received little evidence on the subject of

(1) Magistrates' Courts Act, 1952, section 107 (2).
(2) Now Magistrates' Courts Act, 1952, section 107 (4).

imprisonment, but the little that we did receive, which we endorse, was in favour of further curtailment of the courts' powers to impose it.

360. Very few young persons are committed to prison as a method of treatment or punishment (ten in 1957, fifteen in 1958 and thirty-two in 1959). If the system of detention centres is developed so that centres are available to all areas of the country, we believe that this provision, together with the other methods of treatment open to the courts, should afford adequate means for dealing with all offenders under the age of seventeen without recourse to the imposition of imprisonment. In that event we recommend that, for this age group, courts should be prohibited from imposing imprisonment.

361. Section 53 of the Children and Young Persons Act, 1933, provides that when a child has been found guilty on indictment of attempted murder, manslaughter or wounding with intent to do grievous bodily harm, the court may, if it is of opinion that no other method by which he may legally be dealt with is suitable, order him to be detained for a specified period in such place and under such conditions as the Secretary of State may direct. We do not recommend any alteration of this provision. In practice, such offenders usually begin their period of detention in an approved school or a borstal institution, or in a part of a prison set aside for young offenders.

Supervision orders

362. A child found by a court to be in need of care or protection, or beyond the control of his parent, or not attending school regularly may be placed under the supervision of a probation officer, or of some other person appointed for the purpose by the court (for example, a children's officer), for a period not exceeding three years. The court may also, upon application, make a supervision order when an order committing a child to the care of a fit person is revoked. We have recommended in paragraph 282 that supervision should replace probation for children under fourteen found guilty of offences.

363. A supervision order, like a probation order, may contain such requirements as the court thinks necessary, including requirements as to residence or to treatment for mental condition. The consent of the parent is required to the making of a supervision order when a child is found to be beyond parental control (section 64 of the Act). Otherwise consent to the making of a supervision order is not required, except that an order containing a requirement of residence or treatment for mental condition may not be made in the case of a young person over fourteen unless he consents(1). Under our proposed new " protection or discipline " procedure we recommend that the consent of a parent to the making of an order in a " beyond control " case should no longer be required—see paragraph 134.

364. It is not necessary (as it is under a probation order) for a breach of a requirement of a supervision order to have occurred before the child who is the subject of the order can be brought back to court; until he reaches the age of seventeen he can be brought back to the juvenile court at any time if it appears to the supervising officer that this is necessary in

(1) Children and Young Persons Act, 1938, section 4, as amended by the Criminal Justice Act, 1948.

his interests The court may then, if it sees fit, commit the child to an approved school or to the care of a fit person(1).

365. As the law stands, there is no way in which a supervision order can be enforced once the child concerned has reached the age of seventeen. But the supervision order may last well beyond the seventeenth birthday, and we have discussed, in paragraph 170, the resultant difficulty that faces supervising officers in dealing with some of the young people for whom they may be responsible to the age of eighteen or nineteen, or, in some cases, nearly twenty. We have recommended that the power of the juvenile court under section 66 (1) of the Act should be extended to enable it to deal with young people up to eighteen years of age who are the subject of supervision orders made before they attained the age of seventeen. If the juvenile court's powers were extended in this way, there would still be no effective means of enforcing orders in respect of those who have attained the age of eighteen. In these circumstances it seems to us that there is little point in keeping a supervision order in being beyond that date. We recommend, therefore, that supervision orders should, like fit person orders, terminate when the age of eighteen is reached. Undoubtedly many young people over eighteen would still stand in need of the guidance that could be given by a supervising officer, but those most in need of supervision are those who are least likely to be co-operative and most likely to take advantage of the fact that there is no obligation on them to be so. We can see no reason, of course, why supervision beyond the statutory limit should not be continued on a voluntary basis if the person supervised desires it.

366. When a child who is the subject of a supervision order is brought before a juvenile court in his own interests, as provided in section 66 (1) of the Act, the court may, if it thinks fit, commit the child to an approved school or to the care of a fit person. But there is no power in this section for the court to vary the requirements of the order ; before they can do so there must be a separate application. The position is analogous to that dealt with in paragraph 283 relating to the amendment of probation orders, and we recommend that when a child is brought back to court under section 66, the court should be empowered to amend the supervision order without further process if it wishes to continue the supervision.

367. We were told that some children who did their best to comply with the requirements of a supervision order failed because their parents would not co-operate ; in such circumstances it was thought that when the child was brought back to the court it might be appropriate to require the parents to enter into a recognisance to exercise proper care and guardianship ; but, as the law stood, the court had no power to make such an order. We see no reason why the court, if it wishes to make another order, should be restricted to committing the child to an approved school or to the care of a fit person, and we recommend that section 66 of the Act should be further amplified to give the court power to make any order that it could have made when the supervision order was made.

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(1) Children and Young Persons Act, 1933, section 66 (1).

368. A supervision order places a child who is in need of care or protection " under the supervision of a probation officer, or of some other person appointed for the purpose by the court "(1). That is, the supervisor is a named person. A probation order puts an offender " under the supervision of a probation officer appointed for or assigned to " the petty sessional division named in the order(2). Some witnesses said that there was little merit in obliging the court to name the individual probation officer when making a supervision order, and suggested that it should be sufficient to name in the order the petty sessional division in which the child resided, as was done in a probation order. Where supervision is carried out by a probation officer we think there is much to be said for assimilating the machinery of supervision orders to that of probation orders. But it would not be appropriate where some one other than a probation officer, who is an officer of the court, is appointed (for example, a children's officer or child care officer of a local authority or, perhaps, a private individual); clearly in such case the existing arrangements would have to stand. We believe, however, that a probation officer is usually the person named in the order; and we consider there is justification for modifying the existing arrangements. We therefore recommend that, where the court desires to place a child under the supervision of a probation officer, instead of naming a specific officer it should be required to name in the order the petty sessional division in which the child to be supervised will reside. In these cases the procedure for transferring the court's powers of amendment and review of supervision orders when the child moves from one petty sessional division to another could be assimilated to that for probation orders and, if necessary, it would be possible to arrange for transfer of supervision if the child concerned were to move to Scotland—as can already be done in the case of probation orders(3).

369. We have said, in paragraph 363, that a supervision order in respect of a young person may not include a requirement of residence or mental treatment unless the young person concerned consents. Some witnesses considered that it should no longer be necessary for the court to obtain a young person's consent where such a requirement is included. But it may be that a young person who has expressly given his consent will be less likely to show resentment; and the need to obtain the young person's consent may serve to remind magistrates, if a reminder is necessary, of the importance of discussing fully with him all that is involved in the making of a supervision order.

370. We were informed that if a court wished to make a supervision order containing a requirement of residence, or wished to amend an existing order by adding such a requirement, and a vacancy was not available at the time when the child was before the court, it was necessary to adjourn until the vacancy occurred; it was not lawful to make or amend the order until the vacancy was available. We consider that it is unnecessary for a child to make more than one appearance before the court in these circumstances, and are of opinion that, provided the decision to impose

(1) Children and Young Persons Act, 1933, section 62 (1) (*d*).
(2) Criminal Justice Act, 1948, section 3 (2).
(3) Criminal Justice Act, 1948, section 9, as substituted by the Criminal Justice (Scotland) Act, 1949; and Criminal Justice (Scotland) Act, 1949, section 7.

the requirement has been taken and the place of residence has been named, the court should have power to make the order and bring the requirement into force by an endorsement at a later date (as can be done in the case of an approved school order(1)), without requiring the child to appear again in court. We think, however, that a requirement of residence should not be made unless the court knows that the facilities are available or will shortly be available. We therefore recommend that it should be lawful to bring a requirement as to residence into force by endorsement of the order but only if the endorsement is made within three weeks of the making of the order.

371. One body of witnesses proposed that the court should have power to make interim supervision orders; such orders would be referred back to the court for review at the end of the interim period. We see little point in this recommendation. It seems to us to be an unnecessary complication, as there is already power to bring a child who is the subject of a supervision order back to court at any time if it is considered necessary in his interests.

372. Another suggestion made to us was that, instead of making certain children the subject of supervision orders, juvenile courts should have power to make them "wards of court". The intention of this proposal was to enable the court to order somewhat different forms of treatment for those children who were deemed to be in need of care or protection (*a*) as a result of anti-social behaviour of their own volition, and (*b*) as a result of the acts of others. We were told that the making of a supervision order usually implied that the subject of the order, or his parents, was called upon to make some active reformative effort. For children falling in category (*b*) above, where they were not made the subject of fit person orders, or where the defaulting adult in the case was placed on probation or otherwise dealt with, the court might consider it desirable to ensure some oversight of, and a measure of protection for, the child concerned, without proceeding to make a supervision order. It was suggested that there should be power to make the child a ward of the court for a period not exceeding three years; that the court should appoint an agent to act on its behalf (a probation officer or some other person), whose duty it would be to visit the child and to report as required; that it should be the duty of the agent to befriend the child and have regard to his well-being; that the court should have the power to direct where and with whom the child should reside; and that the court should also have power at any time during the currency of the order to substitute any other order that it could have made when the child was first before it.

373. The person appointed by the court to supervise a child under a supervision order is required to "visit, advise and befriend him . . ."(2) and we are of opinion that it is not necessary to make further provision of the kind envisaged; it seems to us that a supervision order, used if necessary in conjunction with a fit person order, is sufficiently elastic to cover the types of case that the witnesses had in mind. While, therefore, we appreciate the reasons that have prompted the making of this proposal, we do not recommend its adoption.

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(1) Children and Young Persons Act, 1933, section 69.
(2) Children and Young Persons Act, 1933, section 66 (1).

Contribution orders

374. Where a child has been received into care under the Children Act, 1948, or an order has been made committing him to the care of a fit person or sending him to an approved school, the child's parents are liable to make contributions in respect of him until he reaches the age of sixteen: a child who has attained the age of sixteen and is in full-time remunerative employment is liable to make contributions in respect of himself(1).

375. At present parents are considered to be liable to contribute towards the maintenance of a child committed to an approved school from the date when the child is actually admitted to the school. Several of our witnesses recommended that parents should be liable from the date of the approved school order and should therefore be liable to contribute in respect of the period spent by the child in a remand home awaiting admission to an approved school. We do not accept this recommendation; in our view no contribution should be levied from the parents until the approved school order actually comes into operation, that is until the child is in the charge of the managers of a school. Likewise we are opposed to the recommendation that parents should be liable to contribute in respect of the time spent by a child in a remand home or other place of safety while enquiries are being conducted on behalf of the court, prior to committal to care or to an approved school.

376. Some witnesses recommended that the liability of parents to make contributions should be extended to those cases where children were committed to one month's punitive detention in a remand home (under section 54 of the Act), but we consider that there is little merit in providing for parental contributions to be made in respect of such a short period.

377. One body of witnesses pointed out that although, under the present law, children did not become liable to contribute in respect of their own maintenance until they had attained the age of sixteen years and were in full-time remunerative employment, some young persons of fifteen years of age were in full employment and earning substantial wages; because of this they recommended that the legislation should be amended to provide that young persons should become liable to contribute to their own maintenance once they had reached the upper limit of compulsory school age. We do not favour this proposal. Any lowering of the age at which a child becomes liable to make contributions would entail a corresponding revision of the parents' liability, and often nothing would be gained; moreover, the existing requirement is in accord with the National Assistance Act, 1948, under which a child becomes responsible for his own maintenance when he attains the age of sixteen and at that age becomes eligible to draw national assistance if required. The period between the compulsory school leaving age and sixteen is in any case quite short and there is an increasing tendency for children to remain at school longer; there is the prospect too of the school leaving age being raised to sixteen eventually.

378. A contribution order may be made at the time when a child is committed to the care of a fit person or to an approved school, or at any later time. When a child is received into care under the Children Act,

(1) Children and Young Persons Act, 1933, section 86; Children Act, 1948, sections 23 and 24.

1948, no court order is involved and any court order can only be sought later. Contributions may be the subject of an agreement between the local authority and the parents and contribution orders are often applied for only where parents default on their payments under an agreement. There is at present no power to make a contribution order with retrospective effect and witnesses pointed out that many parents escaped their liabilities, and considerable sums were lost in respect of periods before the making of contribution orders.

379. We consider that local authorities should be enabled to recover outstanding payments due to them, and we agree with the proposal that courts should be given power to make contribution orders with retrospective effect—as they can under section 43 of the National Assistance Act, 1948, in the case of orders for the recovery of the cost of national assistance from persons liable for maintenance. As a matter of general practice we think it is undesirable that parents should, on the making of an order, be faced with the payment of an unduly large amount of arrears and the amount of retrospection should not, therefore, be unlimited.

380. We recommend that courts should be given power to make contribution orders with retrospective effect, subject to a maximum of six months' retrospection, and that additionally, courts should be enabled to make an order in respect of a period when a child was in care, even though he is no longer in care, provided that application for the order is made within six months of the date of ceasing to be in care. In the latter case the maximum period of six months' retrospection would count from the date when the child ceased to be in care. Local authorities should make every endeavour to make their applications to court as expeditiously as possible in order to avoid unnecessary accumulation of arrears.

Truants

381. When a child is brought before a juvenile court under the provisions of section 40 of the Education Act, 1944(1), for the purpose of securing his regular attendance at school, the court may make any order which it " has power to make under section 62 of the Children and Young Persons Act, 1933, in the case of children and young persons in need of care or protection who are brought before it under that section ". We were told by some witnesses that an order made in these circumstances might continue in force when the purpose for which it was made no longer applied ; any order for securing regular attendance at school should, in their opinion, terminate not later than six months after the child had reached school leaving age. It seems to us, however, that in these cases, as in others, the court should have regard to the whole welfare of the child. Truancy is often a symptom of a more general disturbance, and it would often be against the child's interests to restrict the powers of the court. For these reasons we consider that a court should be able to deal with a truant in the same way as with a child in need of care or protection (" protection or discipline " under our proposed new procedure). (We note that under section 40 (1) of the Education Act, 1944, a parent who fails to secure his child's regular attendance at school is liable in the case of a first offence to a fine not

(1) As amended by the Education (Miscellaneous Provisions) Act, 1948, and the Education (Miscellaneous Provisions) Act, 1953.

exceeding £1, in the case of a second offence to a fine not exceeding £5, and in the case of a third or subsequent offence to a fine not exceeding £10 or to imprisonment for a term not exceeding one month, or both. In view of the change in monetary values, it seems to us that the pecuniary penalties are too low.)

382. Section 40 (4) of the Education Act, 1944 (as amended), empowers a local education authority to bring a truanting child before a juvenile court without first prosecuting his parent for failing to secure his regular attendance at school. We commend the use of this provision in suitable cases and recommend that the subsection be widened so as to apply to a child in respect of whom a school attendance order has been made but who has not become a registered pupil at a school by reason of his parents' non-compliance with such order.

Corporal Punishment

383. In the evidence that we received only one body urged that corporal punishment should be re-introduced. No other witness argued either in favour of it or against it. As a result of recent interest in Parliament and the Press in corporal punishment as a judicial penalty, particularly in relation to crimes of violence, the question is now a matter of separate enquiry by the Advisory Council on the Treatment of Offenders, who have been asked to consider "whether there are grounds for re-introducing any form of corporal punishment as a judicial penalty in respect of any category of offences and of offenders".

CHAPTER 7

The Remand Home System

The present system

384. The Youthful Offenders Act, 1901, enabled courts to remand a child to the care of any fit person willing to receive him instead of committing him to prison; and the Children Act, 1908, required police authorities to provide "places of detention" for juveniles remanded in custody. Under the Children and Young Persons Act, 1933(1), county and county borough councils were required to provide remand homes for their areas (situated within or without the area), but could make use of existing places of detention where suitable. A council may itself establish a remand home, or join with other councils in so doing, or may arrange with the occupiers of any premises other than a prison to use them for this purpose.

385. Remand homes are provided for the safe custody of children:—

(*a*) who are charged with offences and are not released on bail pending their appearance before a court(2);

(*b*) who require to be lodged in a "place of safety"; these are usually children alleged to be in need of care or protection, or beyond control, who are detained pending consideration of their cases by a court(3);

(1) Section 77.
(2) Children and Young Persons Act, 1933, section 32 (2).
(3) Children and Young Persons Act, 1933, sections 40 (1) and 67 (1).

(*c*) between sittings of the court while the case (including a case in which a finding of guilt has been made) is adjourned for enquiries to be completed or reports to be obtained(1);

(*d*) while detained after committal to an approved school and awaiting a vacancy(2);

(*e*) on committal to a remand home for a period of detention not exceeding one month(3).

386. Local authority remand homes are among the premises in which, under section 13 (6) of the Children Act, 1948, local authorities may, with the authorisation of the Secretary of State, accommodate boys and girls received into their care under the Children Act or committed to their care as a fit person.

387. The remand home is designed to provide a disciplined environment which will begin the process of rehabilitation of the child at a time when he is experiencing an abrupt break with his familiar surroundings, and to enable information to be gathered, for the assistance of the court, about his history, background, personality and potentialities. Reports on the behaviour and character of children while in the homes are provided by remand home superintendents at the request of the courts. Reports by psychologists and psychiatrists are also supplied as required by the courts.

388. Section 15 (2) of the Children Act, 1948, requires local authorities to include, in their residential accommodation for children in their care, separate accommodation for the temporary reception of children with, in particular, the necessary facilities for observation of their physical and mental condition. By section 3 of the Children and Young Persons (Amendment) Act, 1952, local authorities are enabled to give notice to courts that such reception accommodation, described in that Act as a special reception centre, is available for the detention of children under the age of twelve remanded in custody, and enables the court, if satisfied that a child is suitable for a special reception centre, to send him there instead of to a remand home. Special reception centres are available also for use by the police for the detention in appropriate cases of children under the age of twelve who are not released on bail, pending appearance before a juvenile court.

389. On 31st December, 1959, there were forty-nine remand homes provided by local authorities (thirty-one for boys, fifteen for girls, and three mixed homes), with accommodation for 1,216 (921 boys and 295 girls). In addition, four voluntary homes were available for use by arrangement as remand homes for a small number of children. During 1959, 14,145 children were admitted to local authority remand homes, the average stay was twenty-three days, and the average percentage use of the places in the homes was seventy-four per cent.

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(1) Children and Young Persons Act, 1933, section 67 (2); Criminal Justice Act, 1948, section 27.

(2) Children and Young Persons Act, 1933, section 69 (2).

(3) Children and Young Persons Act, 1933, section 54. (By section 18 (4) of the Criminal Justice Act, 1948, a court has no power to order an offender aged fourteen and under seventeen to be committed to custody in a remand home under section 54 of the Act of 1933 if the court has been notified by the Secretary of State that a detention centre is available for the reception from that court of persons of his class or description.)

390. With the authorisation of the Secretary of State remand homes are sometimes used for the accommodation for limited periods of difficult children in the care of the local authority (see paragraph 386 above). While such an arrangement may have much to commend it, we think it is important that remand homes should not be used for the accommodation of such children for long periods and that their availability should not lead local authorities to refrain from seeking a more permanent placing for a child in care.

391. The general routine in remand homes is governed by the Remand Home Rules, 1939, made by the Secretary of State under the Act. Remand homes are inspected by inspectors of the Home Office Children's Department. The Secretary of State is empowered (but has not exercised this power) to require his approval of the use of any premises as a remand home, and to apply to remand homes the provisions of the Act relating to the approval of schools(1). The appointment of the person to be in charge of a remand home established by a local authority is subject to the approval of the Secretary of State(1).

392. It falls to the Home Office, in consultation with the local authorities concerned, to ensure that the amount of remand home accommodation available is related to the demand for places. General oversight of staffing and of standards of education, training, equipment, furnishing and catering is secured by Home Office inspection. Apart from the restrictions necessarily imposed in recent years on building work, there is no detailed control by the Home Office of the expenditure incurred in running remand homes.

393. Expenditure on remand homes ranks for Exchequer grant of fifty per cent. The average weekly cost per head of keeping children in remand homes was estimated at £12 17s. 6d. in 1959–60.

394. Local authorities who do not provide remand homes of their own usually make arrangements for the use of places in remand homes provided by other local authorities. Almost all local authority remand homes cater for the needs of a number of authorities. A common arrangement in the past has been for a local authority to reserve a certain number of places in a remand home, and to pay a proportionate share of the whole cost of running the home : if the reserved places are not used fully, the per capita cost is then disproportionately high. Under a form of agreement adopted recently by some local authorities, each makes an agreed per capita payment according to estimated use and any deficit is divided annually among the contracting authorities in proportion to the populations of their areas.

395. In most remand homes, children of school age spend the morning in the schoolroom ; afternoons are devoted largely to practical subjects, such as woodwork, light craftwork, gardening, housecraft and needlework. As much as possible is done to encourage the right use of leisure time. Most remand homes have small libraries, and many use outside library services. In the schoolroom, the hobbies room, the garden and the playground there are many situations in which the staff are able to learn more about the child and his problems. The process of training and rehabilitation which the

(1) Criminal Justice Act, 1948, section 49.

remand home begins is supported by religious teaching. The children attend outside places of worship, and each day begins with an undenominational act of worship.

396. In boys' remand homes, the posts of superintendent and matron are usually filled by married couples. Superintendents of boys' remand homes are either qualified teachers or men who have had previous experience of social work. Few qualified teachers hold the post of superintendent in girls' remand homes; in the main, superintendents of these homes are women who have had wide experience of social work. The persons in charge are assisted by teachers, supervisors and domestic staff. The Central Training Council in Child Care (appointed by the Secretary of State in July, 1947), in co-operation with local education authorities, have organised refresher courses for staff of remand homes, together with similar staff of approved schools and approved probation hostels and homes.

397. The pay and conditions of service of superintendents, teachers and instructors in remand homes are dealt with by the Joint Negotiating Committee for Approved Schools and Remand Homes in England and Wales, and those of other grades by the Standing Joint Advisory Committee for Staffs of Children's Homes.

The development of remand homes as observation centres

398. Some of our witnesses suggested that remand homes should be enlarged, and their specialist facilities developed, so that they might serve as regional observation centres. Some recommended that remand homes developed in that way should take over the functions of classifying approved schools (see paragraph 448), or of reception centres provided under the Children Act, 1948 (see paragraph 388), or of both classifying schools and reception centres. Other suggestions were that reception centres might be developed along these lines; and that, in suitable cases, observation on remand should be carried out at a classifying school.

399. From the economical point of view the idea of comprehensive observation centres for all types of children requiring specialist examination and assessment appears attractive, although the present system does not, we think, involve as much duplication of specialist staff as might appear, because remand homes, reception centres and classifying schools alike often make use of specialists attached to the local child guidance or other appropriate services. But the children catered for in local authority reception centres are for the most part children who have been received into care under the Children Act, 1948, and are not the subject of a court order; they range from the very young to adolescents, and there would be objection to mixing such children with the older and more difficult delinquents in the same premises.

400. Most of those who recommended that remand homes should be developed as observation centres were concerned that they should be utilised as classifying centres in cases where courts contemplated making approved school orders. They argued that it was preferable that classification should be carried out at the remand stage, thus enabling courts to consider the result of classification when reaching a decision regarding treatment; all significant facts about a child's history, background, health and character were, or should be, ascertained during the period of remand, the better

equipped remand homes carried out thorough diagnostic examinations for the courts, and much of the work performed at the classifying schools covered the same ground. It was suggested that, if classifying for approved school purposes were carried out in the remand home, the child would be subjected to only one move—from the remand home to the training approved school—instead of to two moves as happened at present when a child was sent from the remand home to the classifying school and thence to the training school. The witnesses referred to the experiment in London where approved school classification was being carried out in the London County Council's remand home for boys, and recommended that other remand homes should be developed in the same way.

401. In view of the need for specialised facilities and techniques, and for detailed knowledge of the available approved schools, in an establishment where classifying for approved school purposes is carried out, it would clearly be impracticable to make classifying a function of more than a small number of remand homes, suitably enlarged and staffed. It is important that children remanded in custody should be accommodated, as far as practicable, within a reasonable distance of their homes and of the courts before which they appear. Consequently, it is necessary to preserve a network of local remand homes performing the functions referred to in paragraph 385 above, and the concentration of approved school classifying in a few remand homes would not obviate the need to transfer considerable numbers of children, for whom approved school training was judged appropriate, from remand homes to the classifying centres. The classifying approved schools (four for boys and two for girls) have been developed carefully over a number of years and have built up a considerable store of knowledge and experience that it would be wrong, in our view, to abandon. We do not recommend, therefore, that the classifying approved schools should be discontinued and their functions transferred to selected remand homes (which could exercise their primary functions as remand homes, in general, only in respect of children drawn from the neighbouring area). We understand, however, that the classifying centre established in the London Council Council remand home for boys is working well, and we recommend that consideration should be given to extending the experiment to one or two selected remand homes in other densely populated areas where the number of children sent to approved schools after a period in the remand home is sufficient to justify a classifying centre. The classifying schools are discussed further in chapter 8 dealing with the approved school system.

402. We think that the specialised knowledge and facilities of the classifying schools might be used on occasion for the observation of difficult remand cases (either after an initial period in a remand home, or on direct remand from the court). But this function should be supplementary to the prime function of classifying schools, which is to observe and report on children already committed to approved school training; at present, moreover, the committal rate is such that the classifying schools would not be able to cope with remand cases. We are also of opinion, because of deficiencies in the provision of out-patient services (child guidance clinics), that where remand homes have adequate psychiatric facilities those facilities might be

made available for the examination, in appropriate cases, of children remanded on bail.

403. Our conclusions may be summarised as follows.

(*a*) We consider that remand homes should retain their existing functions and title. While the amount of remand home accommodation must be kept under review in relation to the demand for places, and adjustments may be necessary from time to time, there is a general need for a wide network of remand homes.

(*b*) The experiment of establishing a classifying centre in the London County Council's remand home for boys might be extended to other areas of dense population.

(*c*) The services of the classifying approved schools should be made available, when circumstances permit, for the more difficult remand cases.

(*d*) Where appropriate, remand homes with psychiatric facilities should make those facilities available for the observation of children remanded on bail.

Use of special reception centres

404. Several witnesses recommended that greater use should be made of special reception centres (see paragraph 388 above) when children were remanded in custody and that the age limit for acceptance into such a centre, at present twelve, should be raised—or be left to local authority discretion and not be regulated by statute. But for the reasons given in paragraph 399 we do not think that in general it would be advisable for older delinquent children to be accommodated in these centres, and we do not recommend any change in the existing age limits.

Segregation in remand homes

405. Remand homes have to cope with many different types of children covering a wide age range.

406. We were told by some of our witnesses that there was a need for greater segregation to prevent delinquent children mixing with non-delinquents, and older children exercising an undesirable influence over younger ones. Others considered that further segregation was largely impracticable and said that the danger of contamination could be over-emphasised; much could be achieved by adequate staffing and supervision.

407. We were informed that in remand homes the need for a reasonable degree of segregation of the older or more mature boys or girls from the others was constantly in mind; senior and junior dormitories were normally provided, and arrangements were made for some activities to be pursued separately by the older and younger children. Where numbers were small it was not often practicable to separate children into age groups for classroom instruction or for all leisure time activities, but on the other hand close individual attention was possible with those small groups.

408. We think that we cannot do more than draw attention to the general desirability of ensuring that segregation is as adequate as circumstances will permit. Some alleviation of the problem is possible in areas where special

reception centres are available for younger children; and when remand centres are set up or other arrangements made to keep young persons out of prison it will be possible to relieve remand homes of the responsibility of looking after some of the older and more unruly adolescent boys.

409. There are at present only three local authority remand homes that cater for both boys and girls. We recognise the difficulties of accommodating under one roof boys and girls of different ages and with different problems. But in exceptional circumstances, where the numbers of boys and girls requiring remand home accommodation in a particular area have become too small to warrant the continuation of separate remand homes, and other arrangements are not practicable, we think that a home catering for both sexes may be justified, provided that the staff and premises are such as to ensure adequate supervision and necessary segregation.

Remand homes and punitive detention

410. The position of remand homes as places of punitive detention is discussed in chapter 6, dealing with the methods of disposal open to the courts.

Age limits for detention in remand homes

411. We have recommended, in paragraphs 167 and 168, that the juvenile court should not be precluded from dealing with a case because the person concerned has attained the age of seventeen during the course of the proceedings. Similarly, we recommend that where, during a period of remand, a young person attains the age of seventeen, the authority for his detention in a remand home should not be invalidated; and we further recommend that the same considerations should apply, should the position arise, when a young person is taken to a remand home by the police after arrest.

Absconders from remand homes

412. Under section 78 of the Act, a child who escapes from a remand home may be apprehended and brought back to the home. It was suggested to us that there might be a case for amending the section to give courts a choice of methods in dealing with absconders, for example, by putting them on probation or committing them to detention centres.

413. In the case of a young person aged fourteen or over who repeatedly escapes from a remand home, the court will have power, when remand centres are available, to vary the commitment and to commit him to a remand centre, on the ground that he is so unruly that he cannot safely be detained in a remand home(1). Those in remand homes are usually either awaiting appearance at court concerning pending proceedings, or are children in respect of whom some final court order has already been made (an approved school order). In the former case, the opportunity to order suitable treatment still exists, while in the latter, the court order, but recently made, has not completely operated. In these circumstances we think it should not be necessary and would not be appropriate for the court to have a wider choice of methods in dealing with absconders from remand homes.

(1) Criminal Justice Act, 1948, section 27 (5).

CHAPTER 8

The Approved School System

General

414. Approved schools vary widely in origin and in character. Some in their premises and traditions, go back to the days when valuable pioneer work was done by the industrial and reformatory schools, some are managed by religious bodies or by voluntary organisations concerned on a national basis with the welfare of children, while others are provided by local authorities or managed by committees formed for the purpose by interested local people. Whatever their origin, the schools are properly regarded simply as boarding establishments approved by the Secretary of State under section 79 of the Act, and designed to provide care and training, give classroom or vocational education, and exercise remedial influences upon children sent there by the courts until judged by the school managers fit and able to take their place in ordinary life once more.

415. All approved schools are open institutions. They differ from other schools in that the children are removed from the care of their parents and compelled to reside in the school and undergo the training provided; and the statutory Approved School Rules specify certain requirements regarding the managing body, the treatment and discipline of the children and other matters designed to safeguard the welfare of those who have been deprived of their full liberty by order of a court. Within the framework of the statutes and the rules, however, the managers and staff are encouraged to develop the work of the schools on individual lines, subject to the advice of the Home Office and to the central control necessary where the liberty of the subject is involved and where virtually the whole of the cost of the service is met from public funds.

416. One of the tasks of the Home Office has been to hold the balance between the fostering of that independent life without which no school can work successfully, and the control necessary to secure that proper standards of accommodation, education and training are maintained, and that expenditure on the service is kept within proper limits.

417. In the exercise of the Secretary of State's central responsibility for the conduct of the approved schools, the inspection of the schools by inspectors of the Home Office Children's Department plays a main part. In addition, the Secretary of State has a considerable number of specific functions in relation to the schools, under the Act and the Approved School Rules. Examples of these functions are the classification of schools, the transfer of children from one school to another, the authorisation of charges of absconding or of serious misconduct, the approval of additions to or alterations of the premises, the approval of the appointment of headmasters and headmistresses, and the approval by the Chief Inspector of the daily routine of each school and of the system of rewards and privileges. Financial control is exercised by Home Office examination and approval of the annual preliminary and revised estimates submitted by each school, the requirement that prior approval is to be sought for any expenditure proposed to be incurred in excess of the estimate as approved, the issue by the Home Office annually of a list of "pro-rata" allowances for expenditure

under various headings, and, in recent years, the necessary restrictions on capital expenditure. The ultimate sanction behind the various central controls is the Secretary of State's power to withdraw the certificate of approval of a school.

418. There are at present one hundred and seventeen schools—eighty-two for boys and thirty-five for girls—with a population at 30th June, 1960, of 8,044: twenty-five of the schools are managed by local authorities (county and county borough councils, exercising their functions normally through a sub-committee of the children's committee), and ninety-two are under voluntary management. The schools are classified as follows:

Boys	*Age on Admission*
4 Classifying	Up to 17th birthday.
24 Senior	Between 15th and 17th birthdays.
25 Intermediate	Between 13th and 15th birthdays.
16 Junior (secondary) ...	From 10½ years up to 13th birthday.
9 Junior (combined primary and secondary).	Up to 13th birthday.
4 Junior (primary)	Up to 10½ years.

Girls	*Age on Admission*
2 Classifying(1)	Between 14th and 17th birthdays.
21 Senior	Between 15th and 17th birthdays.
5 Intermediate	Between 14th and 16th birthdays.
1 Intermediate/Junior ...	Up to 16th birthday.
6 Junior	Up to 15th birthday.

Certain schools are reserved for Roman Catholic children. One senior boys' school accepts "short-term" cases—boys judged to require a period of training up to a year approximately. There are three nautical schools for boys, providing also other forms of vocational training.

419. Approved schools receive those boys and girls who are considered by the court to require not only removal from home but also a fairly long period of residential training. All rights and powers exercisable by law by a parent are vested in the school managers as respects a child detained in an approved school (see also paragraph 473 below).

420. A child under the age of ten may not be committed to an approved school unless for any reason, including the want of a fit person of his own religious persuasion who is willing to undertake the care of him, the court is satisfied that he cannot be dealt with otherwise(2). No person who has reached the age of seventeen may be committed to an approved school on first committal.

421. A child may be committed to an approved school in any of the following circumstances:

(*a*) found guilty of an offence punishable in the case of an adult with imprisonment;

(*b*) found to be in need of care or protection;

(1) One of these is in process of closing.
(2) Children and Young Persons Act, 1933, section 44 (2).

(*c*) victim of certain offences (virtually "care or protection" cases);

(*d*) beyond control of parents;

(*e*) refractory while in the care of a local authority;

(*f*) brought before the court by a probation officer while under supervision;

(*g*) approved school order substituted for fit person order;

(*h*) absconder from the care of a fit person;

(*i*) truancy from school.

In addition, the Secretary of State is empowered by section 58 of the Act to order the detention in an approved school of a person under the age of eighteen who is undergoing detention in a borstal institution, a child or young person convicted of one of the crimes referred to in section 53 of the Act and ordered to be detained, or a young person who has been ordered to be imprisoned and has been pardoned on condition of his agreeing to undergo training in a school.

422. About ninety-five per cent. of the boys sent to approved schools are committed as offenders. Of the girls, about thirty-six per cent. are committed as offenders.

423. Discipline in approved schools is maintained primarily by the personal example of the head and staff, and is promoted by systems of rewards and privileges. Punishment usually takes the form of forfeiture of rewards or privileges (including pocket money) or temporary loss of recreation; where necessary, however, and within the limits and subject to the safeguards provided in the Approved School Rules, it may involve alteration of diet, separation from other children or corporal punishment.

424. The cost per head of maintaining children in approved schools varies from school to school, and the present financial scheme, introduced in 1920, includes a "flat-rate" system whereby the same contribution is paid by a local authority for the maintenance of a child for which the authority are responsible in whichever school he is placed (other than a school provided by the authority themselves—see paragraph 426 below). This arrangement secures that a child is placed in the school best suited to his individual requirements, without regard to the comparative cost per head in the schools available.

425. The general financial principle is that costs should be borne equally by the Exchequer and the local authorities. Under section 90 of the Act, the local authority named in the approved school order as being the authority within whose district the person to whom the order relates was resident, or within whose district the offence was committed, or the circumstances arose rendering him liable to be sent to an approved school, are required to contribute towards his maintenance in an approved school at the rate (known as the flat-rate) prescribed from time to time by the Secretary of State. The local authority contributions meet half the cost, and Exchequer grant provides the balance.

426. These financial arrangements are modified in the case of an approved school provided by a local authority. On the proportion of cost attributable to cases from that authority's area ("inside" cases), the Exchequer pays

ifty per cent. grant to the authority. As regards the "outside" case, the uthority collects flat-rate contributions from the other authorities concerned, nd receives the balance from the Exchequer.

427. Under sections 86 and 87 of the Act, as amended by Part III of the Children Act, 1948, the parents of a child in an approved school (or committed to or received into the care of a local authority) are liable or contributions to his maintenance. The amount of the contributions nay be fixed by a court, which is required to have regard to the parents' neans, or it may be the subject of agreement between the parents and the ocal authority responsible for collecting the contributions. These contributions, after deduction of ten per cent. to meet the expenses of collection y the local authority, are so dealt with as to reduce in equal proportions he approved school expenditure falling on the Exchequer and the local uthorities.

428. We were told that the cost per head of maintaining children in pproved schools is necessarily high, including as it does the provision all he year round of residential care for the children—food, clothing, medical ttention, leisure and hobby activities, pocket money, etc.—the provision f school-room education and vocational training, the after-care of those ut on licence or under supervision, salaries and superannuation of staff, he maintenance, improvement or extension of premises, and all overhead harges. Because most of the children are backward, or difficult, and equire special care, training and supervision in the traditional "open" conditions of the schools, and because the schools are open all the year ound, the ratio of staff to children is high, and salaries account for about alf the cost of the schools. The net weekly cost per head, according to he revised estimate, and including receipts from parental contributions as £9 12s. 10d. in 1959–60.

429. The pay and conditions of service of heads, deputy heads, teachers nd instructors in approved schools are determined (together with those f comparable grades in remand homes) by the Joint Negotiating Committee for Approved Schools and Remand Homes in England and Wales, n *ad hoc* negotiating committee functioning on Whitley principles and epresentative of the approved school managers', heads' and staffs' associations, the local authority associations, the National Union of Teachers nd the National Association of Remand Home Superintendents and Matrons. The pay and conditions of service of matrons, assistant matrons, housemasters, housemistresses, housefathers, housemothers and welfare officers in pproved schools are determined by the Standing Joint Advisory Committee for Staff of Children's Homes, a committee of the National Joint Council for Local Authorities Administrative, Professional, Technical and Clerical Services, which has within its purview also various non-teaching grades of staff in other residential establishments for children: the employers' side of this Committee includes representatives of the local authority associations and of the Association of Managers of Approved Schools, and the staff side includes representatives of the Association of Headmasters, Headmistresses and Matrons of Approved Schools, the National Association of Approved Schools' Staffs and the National Association of Remand Home Superintendents and Matrons. Pay awards in accordance with the Committees' recommendations are recognised for grant

purposes by the Home Office, which is not represented on either committee. The pay and conditions of service of other grades (for example, farm and garden staff, domestics, clerks) are dealt with by the Home Office, having regard to the awards of other national negotiating bodies such as the Ancillary Staffs Council, or to local custom, as appropriate.

Responsibility for Approved Schools

430. We have considered whether, as recommended by several of our witnesses, approved schools should be merged in a wider system of residential provision. Some witnesses said that approved schools were educational establishments and should form part of the general educational system under the Ministry of Education; others proposed that approved schools should be integrated with the system of local authority and voluntary residential homes for children deprived of a normal home life; there were also various suggestions for amalgamating approved schools with special schools for maladjusted and educationally sub-normal children.

431. The main task of the approved schools is the readjustment and social re-education of the child in preparation for his return to the community; the functions of the approved schools in the fields of education, practical training, health, recreation and leisure, social training and personal case-work are all subsidiary and supplementary to that main task. Moreover, as we have said in paragraph 415 above, approved schools differ from ordinary schools in that the children in them have been removed from the care of their parents and are compelled to reside in the schools and undergo the training provided, and the managers of an approved school are in *loco parentis* to the children in their care. These aims and functions are noticeably wider in range than those of ordinary schools, and we do not think that it would be appropriate, or that the approved schools would necessarily benefit, if this small and specialised service were to form part of the general school service under the Ministry of Education.

432. Nor do we think that approved schools should be merged with the general residential service of the local children's authority. In our opinion local authority children's homes have not the facilities to deal with most children of the kind sent to approved schools, and approved schools need the disciplined structure that the sanctions of the court order provides.

433. The arguments for merging approved schools with other residential provision apply perhaps more strongly to junior approved schools than to others; and some witnesses advocated that the junior schools should be merged with special schools for educationally sub-normal or maladjusted children. The needs of the young children in the two types of establishment are admittedly often very similar. But most of the children in special schools are there on a voluntary basis at the wish of, or with the full concurrence of, their parents; to admit large numbers of "committed" children to special schools would destroy the schools' character and would, we believe, lead to unnecessary complications. If special schools were to become also schools for "approved school children", many of whom had committed offences, parents of children who were not subject to court orders would not be so willing to send their children to them.

434. Apart from the foregoing considerations, it seems to us that a general educational or residential child care service would be unlikely to be able to give the close attention that can be accorded in a separate service to the special problems of approved schools and of the children in them. We are of opinion, therefore, that it would be undesirable to merge the approved school system with any other system of residential provision, and we consider that central responsibility for the administration of approved schools should remain with the Home Office.

Management

435. There is no Home Office control over the appointment, removal or selection of managers of approved schools and we received no evidence to suggest that there should be. As we have indicated in paragraph 414, some schools are managed by voluntary organisations or committees formed by interested local people while others are provided by local authorities. We see no reason why the existing blend of management by local authorities and voluntary bodies, which permits of variety and individuality in the work of the schools, should not continue; but we think there is need to improve the position as regards the constitution of voluntary committees of management.

436. The responsibilities and functions of managers of approved schools are extensive and onerous, but the present position as regards the constitution and operation of voluntary committees of management is somewhat haphazard. We were told that, although all committees of management were subject to a complex of statutory and administrative controls by the Home Office (see paragraphs 416 and 417 above), some operate also under private legislation, some under various types of legal instrument, and others without any constitutional document at all. It was suggested to us that, with a view to the general improvement of arrangements for management, all voluntary committees of management should be required by law to adopt an instrument of management on the lines of the instruments of management (for primary schools) and instruments of government (for secondary schools) provided for in section 17 of the Education Act, 1944. We agree with that suggestion, and recommend accordingly. The proposed instrument, which would be approved by the Secretary of State, would follow a model form but be capable of variation to take account of any special features of the constitution or other circumstances of individual schools.

437. We envisage that the approved school instrument should provide for such things as the composition of the board of management, the procedure for the election of the chairman and other officers, the appointment of sub-committees, arrangements for filling vacancies, the frequency of meetings and the recording of proceedings; it would supplement, and in part replace, the provisions in the Approved School Rules dealing with management.

438. We think it is desirable too that the instrument should make provision for an age at which managers should be required to retire—there is no such requirement at present. The time must come when a manager is no longer able effectively to carry out the duties that he has so willingly

undertaken in the past. It is difficult to be dogmatic in this matter, but we think that it would be not unreasonable to require a manager to relinquish his appointment on reaching the age of seventy-five and we recommend accordingly. (If this recommendation is accepted, it may be considered necessary to make special provision for existing holders of posts who may be approaching or have already reached that age.)

439. We are of opinion that there may well be a need in some cases to broaden the basis of representation in voluntary committees of management; we think there may be a tendency for some of the managing bodies to work in isolation, lacking the benefit of association with kindred services. We therefore recommend that, where appropriate, the instrument should provide for the inclusion in a voluntary committee of management of one or two representatives of wider interests (for example, representatives of the local county or county borough council). Some of us were of opinion that it would be useful if the Secretary of State had reserve power to nominate a representative to any voluntary managing committee, but the exercise of such a power might have disadvantages and, bearing in mind the generally good relationship that exists between managers and the Home Office, we make no recommendation on this point.

440. We think that it would be very useful if the managers could be given some general guidance on the aims and purposes of approved schools, and the responsibilities and functions of managers, and we endorse the recommendation made by Mr. Victor Durand, in his report on the disturbances at the Carlton approved school(1), that a manual of advice should be issued by the Home Office.

Inspection

441. We have said that in the exercise of his central responsibility for the conduct of approved schools, the Secretary of State depends, in the main, on the inspection of the schools by inspectors of the Home Office Children's Department. We were informed that schools were visited by a Home Office inspector at least three times a year; where necessary, individual schools were visited more frequently. Many visits were paid without notice. Full inspections by teams of inspectors were carried out at intervals. We were told that copies of inspectors' reports were not furnished to the managers or the head, as such reports were intended to be for the information of the Secretary of State and were confidential to him. But matters arising from inspections were usually discussed on the spot with the head, and, where appropriate, confirmed in writing to the head or correspondent. Matters of policy or finance, or other questions involving administrative decisions, were taken up with the managers in official correspondence or at meetings.

442. We recognise the objections to making available to managers reports of the visits paid by inspectors; the nature and form of such reports would have to be different, and the reports would lose some of their present value, if they had to be prepared with a view to their transmission to the managers. It is right, however, that the managers should be kept in touch with the views formed by inspectors, not only on matters calling for specific action by the managers. We were told that, although inspectors

(1) Cmd. 937 (1960), paragraph 181 (15).

were always prepared to attend managers' meetings and discuss any matters that the managers wished to raise, there were no arrangements for inspectors to meet the managers of approved schools as a matter of routine. We think that meetings between the inspectors and the managers can be extremely valuable in providing a ready means for managers to discuss in an informal way problems arising from the day to day administration of the school, and in enabling inspectors to interpret points of Home Office policy. We consider that it is important that, quite apart from any ad hoc meetings, it should be a recognised practice for Home Office inspectors and managers of individual schools to meet regularly, say about once a year, for the purpose of general discussion and exchange of views, and we recommend that this arrangement should be adopted.

Segregation in approved schools

443. We received little criticism of the mixing in approved schools of offenders and non-offenders, but some witnesses suggested that separate establishments should be provided for the two categories.

444. Before 1933, offenders and non-offenders were partly segregated under the system by which reformatory schools received only "convicted" children between the ages of twelve and sixteen, while "neglected" children of any age under fourteen were sent to industrial schools (which also received delinquent children under the age of twelve, or under the age of fourteen if not previously "convicted" and not likely to exercise a bad influence). The segregation was abolished by the Act of 1933, which gave effect to a recommendation by the Departmental Committee on the Treatment of Young Offenders (1927), who formed the view that the distinction between the "delinquent" and "neglected" child who had to be removed from home by order of a court was unsound, and that there was little or no difference in character and needs between the children in the two categories(1).

445. About five per cent. of the boys and sixty-four per cent. of the girls received into approved schools have been committed by the courts as non-offenders, and we are of opinion that the risk that these children may be contaminated by mixing with offenders is more apparent than real. Only a minority of the children found to be in need of care or protection or beyond control are sent to approved schools, and for them, as for the children committed as offenders, the criterion is the need of the individual child to be removed from his surroundings and to undergo a fairly long period of education and training in residential conditions.

446. We were told that there is little difference between the records of those sent to approved schools as non-offenders and the records of those committed for offences. Of the boys, about one half of the non-offenders have previously been found guilty of an offence, and most of the rest have records of misbehaviour which might have formed the subject of criminal charges. Almost all adolescent girls sent to approved schools (whether as offenders or not) have a history of sexual immorality, and many of those sent as being in need of care or protection or beyond control are known to have committed offences. Non-offenders are usually sent to approved schools only after other forms of treatment have proved un-

(1) Cmd. 2831 (pages 71 and 72).

successful. Indeed, it necessarily falls to the approved schools to provide the sanction behind other forms of treatment. Thus, it is open to a court to commit a child to an approved school if he is brought before the court again for breach of a probation order, or in his own interests while under supervision, or is brought by the local authority to whose care he had been committed.

447. The experience of the Home Office and of the approved schools suggests that there is no significant difference between the two groups, and that a boy or girl committed for an offence is just as likely to be a good or bad influence as one committed for other reasons. We see no reason to recommend any modification of the present practice in this matter, nor do we think that certain approved schools should be reserved for non-offenders.

Classifying Schools

448. An important development in the approved school system in recent years has been the establishment and extension of classifying schools, the first of which was opened in 1943 at Aycliffe, County Durham. The function of the classifying school is, by observation and investigation, to build up a composite picture of the child's history, background, needs and potentialities, with the dual purpose of ensuring that he goes to a training school suited to his needs, and of furnishing those who will be responsible for his care and training with a comprehensive report on him and recommendations as to the most suitable treatment for him.

449. The classifying schools were given statutory recognition by the Children and Young Persons (Amendment) Act, 1952. If a court decides to commit a child to an approved school and a classifying school is available for children of his description, the court must commit him to the classifying school unless there is some special reason for not doing so.

450. There are at present four classifying schools for boys (other than Roman Catholics) of all ages. There were until recently two for girls (other than Roman Catholics) aged fourteen and over, available for all courts in England and Wales except London, but one of them is in process of closing because of staffing difficulties and the unsuitability of the premises. We understand that other classifying facilities will be provided in its place as soon as practicable. In London a classifying centre has been in operation since 1st January, 1958, at the London County Council's remand home for boys, and is available for boys (including Roman Catholics) committed by the metropolitan courts.

451. We have already referred to the classifying schools in paragraphs 398 to 403 dealing with facilities for children on remand. We consider that they have an essential part to play in the approved school system, and that, with the knowledge and experience that they have built up, there is room for expansion of their activities in the general sphere of approved school work; we think, for example, that where it becomes necessary to transfer an approved school inmate from one training school to another the boy (or girl) should normally be sent to a classifying school for observation and advice as to re-allocation.

452. The allocation to individual training schools of children who have passed through the classifying school on committal is effected by the

Secretary of State's power to transfer from one approved school to another[1], and in exercising this power it is necessary for an order to be signed by the Secretary of State, an Under Secretary of State or an Assistant Under Secretary[2]. It was represented to us that this process did not readily fit the case of transfers from the classifying to the training schools on committal. We were told that for children who passed through the classifying process, the choice of training school and arrangements for transfer rested with the classifying schools; the Home Office exercised general supervision over the policy and practice of those schools but did not review the decisions in individual cases, and the signing of an order on behalf of the Secretary of State was thus a mere formality. We agree with this view and recommend that orders for transfer in these cases should be dispensed with.

453. The procedure outlined in the previous paragraph does not obtain at the London classifying centre. As this centre is a remand home and not an approved school the allocation to individual training schools of boys who have passed through the classifying process is decided by the courts in the light of the reports and recommendations made by the classifying centre.

Education and training

454. Unlike pupils of an ordinary school, children enter and leave the approved schools at any time, not necessarily at the beginning and end of a term. Many of them are mentally backward or educationally retarded although their intelligence may be normal or even, occasionally, above normal; and in general they have shown evidence of difficult behaviour or of failure to adjust themselves to society. Consequently, the methods of the approved school have to be directed largely to the needs of individuals. Classes for the most part are small, the schools have adopted increasingly a practical approach to the teaching of basic subjects, and practical training in crafts and trades is an important feature in the schools for older boys and girls.

455. To help further in dealing with the high proportion of backward children sent to approved schools, staff are encouraged to attend courses in the teaching of educationally sub-normal children. We were told that certain approved schools were tending to specialise in dealing with the more backward and unstable children, and, through the process of classification, specialisation in the treatment facilities in approved schools was being developed generally. We think that is to be encouraged; the extent to which specialisation can be developed can, of course, be decided only in the light of experience and experiment.

456. A small proportion of the boys in approved schools are above average in intelligence. Special educational facilities have been provided for such boys in certain schools, but we were told that some of the boys of comparatively high intelligence proved to be so retarded in educational attainment, or lacking in stability and powers of persistence, as to be incapable of deriving full benefit from the opportunities offered. We were glad to learn, however, that numbers of boys have been enabled to take the General Certificate of Education at ordinary level, or equivalent technical or professional examinations.

(1) Children and Young Persons Act, 1933, Fourth Schedule, paragraph 9 (1).
(2) Children and Young Persons Act, 1933, section 106 (1).

457. A wide variety of recreational activities is provided in the schools, including participation in the Duke of Edinburgh Award, the Outward Bound courses and other adventurous activities. In the same way as home leave, and unescorted outings for those who are judged sufficiently trustworthy, many recreational activities can be an integral part of the boys' or girls' education in responsibility, and can help to prepare them to behave in an acceptable way after they leave the school. They can also play an important part in promoting contacts outside the school.

458. In boys' schools and in girls' schools alike, the importance of religion as the basis of a sound system of character training is recognised. The children receive religious instruction and guidance in the persuasion to which they belong. In all the schools, too, the aim is to give education in the art of living, to inculcate a sense of order, self-discipline and good habits, and to enable the boys and girls to become co-operative members of society as soon as possible.

459. The difficulties of the task need no emphasis. The children often have a long history of difficult and anti-social behaviour, and, with many of them, other forms of treatment have been tried and have failed. Many of them are backward in intelligence or attainment, and many suffer from emotional disturbance to a greater or less degree. They have been removed from homes that are often broken or seriously inadequate, but to which many of them preserve loyalty. The task of the schools is to provide care, training and education in open conditions for such boys and girls, to gain their confidence and co-operation, to encourage them in habits of self-control and self-reliance, and to give them parental control and guidance, while at the same time seeking to win the support and co-operation of parents who have been compelled to surrender temporarily the custody of their children. The difficulties are aggravated by the presence in the schools, from time to time, of the extremely dull, the defective, the psychopathic and the physically handicapped ; by the special problems presented by adolescent girls ; and by the apparently increasing proportion of more difficult and undisciplined boys and girls now being committed to the schools. There are causes enough for the schools having their failures and, occasionally, their disciplinary troubles ; and we refer later, in paragraphs 496 to 505, to measures for helping schools when they are confronted with some of their more acute problems. The aims of the schools are by no means always achieved ; but with such unpromising material the degree of success obtained is encouraging, while failure must always be a challenge to seek new and improved methods.

460. Classification prepares the ground for the individual treatment of the boys or girls on their arrival in the training school. For some this may entail psychiatric oversight (mainly through advice by psychiatrists to staff on individual cases), or, less frequently, direct psychiatric treatment on an individual or group basis. We understand that forty-nine out of the seventy-eight training schools for boys and twelve out of the thirty-three training schools for girls have psychiatrists who visit for regular sessions (varying from four a week to one a month) ; schools without visiting psychiatrists can usually obtain a psychiatric opinion on a particular child, although there may be delay in obtaining an appointment, and advice from a psychiatrist unfamiliar with the school is of limited value. We were informed

y the Home Office that there had been a large expansion during the ıst few years in the psychiatric facilities available to approved schools; ut while the existing facilities went a good way towards meeting the eeds of those boys and girls requiring, and willing and able to benefit rom, psychiatric oversight and treatment, there was obviously still a shortage f psychiatrists in some areas. We think it is important that every effort hould be made with a view to securing adequate psychiatric facilities for ll approved schools.

461. We are of opinion that flexibility in approved school treatment is ighly desirable; this already exists to an appreciable degree but we think t could and should be increased. It is already possible, with the authority of the Secretary of State(1), to transfer a child from one approved school to ınother, but we have the impression that there may sometimes be a certain eluctance on the part of managers to suggest the transfer of a child who ight benefit from training in another school, because they feel that to pply for transfer is an admission of failure. Transfer should not necessarily, r even normally, imply failure. The importance of continuity and stability in the child's education and training and in his relations with those who have charge of him, and the opportunities for contacts with his family, must always be major factors to be taken into account in considering whether transfer will be in his interests. But where transfer is desirable, as it may be increasingly with growing specialisation in the schools, we hope it will be readily applied for and arranged. We are also of opinion that, where it is desirable in his interests, the transfer of a child to some other form of treatment outside the approved school system (for example, a special school for educationally sub-normal or maladjusted children) should be facilitated—where necessary by the exercise of the Secretary of State's power to discharge the approved school order(1) (but see paragraphs 502 and 503 relating to transfer to borstal training).

462. We consider that children who are thought to require transfer should normally be sent back to a classifying school for re-assessment, unless there is good reason for not doing so in an individual case. It would be for the classifying school, after the necessary further observation, to arrange for allocation to another training school, or to recommend transfer to some other form of treatment.

463. Specialisation can, no doubt, more readily be brought about in boys' schools than in girls' schools. Two of the main general problems facing girls' approved schools are the need for more varied vocational training schemes than are available at present, and the difficulty of recruiting sufficient senior staff of suitable quality. In our view, the underlying difficulty in resolving these problems is the comparatively small size of most of the girls' schools (over fifty per cent. of the schools have a certified number of less than forty). The absence of an institutional atmosphere and the provision of close individual attention are among the advantages claimed for the small schools, but because of the small number of girls in each school, the number and range of staff and of school activities are necessarily limited. The range of duties that members of the staff are called upon to perform is often too wide for effective working, and staff absences through holidays and

(1) Children and Young Persons Act, 1933, Fourth Schedule, paragraph 9 (1).

sickness impose a proportionately greater burden. Moreover, in a small establishment the staff have little privacy or respite from their work, and a troublesome girl has more impact on other girls than she would have in a larger establishment.

464. We think it is important to preserve the close relationship between the staff and girls which exists at present, but at the same time it is necessary to increase the number and range of staff and the variety of training facilities for the girls. It is not easy to reconcile these two objectives, but we think that they could be more readily achieved in larger schools (catering for some sixty girls—or more) organised in small groups. It should be easier, by virtue of improved conditions, to recruit staff for larger establishments, and larger staffs would enable more variety in training to be provided; at the same time organisation of the school on family group lines would enable the girls to be given the individual attention that they need. We recommend that consideration should be given to developing senior girls' schools on these lines.

465. Several witnesses mentioned to us the difficulties created by the comparatively small number of girls who are committed to approved schools and subsequently found to be pregnant. We were told by the Home Office that the present arrangements under which such girls were transferred to hospitals and to mother and baby homes, and released on licence some time after their babies were born, worked reasonably well but were not ideal. By section 6 (4) of the Children Act, 1948, a child who, when licensed, has no home or an unsatisfactory home, may be received into the care of a local authority on the special terms that the subsection provides. We recognise that cases of pregnant girls must be treated in the light of the individual circumstances, but we consider that another avenue would be available if section 6 (4) were widened so as to apply to a girl who is pregnant at the date of licence or who has given birth to a child during the currency of an approved school order. We recommend that the subsection should be amended accordingly.

466. One of the aims of the approved school is to foster satisfactory relations with the child's parents and between the child and his parents. Except where circumstances make it undesirable to do so, visits from parents to the school and correspondence between the child and his parents are encouraged and home leave is granted from time to time. At present the amount of leave that may be granted, except with the permission of the Chief Inspector of the Children's Department of the Home Office, is limited to a maximum of twenty-four days in any one year(1). We think that home leave, properly used, can be of great therapeutic value and are of opinion that, for younger children especially, it would be an advantage if school managers had discretion to grant more leave in suitable cases. We recommend, therefore, that for children of compulsory school age the maximum amount of home leave that may be granted should be increased.

467. Some approved schools have hostels attached in which suitable boys and girls are accommodated as part of their approved school training and from which they are allowed to go out to work in preparation

(1) Rule 30A (3) of the Approved School Rules, 1933, as amended by the Approved School Rules, 1949.

for their release on licence. Several of our witnesses recommended that more hostels of this kind should be provided; we agree that these experiments are to be welcomed and should be encouraged.

Period of detention and release on licence

468. A person cannot at present be committed to an approved school on first committal after reaching the age of seventeen; we have recommended in paragraph 170 that the power of a juvenile court to commit to an approved school should be extended to young people under eighteen years of age who are subject to supervision or fit person orders made before they attained the age of seventeen. Apart from this we consider that the existing limit should remain unchanged.

469. The period for which a child may be legally detained in an approved school is called the period of detention; it is not determined by the court, but is governed by the provisions of the statute. A child under the age of twelve years and four months at the date of committal may be kept in an approved school until he reaches the age of fifteen years and four months: if a child has reached the age of twelve years and four months at the date of committal, he may be kept in a school until the expiry of three years from that date or until he reaches the age of nineteen, whichever is the shorter period(1). Where the managers of an approved school are satisfied that a child whose period of detention is about to expire needs further care or training, and cannot without it be placed in suitable employment, they may detain him, with the consent of the Secretary of State, for a further period not exceeding six months, provided that he is not detained after he reaches the age of nineteen(2).

470. Where (with the authority of the Secretary of State, in either case) a child is brought before a court on a charge of absconding while under the care of the managers, or of serious misconduct while detained in an approved school, the courses open to the court include the making of a new approved school order (in which event a period of detention lasting until the age of nineteen is extended to the age of nineteen and a half), or the extension of the period of detention under the original order by such period, not exceeding six months, as the court may determine(3).

471. The period of any unauthorised absence from the school is added to the period of detention(4).

472. Most children are released on licence before the end of the period of detention. A boy or girl on release remains under the care of the managers during the periods of licence and supervision. The period of licence lasts until the expiry of the period of detention and the period of supervision for three years more, or until the boy or girl reaches the age of twenty-one, whichever is the shorter period.

473. The managers are empowered, and may be required by direction of the Secretary of State, to license a child, at any time during his period

(1) Children and Young Persons Act, 1933, section 71, as amended by section 71 of the Criminal Justice Act, 1948.
(2) Children and Young Persons Act, 1933, section 73.
(3) Children and Young Persons Act, 1933, section 82 and Fourth Schedule, paragraph 8, as amended by the Criminal Justice Act, 1948; Criminal Justice Act, 1948 Section 72.
(4) Children and Young Persons Act, 1933, section 82 (2).

of detention in an approved school, to live with his parents, or with any suitable person who is willing to receive and take charge of him; the Secretary of State's consent is required for the release on licence of a child during the first twelve months of his period of detention(1). Under Rule 40 (1) of the Approved School Rules, 1933, as amended by the Approved School Rules, 1949, managers have a duty to release on licence each child as soon as he has made sufficient progress in his training, and, with this object in view, to review the progress made by each boy or girl and all the circumstances of the case (including home surroundings) towards the end of the first year in the school, and thereafter at intervals specified in the Rules. While the child is on licence or under supervision, all rights and powers exercisable by law by a parent in respect of him are vested in the managers, except that, if he is lawfully living with his parents or either of them, those rights and powers are exercisable by the parents (or, as the case may be, by the parent with whom he is living), whose duty it is so to exercise them as to assist the managers to exercise control over the child.

474. At any time while a child is on licence, the managers may revoke the licence, and require him to return to the school(2). The managers are empowered, and may be required by direction of the Secretary of State, to recall to the school a child under the age of nineteen who is under their supervision if, in their opinion or that of the Secretary of State, as the case may be, it is necessary in his interests to recall him(3). A child recalled from supervision is required to be released as soon as the managers think that this can properly be done and may not be detained for more than three months (unless the Secretary of State directs that this period should be extended to one not exceeding six months), or after reaching the age of nineteen.

475. A child who runs away, while on licence, from the person in whose charge he has been placed, or who fails to return to the school when his licence is revoked or when he is recalled to the school during the period of supervision, may be dealt with in the same way as an absconder from the school(4); that is, he may be apprehended without warrant and taken back to the school, and, whether or not he is taken back, may be brought (with the authority of the Secretary of State) before a court (see paragraph 470 above).

476. We were told by the Home Office that the relevant provisions of the Act of 1933 were treated as enabling the managers to exercise control over a child on licence in relation to his movements and place of residence; it was considered doubtful, however, whether the managers were enabled to exercise a similar control over a child under supervision, otherwise than by using their power of recall under section 74 of the Act.

477. The Secretary of State may at any time order a child under the care of the managers of an approved school to be discharged(5); the managers then have no further responsibility for him.

(1) Children and Young Persons Act, 1933, Fourth Schedule, paragraph 6.
(2) Children and Young Persons Act, 1933, Fourth Schedule, paragraph 6 (3).
(3) Children and Young Persons Act, 1933, section 74.
(4) Children and Young Persons Act, 1933, section 82.
(5) Children and Young Persons Act, 1933, Fourth Schedule, paragraph 9 (1).

478. We received little criticism of the periods of detention under approved school orders and have come to the conclusion that there is no compelling need to alter them. In our view the present maximum periods allow sufficient flexibility in dealing with individual cases.

479. While there was little criticism of the periods of detention, several witnesses considered that the present period of statutory after-care, consisting of a period on licence, representing the unexpired portion of the period of detention, and a further three years of supervision, was too long. Criticism was levelled particularly at the period of supervision which, it was said, was largely ineffective.

480. We agree with that view and consider that the present system works unfairly in many cases. It means that a child who is released from an approved school early, because he has responded well to training, is subject to after-care for a longer period than a child whose release is deferred because of bad behaviour or because he has made poor progress. We consider that after-care should be for a fixed period calculated from the date of release from the school. In considering the duration of the period of after-care we have had regard to the average length of stay in approved schools and the conclusion of the Advisory Council on the Treatment of Offenders in connection with borstal/custodial training(1). We have reached the conclusion that a period of two years would be appropriate, and that it should be the maximum for approved school children of all ages. We therefore recommend that release from an approved school should be followed by a period of two years on licence calculated from the date of release. During that period, the school managers should be empowered to revoke the licence and recall the child to the approved school for a period of six months or for the unexpired portion of the period of detention whichever is the longer. We further recommend that there should be provision for an automatic review after twelve months with a view to the cancellation of the licence where continued compulsory supervision is considered to be no longer necessary. Under our proposal the existing statutory period of supervision following licence would be abolished, but we recommend that managers should be empowered to provide voluntary supervision in any case where it is desired and, where necessary, financial assistance, after completion of the statutory period of licence (or after the date of cancellation of the licence), but not after the person concerned has reached the age of twenty-one.

481. Under our proposals, as under the existing law, it is possible that an ex-approved school boy (or girl) may be subject to statutory after-care until he reaches the age of twenty-one, but at present there is no power to recall a person to an approved school once he has reached the age of nineteen. In order that our proposals should be fully effective we recommend that provision should be made for the recall of persons who have attained the age of nineteen. We appreciate that at present the normal maximum age for detention in an approved school is nineteen, and that approved schools are not equipped to deal with persons much beyond that age. We recommend, therefore, that the recall of a person who has reached the age of nineteen should be subject to the authority of the Secretary of State, and

(1) Report on the Treatment of Young Offenders (H.M.S.O.—1959).

that, if necessary, recall should be to a particular school with appropriate facilities.

482. The school managers have a duty to release a child on licence as soon as he has made sufficient progress in his training, but under the present statutory provisions a child cannot be released during the first twelve months of his period of detention except by authority of the Secretary of State, and managers are not required to consider the fitness of a child for licence until shortly before the expiry of that period. The existence of these requirements has no doubt led managers to regard twelve months as being the minimum period to be served; but although managers are not required to consider a child's fitness for licence until he is nearing the completion of twelve months' detention, we see no reason why the initial review should not be made before that time. We have no doubt that most children committed to approved schools need at least twelve months' training, but we think it is possible that if cases were reviewed earlier, it would be found that more children could be released on licence during the first year at school. With the knowledge and experience that has been gained through the process of classification we think it should be no longer necessary to obtain the Secretary of State's authority for the release of a child during the first twelve months of his detention in an approved school, and we recommend that the requirement should be revoked. At the same time, we recommend that managers should be encouraged to review cases earlier than they are required to do at present.

483. We think it is important to emphasise that the functions of licensing should always be effectively exercised by the managers, who should take as close a personal interest as possible in the progress and licensing of the children committed to their charge. (As an illustration of one way in which this can be done we were told that at one school it was customary for managers to visit the school on rota at fortnightly intervals. When a manager paid such a visit it was his responsibility to interview all the boys who had been admitted during the past fortnight and he was expected to maintain contact with those boys throughout the whole period of their stay in the school. In that way each manager took a personal interest in a given group of boys and was able to play a worthwhile part in the discussions about their progress and to bring an independent judgment to bear upon assessments presented to the licensing committee by the staff. Under this scheme the chairman of managers was not committed to the problems of any one boy and was able to act as arbiter between a boy, the manager primarily concerned and the staff.)

After-care

484. Statutory responsibility for after-care rests on the school managers; the proper discharge of this responsibility is clearly a matter of first importance if the value of approved school training is not to be jeopardised. The after-care responsibilities of the managers under the Act and the Rules include the appointment of a suitable after-care agent for each child; the provision of a leaving outfit and, if necessary, money for travelling and subsistence; making arrangements for him to be visited, advised and befriended; helping him to find suitable employment; and placing him in a suitable hostel or

lodgings if his home is unsatisfactory. Under the Children Act, 1948(1), a local authority may, with the consent of the managers, receive into care a person under the age of eighteen on licence or under supervision from an approved school, where it appears to the managers that he has no home or that his home is unsatisfactory.

485. It became clear to us from the evidence we received from several of our witnesses that after-care was one of the most difficult and at the same time least satisfactory parts of the approved school system. We acknowledge that for many years the subject has received the earnest consideration of the approved school authorities and of the Home Office.

486. The Approved School Rules require the managers to appoint a suitable person to carry out the after-care of each child. It is fundamental to good after-care that every child should have an understanding with someone living in the district on whom he can rely at all times for help and advice. After-care work is shared among fifty approved school welfare officers (for boys only, and operating mainly in more populous areas) and other agents, mainly probation officers and local authority child care officers. (When the child is living near the school it may be appropriate to appoint a member of the school staff to be the after-care agent.) While much good work is done, it is evident that the present arrangements fall short in a number of respects of what is desirable. In general, the welfare officers, the first of whom were appointed in 1941, are untrained, and they vary in quality. They tend to work in isolation from other social services concerned with the family, and since they operate from their own homes and each deals with boys from a number of approved schools, there is little supervision of their work. Because of the wide areas for which they are responsible their case loads are often excessive. Probation officers, who originally carried out after-care on a voluntary basis, have, since 1952(2), a duty to act as after-care agents if requested to do so by the managers. Local authority children's departments have a power, but not a duty, to do this work(3). It was claimed by some witnesses that the quality of the work by these two agencies was not always good, and that local authorities were sometimes reluctant to accept cases for after-care supervision. If this is sometimes true, it may well be because the agents have other heavy commitments and, in the case of children's departments, because there is a shortage of male staff to deal with older boys. We were told also that, when there was cause for dissatisfaction with after-care reports by child care officers and probation officers, the managers were reluctant to make representations which might be resented, or might affect relationships between those officers and their employers or between them and the managers.

487. In considering possible ways of improving the present situation we have had regard first of all to the question of responsibility. We had ample evidence that the managers fully accept their responsibilities for after-care, and attach great importance to them. Responsibility for after-care must, in our view, be regarded as an integral part of the general responsibilities of managership; bearing in mind the independent character of the schools,

(1) Section 6 (4).
(2) Criminal Justice Act, 1948, Fifth Schedule, paragraph 3 (5) and Rule 48 of the Probation Rules, 1949, as amended by the Probation (No. 2) Rules, 1952.
(3) Children and Young Persons (Amendment) Act, 1952, section 7.

it is difficult to contemplate a practicable arrangement whereby the responsibility for after-care could be placed elsewhere. We recommend, therefore, that responsibility for after-care should remain vested in the approved school managers. It should be incumbent upon them to secure that, for each child, a specified member of the school staff undertakes that part of the duties of after-care that is administered from the school.

488. As far as the after-care agents are concerned, representatives of the managers and staff of approved schools recommended that the approved school welfare officer service should be extended, but it seems to us that this service, although it has done much good work, has certain obvious shortcomings, and we doubt whether its continuation (even with the provision of training for its members), or its development to undertake all approved school after-care, would be satisfactory because of its isolation from other social services concerned with the family and because of the difficulty of supervising its work. We think that, provided the necessary trained staff are available, the principal agents for carrying out after-care supervision should be the probation service and the local children's authorities. We recommend that it should be made a statutory duty for local authorities, as it is already for probation officers, to act as after-care agents if requested to do so.

489. It is implicit in our recommendation that the necessary trained staff should be available in the probation and child care services to take on the extra work involved. It will take time to augment the existing services to required strength, and for this and other reasons we think the welfare officer service should be allowed to run down gradually. We appreciate that approved school managers have no direct control over probation officers or local authority officials, but we think that any difficulties arising from this situation can be avoided by the full exchange of information between the after-care agent and the school.

490. It is well known that unsatisfactory relationships with their homes are among the major causes of difficult behaviour in children, and one of the aims of the approved school is to foster a sound relationship wherever possible with the child's parents, and to help the home to prepare for the child's return. We think it most important that there should be good contact between the school and the home during the period of the child's training ; after-care virtually begins on the day the child is admitted to the school. Visits by parents are of great value not only in maintaining contact between the parent and child, but also in enabling staff to discuss with the parents the problems of the child and the family. The relationship between the school and the parents can also be fostered by visits to the home by qualified housemasters or (where they exist) the social case-workers who have been appointed to some schools ; often, however, it is impracticable on geographical grounds for this to be done.

491. It is essential that the after-care agent should be appointed as soon as possible after the child's admission to the school. By acquiring knowledge of the child and his home at an early date the after-care agent will be able to foster good relationships between the home, the child and the school and lay the foundations of the after-care work to be done on the child's release from school.

492. The after-care agent should be regarded by the child and his parents as a representative of the school. His functions should be explained to the parents as soon as he is appointed. Where a visit to the child's home can be paid by the member of the staff referred to in paragraph 487 or by a qualified housemaster or social case-worker as mentioned in paragraph 490, the explanation should be given on that occasion. Where such a visit is impracticable, the member of the staff referred to in paragraph 487 should write to the parents informing them of the appointment of the after-care agent and explaining his functions. Distance from the school may make it difficult for a busy after-care agent to meet the child at the school, but he should seek opportunity to do so wherever possible. Regular written contact should be maintained between the member of staff referred to in paragraph 487 and the after-care agent, information should pass freely in both directions, and the after-care agent should be actively concerned on occasions of home leave.

493. We recognise that cases will arise where it is desirable to appoint a local agent who is competent to secure an improvement in home conditions, but who would not be the most appropriate person to exercise supervision of the child on licence. If for any reason it is not practicable to appoint the after-care agent shortly after the child's admission to the school, we recommend that the managers should, taking into account any services that may already be acquainted with the family, appoint a suitable liaison agent to provide the link with the child's home while he is in the school as indicated in the previous paragraph ; in that event the after-care agent should be appointed within a prescribed period prior to the date of release on licence. (We suggest that the prescribed period should not be less than two or three months before the date of release.)

494. While accepting that responsibility for licensing and after-care, and for recall, should remain with the school managers, we have considered whether the general level of after-care would be improved if the organisation of after-care were to be placed in the hands of a separate after-care association. Under such an arrangement the after-care association could select the appropriate after-care agent after discussion with the school, the after-care agent could make regular reports to the association, and the association could make periodical progress reports to the school. If circumstances necessitated consideration of a child's recall, the association could consult with the managers, who would retain the final decision ; decisions to recall would be based on recommendations from the association and not on recommendations by individual agents.

495. We are of opinion, however, that the link created by the direct contact between the after-care agent and the managers is most important, and would not be improved by requiring agents to report to an intermediary body that would have no responsibility for making decisions. On balance, therefore, we do not favour the introduction of a separate after-care association, but we think there is need for a central advisory committee which would be representative of all interests concerned, and we recommend accordingly. Such a committee could be charged to keep the whole question of after-care under review, consider the various problems that arise (both for the managers and the after-care agent) and suggest ways in which improvements could be

effected. It could also consider the criteria for estimating the success or otherwise of after-care, especially in the case of older girls.

Absconding and misbehaviour in approved schools

496. As already stated, approved schools are open institutions; there are, in general, no physical restraints on movement beyond those to be found in most boarding schools, and there has always been a problem of absconding. To prevent absconding, reliance is placed mainly on supervision by the staff and the creation of a tone in the school unfavourable to absconding. This does not prevent some absconding, and there are individual boys and girls whom no school is able to hold by normal methods. We were informed by the Home Office that in recent years there has been some increase in the incidence of absconding, in the number of persistent absconders, and in offences committed by absconders. Often absconders are undisciplined in school and by their subversive influence impair the training of their more amenable and responsive fellows.

497. One remedy provided by the Act of 1933 was for managers to bring before a court a boy or girl who refused to settle into the life of the school, with a view to his being sent, if aged sixteen or over, to borstal training on a charge of absconding(1). There was criticism from time to time of this provision as applied to boys and girls who had not been found guilty of any offence but had been committed to an approved school as being in need of care or protection or beyond control, and provision was made in the Criminal Justice Act of 1948, under which the Secretary of State's consent is required (as was already the case in relation to a charge of serious misconduct in an approved school(2)) before managers can bring a charge of absconding. But this remedy deals with only part of the problem. Not all difficult boys and girls are suitable for borstal training and not all of them have reached the age of sixteen; it seems necessary therefore to consider further measures. Several of our witnesses urged that closed facilities should be provided in approved schools and a recommendation in these terms, which we endorse, was made by Mr. Victor Durand in his report on the disturbances at the Carlton approved school(3). We understand that the Home Office is considering, in conjunction with the approved schools, the provision of closed blocks in selected schools or of a special closed school (or schools) with psychiatric, medical and research facilities. (We understand that consideration is being given also to a further recommendation of Mr. Durand(4), that secure rooms should be provided in senior boys' schools for the separation, for quite short periods, of boys who suddenly become very difficult for what appears to be only a transient phase of conduct. Such rooms are already provided in most girls' schools.) We think it essential that if closed blocks are to be provided they should be associated with the classifying approved schools where use could be made of the specialist facilities available.

498. A further question is that of providing for the prompt temporary removal from approved schools of unruly or subversive boys when this is necessary to avoid a serious threat to discipline. Mr. Durand suggested

(1) Children and Young Persons Act, 1933, section 82.
(2) Children and Young Persons Act, 1933, Fourth Schedule, paragraph 8.
(3) Cmd. 937 (1960), paragraphs 169 and 181 (11).
(4) Cmd. 937 (1960), paragraphs 171 and 181 (12).

in his report(1) that one possibility would be for a warrant to be given by a manager, countersigning a request by the headmaster, and directed to a police officer of the rank of sergeant or above. We think it would be difficult, however, to justify legislation providing for the removal of an approved school child to police custody on the authority of an approved school manager. In our view it is important that the warrant to the police should be signed by a justice of the peace. This should not necessarily involve undue delay, and we recommend that approved school managers should be empowered to apply to a justice of the peace for a warrant for the removal by the police of an unruly or subversive boy from an approved school. The purpose of this provision would be, in emergency, to enable a person who was having a seriously disruptive effect on a school to be taken away and kept in secure custody for a temporary period, pending appearance before a court or a decision on his disposal. The provision, though necessary, would need to be invoked very infrequently. Consideration should be given to providing for a limit on the length of time for which persons should be kept in secure custody—we suggest seventy-two hours; the categories of places to which they may be removed; and the managers' responsibility for finding a place. We have considered this provision mainly in relation to boys, but the power might occasionally be needed for dealing with girls as well, and we see no reason why, if it is introduced, it should not apply to both sexes.

The position of approved schools in relation to borstal institutions

499. The number of boys committed to approved schools who, before completing their training, find their way to borstal after appearing before a court for absconding, or on a charge of serious misconduct, or on being charged with offences, has been increasing in recent years (ninety-nine in 1956; one hundred and fifty-two in 1957; two hundred and fifteen in 1958 and two hundred and twenty-seven in 1959). This has led us to consider whether the best use is being made of the training facilities available for those at the upper end of the approved school age range. There is undoubtedly in approved schools a hard core of tough and undisciplined boys whom it is difficult to deal with in the schools as at present organised and who tend to have a disruptive effect on the schools in which they find themselves.

500. There is an overlap between approved schools and borstals, both of which types of establishment may at present admit young persons aged sixteen and both of which have in them boys aged sixteen, seventeen and eighteen. The aims of approved schools and borstals are similar although their administration and staffing are different. Young offenders aged sixteen who are considered by the court to need long term training away from home may be sent to an approved school, or to a borstal institution if that type of training is thought to be more appropriate. But a court of summary jurisdiction cannot commit direct to borstal training (except in the case of absconding from an approved school or serious misconduct in the school); where a period of training in a borstal institution is considered to be appropriate the boy must be committed to quarter sessions for sentence. It may be, therefore, that in a borderline case a juvenile court

(1) Cmd. 937 (1960), paragraphs 160 (1) and 181 (1).

sometimes chooses to commit a young person to an approved school rather than commit him to the next quarter sessions with a view to borstal training, because of the delay and the remand to prison that are otherwise often entailed; some of these boys (and girls) may prove to be unsuitable for approved school training.

501. Under a system where a court has alternative methods of disposal before it, a wrong choice is bound to be made on occasion, and it is clearly desirable to provide for correct allocation as far as possible from the outset. Mr. Durand suggested in his report(1) that

> "consideration should be given to statutory provision for courts, when they are in doubt whether approved school training is the right remedy or whether training under the Prison Commission would be more appropriate, to commit young persons aged over 15 but under 17 years to 'residential training' for the purpose of observation in a classifying school, and for ultimate allocation by the Secretary of State in the light of the classifying school's report."

Mr. Durand suggested also(2) that

> "consideration should be given as soon as possible to statutory provision for removing from an approved school to Borstal or other suitable training institution any youth aged 15 years or over found to be unsuitable for approved school training or likely to exercise a seriously detrimental effect on the training of others in the school."

502. We have considered these proposals, and certain suggested modifications of them. We are conscious of the need—viewed against the background of the increase in juvenile delinquency, the White Paper on Penal Reform in a Changing Society(3), and Mr. Durand's report, for making more effective the methods of dealing with young offenders in their mid-teens who need institutional training. We recognise that the aims of borstals and of approved schools are similar, and we do not suggest that either type of institution is less progressive than the other, or less capable of effecting the reform and rehabilitation of the individual offender; we recognise, too, that it is already possible, under section 58 of the Act, for the Secretary of State to transfer a person under the age of eighteen to an approved school from borstal. But training in a borstal institution, catering as it does for persons aged sixteen to twenty-one on admission, is generally regarded as a more severe method of treatment than training in a senior approved school admitting persons aged fifteen and sixteen. We consider that the decision whether to send a person to borstal rather than to an approved school, and the decision whether to transfer a person from an approved school to borstal, are properly matters for the judiciary and not for the executive. We have recommended in paragraph 357 that in dealing with a young person aged sixteen, a court of summary jurisdiction should be empowered to order borstal training. We believe that the granting of this power would do much to reduce the number of wrong committals. We agree that where an offender in an approved school is found, either at the classifying stage or during training, to be incapable of benefiting from approved school training, or likely to exercise a seriously

(1) Cmd. 937 (1960), paragraph 181 (3).
(2) Cmd. 937 (1960), paragraph 181 (2).
(3) Cmd. 645 (1959).

detrimental effect on the training of others in an approved school, it should be possible, if it is in his interests, to transfer him to borstal, but we consider that this decision too should be made by a court, whenever possible after a full assessment by the classifying school(1).

503. With these considerations in mind we make the following recommendations.

(1) Where it is considered that an offender who has attained the age of sixteen needs long term residential training, the court should be empowered to make an order for " residential training " committing him either (*a*) to an approved school or (*b*) to borstal (provided the Prison Commissioners have reported, in accordance with the existing provisions, that he is suitable for borstal training).

(2) When the offender is committed to an approved school he should first be sent to a classifying school ; if during the initial period in the classifying school he is judged to be more suitable for borstal training, and the Prison Commissioners decide that he is suitable, the classifying school authorities should be empowered to bring him back to the committing court and apply for the variation of the order by the discharge of the approved school order and the substitution of an order for borstal training(1). For boys committed to borstal in these circumstances the normal period of detention for borstal would apply.

(3) When the offender has reached the training approved school and it is considered that in his own interests he should be sent to borstal, he should be transferred to a classifying school for further observation and for the procedure at (2) above to be followed if appropriate. In this case the period of detention in borstal would be the normal borstal period or the unexpired portion of the approved school period of detention, whichever is the shorter. (This provision should be held to apply to any offender who reaches the age of sixteen while in an approved school even though he may have been under that age when committed.)

(4) When an approved school boy (whether an offender or not) absconds or commits serious misconduct in a school the managers should continue to have power to bring him before the local (not the committing) court, and it would be open to the court, as at present, to commit him to borstal, provided he is of the appropriate age. At present it is necessary for the managers of an approved school to obtain the Secretary of State's consent before bringing a charge of absconding or serious misconduct. On the analogy of the procedure proposed for cases within categories (2) or (3) above, we think that consent might be dispensed with provided that the power to transfer from borstal to prison(2) did not apply to any non-offender sent to borstal.

504. We contemplate that the procedure suggested above for committing boys to borstal, or (after assessment by the classifying school) for trans-

(1) See Reservation III, page 167.
(2) Prison Act, 1952, section 44 (2).

ferring them under court orders from approved schools to borstals, should apply to boys aged sixteen or over. But if it is judged necessary, in the light of the findings and recommendations of Mr. Durand's report or for other reasons, that, in exceptional circumstances, the procedure should be capable of application also to specially difficult boys aged fifteen, we should not wish to dissent. We would expect few boys aged fifteen to be in need of borstal training, but in such cases the character, needs and maturity of the offender may be of more significance than his chronological age.

505. The foregoing proposals would apply in the main to boys, but we consider that they should apply to girls as well, although it is to be expected that comparatively few girls aged sixteen would be transferred to borstal.

Staff

506. We have regarded matters relating to the staffing of approved schools as falling largely outside our terms of reference, but it is clear that one of the most pressing needs is to stimulate recruitment of suitable staff to the schools. We have referred in paragraph 463 to the difficulties facing girls' schools, including that of recruiting sufficient senior staff of suitable quality; there is also a serious shortage of adequately qualified housemasters, who occupy a key position in the boys' schools, particularly in the intermediate and senior schools. We consider that special attention should be paid to ways of remedying these deficiencies.

507. We think that there is a clear need to provide special training for teaching and house staff in approved schools, and that they should undergo training before taking up appointment in an approved school (as recommended in 1946 by the Committee on Remuneration and Conditions of Service in Approved Schools). The courses might well be organised through the resources of the Central Training Council in Child Care(1). Existing schemes for refresher courses and other "in-service" courses should be encouraged and, where necessary, expanded. Every encouragement should be given to enable staff to take the necessary time off with pay in order to attend courses, and provision should be made as far as practicable for their temporary replacement.

508. We are also of opinion that, as far as is practicable, the engagement of women of suitable personality for senior boys' schools (for example, as housemothers) is to be encouraged.

CHAPTER 9

The Approved Probation Home System

509. We preface our remarks in this chapter by explaining that, under our terms of reference, we have not been required to inquire into approved probation hostels. The approved probation hostel system is one of the matters being considered by the Departmental Committee on the Probation Service. A probation hostel is a place where a person is required to reside and from which he goes out to ordinary daily employment; a probation home is a place where the person is required to reside and receive his training.

(1) We understand that the Central Training Council in Child Care are agreeable to organising such special training and courses are being planned.

Development of the approved probation home system, and the present position

510. The Departmental Committee on the Treatment of Young Offenders (1927)(1) recommended a greater use of hostels for probationers but expressed concern (page 54) that, in 1923 :—

> "518 probationers (200 males and 318 females) were sent to Homes as a condition of their probation. Twenty-two of these were sent for a period of three months or under, 25 for six months, 224 for a year, 184 for two years, 34 for three years, one for four years and the remainder for periods not stated."

That Committee recommended (recommendation 28) that :—

> "Probation should be restricted to 'supervision in the open' and should not be associated with institutional treatment, i.e., a probationer should not be required as a condition of a probation order to reside in a Home for training."

The Home Office did not accept the principle of this recommendation, considering that it would be detrimental to the work of probation officers to stipulate that no probationer should be sent to a home as a condition of probation, and that the right course would be to approve the use of homes under certain conditions. By 1936, three homes had been approved for boys and twenty for girls, and a capitation grant of up to 7s. 6d. weekly had been made available to homes on condition that the local authority contributed not less than a like amount and that the period of residence should not normally exceed six months.

511. The Departmental Committee on the Social Services in Courts of Summary Jurisdiction (1936)(2) found that this arrangement had worked well on the whole, and said (paragraph 93) :—

> "Experience has shown that forms of treatment (in Home Office schools or Borstals) which involve training of several years do not fulfil all the existing needs. There are some young offenders who do not require training in the strict sense and would respond to a shorter period of supervision in a suitable home."

The Committee deprecated the tendency to extend the period of residence in homes and recommend that six months should be the maximum. They suggested that the provision of short-term approved schools might reduce the need for probation homes for younger boys and girls.

512. At that time it seems to have been expected that homes, offering a short period of preparation and training to fit a probationer to take up work on leaving, could be provided and managed by voluntary organisations without substantial cost to public funds. It was contemplated that the standard of accommodation would be more modest than that in approved schools, and that the staff would not require training or qualifications other than strength of personality and character, and sympathy with young people.

513. By 1948 it had become evident that approved probation homes must be virtually dependent on public funds, and the Criminal Justice Act of that year, in giving them statutory recognition for the first time, made

(1) Cmd. 2831.
(2) Cmd. 5122.

financial provisions for them similar to those applicable to approved schools under voluntary management. Approved probation homes are approved by the Secretary of State " for the reception of persons who may be required to reside therein by a probation order or a supervision order "(1). The management of approved probation homes is regulated by the Approved Probation Hostel and Home Rules, 1949, and, as with approved schools, the Secretary of State's responsibility for them is exercised through inspections by inspectors of the Home Office Children's Department; probation inspectors also visit annually.

514. Approved probation homes are, in general, smaller than approved schools, having accommodation for between fifteen and thirty-five residents. They cater for persons who are over compulsory school age but under twenty-one on admission, each home taking an admission range of three or four years. In the twelve months ended 29th February, 1960, ninety-seven per cent. of the youths and sixty-seven per cent. of the girls admitted were required by probation orders to reside in the homes; the remainder were there under requirements in supervision orders. Persons may be accommodated in approved probation homes as " voluntary cases " on payment of the full cost of maintenance, but the number has for some years been negligible.

515. Homes are at present approved as follows:—

	Age at entry	*Number of Homes*		*Accommodation*
Youths	15 and under 18	2	(22, 35)	57
	16 and under 19	1		30
	17 and under 21	1		30
				117
Girls	15 and under 18	3	(21, 24, 32)	77
	17 and under 21	4	(15, 21, 24, 29)	89
				166

The ages of the one hundred and thirty-seven youths and one hundred and sixty-seven girls admitted in the twelve months ended 29th February, 1960, were:—

Age	*15*	*16*	*17*	*18*	*19*	*20*
Youths	34	44	27	23	5	4
Girls	47	38	36	24	14	8

516. Training is given within the homes, mainly in farming, gardening and woodwork for youths and in domestic work for girls. Classes in education and recreational subjects are provided, generally, by the local education authority. What is said in paragraphs 458 and 423 about religious instruction, social training and discipline in approved schools applies equally to approved probation homes, save that corporal punishment is prohibited.

517. A requirement to reside in an approved probation home may be included in a probation or supervision order by the court making the order or added to it later by the supervising court. The period of residence in a home is specified in the order and is for not less than six or more than twelve months: for the subject of a supervision order a residence requirement

(1) Criminal Justice Act, 1948, section 46.

ceases to have effect when the age of eighteen years is attained. In the year ended 29th February, 1960, ninety-eight per cent. of the youths and ninety-six per cent. of the girls admitted were initially required by their probation or supervision orders to reside in the homes for twelve months. The average length of stay of those who left during the year (excluding those who left because they were again before the court) was nine and a half months for youths and ten months for girls.

518. Residents in approved probation homes are not under legal detention, and cannot be compelled to remain there or to return after absconding. Any probationer who leaves the home while his order requires him to reside there is liable to be brought again before the court to be dealt with for the breach of the requirement, and may be fined up to £10, or ordered to attend an attendance centre if one is available (the probation order remaining in force), or dealt with for the offence for which the order was made in any manner in which the court could deal with him if it had just convicted him of that offence. A person who breaks a residence requirement in a supervision order may, if still under the age of seventeen, be brought back before a juvenile court and is then liable to be sent to an approved school or committed to the care of a fit person ; after the age of seventeen, the residence requirement cannot be enforced, nor is there any effective sanction for enforcing other requirements of the supervision order. (We have proposed earlier in our report (paragraph 170) extension of the juvenile court's powers to enable such cases to be dealt with.)

519. While in the home, a resident is under the supervision of a local probation officer : meanwhile a probation officer in the area of the parental home keeps in touch with the parents and supplies a report on the home conditions for the information of the supervising court when it carries out the statutory review of an order after six months' residence. On leaving the home, the person remains under the supervision of a probation officer until the probation or supervision order expires.

520. Financial control is exercised by the Home Office in the manner described in paragraph 417 in relation to approved schools. As with approved schools, the cost per head of maintaining residents varies from one home to another, and a flat-rate system is in operation. It is similar to that described for approved schools (see paragraphs 424 and 425) except that the local contribution is paid by the probation committee for the area of the court which made the requirement of residence, or, if the requirement was made by a superior court, by the probation committee for the area of the court which committed for trial or sentence. Parents are not liable to contribute to the cost of maintenance.

521. The net weekly cost per head of maintaining the residents in approved probation homes was £8 9s. 8d. in 1959–60.

522. Pay and conditions of supervisory staff of approved probation homes are determined by the Standing Joint Advisory Committee for Staffs of Children's Homes, which has also within its purview matrons, housemasters and certain other grades of staff in approved schools, and various grades in other residential establishments for children (see paragraph 429).

523. Staff from approved probation homes have attended refresher courses arranged by the Central Training Council in Child Care for them and for

approved school and remand home staff. One or two of the wardens of probation homes have attended probation officers' refresher courses.

The future of approved probation homes

524. The accommodation in approved probation homes has been fully used in recent years.

525. Several of our witnesses considered that the homes had an essential part to play in the treatment of those young people whose behaviour and background did not indicate the need for as long a period of training as is normally given in an approved school or borstal but who nevertheless appeared unlikely to respond to probation without a short period of residential care, and recommended that more homes should be provided. They said that less stigma was attached to admission to a probation home than to an approved school or borstal, and that the fact that the probationer had signified his agreement to the condition of residence was of value in his training. They considered that, because probation homes were comparatively small establishments, they were well adapted to providing a homely atmosphere and to enabling individual treatment to be given. We were told also that a big advantage lay in the continuity of supervision offered through the probation service, and the preservation of the link with the court and the probation committee.

526. On the other hand, approved probation homes suffer from the troubles inherent in small residential establishments of that character. We were informed that staffing problems were acute: it was difficult to provide accommodation and adequate relief for staff without increasing costs prohibitively, and this prejudiced the recruitment and retention of staff of the quality required. We were told also that the small size of the probation homes affected adversely the development of an adequate and varied training programme.

527. In our view the difficulties in staffing and running probation homes are very real and preclude any expansion of the system. In practice many courts are unable to take advantage of the facilities offered by the approved probation home system, and we doubt whether it is economically practicable for the homes to make a fully effective contribution to the treatment of young offenders.

528. Basically, the aim of the approved probation homes is to provide training on much the same lines as approved schools, although on a less ambitious scale and for a shorter period than that normally given in approved schools. If, through the development of specialisation recommended in paragraph 455, more approved schools of the "short stay" type could be provided, many of the young persons under the age of seventeen when required to reside in approved probation homes could no doubt be catered for within the approved school system under an approved school order; in fact, we were told in evidence that some of the young persons sent to probation homes could have done better in approved schools. Similarly many of those aged between seventeen and twenty-one could have benefited by borstal training.

529. We have referred to the difficulty of providing an adequate and varied training programme for residents of probation homes. (It is particularly difficult in the case of girls.) We think it likely that not all the young people

in probation homes need to remain as full-time residents; many of them could, we believe, be allowed to go out to work after a suitable period of "in-training", if suitable work were available. At present, under the Approved Probation Hostel and Home Rules, 1949, wardens of probation hostels are required to assist boys and girls in finding suitable outside employment within two weeks of their admission. If persons in hostels could be allowed to remain longer in full-time residence (say four to six weeks) before being required to go out to work, we think that a number of the young people at present required to reside in probation homes could equally well be accommodated in probation hostels. We recognise, however, that the régime at approved probation hostels is a matter falling within the terms of reference of the Departmental Committee on the Probation Service; we have communicated our views to that Committee in the hope that they will be of assistance to them in their deliberations.

530. In our opinion, it should be possible to provide satisfactorily for persons of the kind now sent to probation homes in approved schools (if more schools specialising in "short-term" training in small groups can be established) or in approved probation hostels (modified to permit of longer periods of full-time residence on admission). But within their limits, we think that, for the particular type of offender for which they are intended, approved probation homes can still play a useful part, and we recommend that they should not be discontinued before suitable and adequate alternative provision is made available. In reaching our conclusions we have been mindful of the fact that, while much good work has been, and is being, done in probation homes, probation is pre-eminently treatment in the open.

CHAPTER 10

The Prevention of Cruelty to and Exposure to Moral and Physical Danger of Children and Young Persons

531. We have discussed in chapter 2 the powers and duties of local authorities to prevent or forestall the suffering of children through neglect in their own homes. In this chapter we are concerned with the statutory provisions that may lead to prosecutions.

Definition of cruelty and neglect

532. It is an offence under the Act[1] for any person of sixteen years or over who has the custody, care or charge of any child under that age to:—

> wilfully assault, ill-treat, neglect, abandon or expose him, or cause or procure him to be assaulted, ill-treated, neglected, abandoned, or exposed in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement).

533. "Neglect . . . in a manner likely to cause him unnecessary suffering or injury to health" includes:—

> (*a*) failure on the part of a person legally liable to maintain a child to provide adequate food, clothing, medical aid or lodging for him, or to take steps to procure them under the appropriate enactments;

(1) Section 1 (1).

(*b*) any case where the death of an infant under three years was caused by suffocation (other than suffocation caused by disease or any foreign body in the throat or air passages) while the infant was in bed with some other person aged sixteen or over if the person was under the influence of drink when he went to bed[1].

534. Several of our witnesses were concerned to ensure that, as far as possible, the child suffering from mental cruelty should receive the same protection from the law as the child suffering from physical cruelty. Some witnesses suggested that the specific mention of "mental derangement" in subsection 1 (1) of the Act implied that it was necessary to prove mental cruelty of a very severe kind.

535. In view of the doubts that have been expressed on the scope of the definition in section 1 (1), we recommend that the subsection should be amended to make it clear that mental suffering falling short of mental derangement is covered by the definition. There may be difficulty in proving mental suffering in some cases, but we think that courts should be prepared to consider evidence of mental suffering, as they are prepared to accept evidence of physical neglect and cruelty.

Neglect conducing to the seduction or prostitution of a girl under sixteen years of age

536. Section 28 (1) of the Sexual Offences Act, 1956, makes it an offence for a person to cause or encourage the prostitution of, or the commission of unlawful sexual intercourse with, or an indecent assault on, a girl under the age of sixteen for whom he is responsible. By subsequent provisions of the section, a parent or guardian is treated as a person responsible for such a girl and he shall be deemed to have caused or encouraged the indecent conduct or act if he has knowingly allowed her to consort with or be employed by a prostitute or person of known immoral character. These provisions first appeared in the Children Act, 1908, and the Court of Criminal Appeal has held[2] that the expression "knowingly allowed" must be construed as being such permission as could be deemed to cause or encourage the conduct or act. Consequently the mere neglect of a parent or guardian, however reprehensible, does not come within the scope of section 28.

537. It was represented to us that the section should be extended so as to meet the case of a parent or guardian who conduced to the indecent conduct or act by any persistent act or omission and we have considered this proposal sympathetically. However, after obtaining the views of the Director of Public Prosecutions, we are not satisfied that in practice the existing law has proved inadequate. Furthermore, we consider that it would be difficult to extend the provisions of section 28 so as to cover the more extreme cases of neglect by any form of words that would define the extension with the exactitude appropriate to a criminal offence.

Desertion or abandonment

538. Several of our witnesses recommended that local authorities should have power to prosecute and exact suitable penalties from a person who deliberately abandons or deserts his child (without rendering himself liable

(1) Children and Young Persons Act, 1933, section 1 (2).
(2) R. *v.* Chainey [1914] 1 K.B. 137.

to prosecution for abandonment or desertion as at present defined) in such a way as to compel the local authority to receive the child into care under section 1 of the Children Act, 1948. They considered that the power should apply also where a person persistently fails to maintain his child so that, in consequence, the child has to be received into care, or where he fails to take over the care of his child when called upon to do so by the local authority, or absconds so that the local authority cannot call upon him to take over the care of the child. (We were told, for example, that a form of abandonment which was outside the scope of section 1 of the Children and Young Persons Act, 1933, occurred when a parent having the custody or care of a child handed him to a foster parent with a promise of regular weekly payments towards his maintenance and then, after a few weeks, disappeared and failed to maintain the promised payments so that as a result the child had to be received into the care of the local authority. Similarly, no action could be taken against the parent who failed to remove a child from hospital on receipt of notice that he was fit for discharge.)

539. We were informed that proposals similar to those now made to us were considered and rejected when the Children Bill, 1948, was in preparation. It was decided in 1948 that it would be undesirable to induce a parent, through fear of prosecution, to keep in unsatisfactory conditions a child who should have been received into care or to put a local authority in the position of having to try to force a child in their care on an unwilling parent, perhaps to the prejudice of the child's welfare. In our view that position still obtains.

540. A parent whose child is in the care of a local authority under section 1 of the Children Act, 1948, is liable to contribute to the child's maintenance, and the local authority have the right to enforce payments by applying for and obtaining a contribution order. The parent must also, subject to penalties, keep the local authority informed of his address. We do not think it is right to associate the offences that the witnesses want to create with those now described in section 1 of the Children and Young Persons Act, 1933, and we think it would be unwise to make any recommendation that might deter parents from seeking the help of the local authority. While, therefore, we sympathise with the intention behind the proposals made by the witnesses, we doubt whether ultimately they would be in the best interests of the children concerned, and we are unable to support them.

Prosecutions : procedure

541. Under section 98 of the Children and Young Persons Act, 1933, as amended by the Children Act, 1948, local education authorities are empowered to institute proceedings against parents for cruelty and neglect. The general tenor of the evidence that we received on this point was to the effect that the power vested in the local education authorities should be available to children's committees.

542. The Children Act, 1948, left with the local education authorities—deliberately—the power conferred by section 98 of the Children and Young Persons Act, 1933, to institute proceedings for offences under Part I (" Prevention of cruelty and exposure to moral and physical danger ") and Part II (" Employment ") of that Act, and provided for the exercise through the

children's committee of the local authority's functions under Part III ("Protection of children and young persons in relation to criminal and summary proceedings") and Part IV ("Remand homes, approved schools, and persons to whose care children and young persons may be committed"). The intention at that time was to avoid putting the children's committee in the position of prosecutor, as that might make it more difficult for them, in dealing with the child, to secure the parents' co-operation. But we were told that, with the development of case-work techniques there was now less objection to the same department of the local authority prosecuting the parents and caring for the child.

543. Any individual may prosecute for an offence under Parts I and II of the 1933 Act and, in practice, it is the police and the National Society for the Prevention of Cruelty to Children who bring nearly all the prosecutions under Part I. Provided that prosecutions are brought in the cases that warrant prosecution, it seems to us not to matter overmuch who brings them. We see no reason why the local authority should act only through the education committee, and we think there is much to be said for vesting power in the local authority without specifying the committee through which they must act: we recommend accordingly.

544. It is important that everything possible should be done to avoid delay in hearing cases involving children, and we have recommended, in paragraph 263, that section 14 (3) of the Act should be repealed. This subsection provides that a person shall not be summarily convicted of an offence mentioned in the First Schedule to the Act, unless the offence was wholly or partly committed within six months before the information was laid. However, the Schedule includes certain offences, for example, homicide, which cannot be dealt with summarily and other offences, for example, cruelty to a child or causing a child to be used for begging, where the general time limit of six months for summary trial, prescribed by the Magistrates' Courts Act, 1952 (section 104), already applies. In practice, therefore, the section operates only in relation to indictable offences triable summarily by virtue of sections 19-21 of the Magistrates' Courts Act, 1952. It is apparent that the section is largely inapposite and, for the reason given in paragraph 263, its repeal is recommended.

Penalties and treatment

545. Most of the charges brought under section 1 of the Act relate to neglect—sometimes gross—rather than to calculated cruelty. Most of them lend themselves to disposal in the magistrates' courts, but the right course in some instances is to commit to a higher court which has power to inflict heavier penalties. The maximum penalties on conviction for offences under section 1 are, on indictment, a fine of £100 or two years' imprisonment, or both; on summary conviction, a fine of £25 or six months' imprisonment, or both[1]. Higher penalties can be imposed on indictment if the person convicted knowingly stood to benefit financially by the death of the child; they are a fine of £200 or up to five years' imprisonment[2].

546. We consider that, owing to the change in monetary values, the pecuniary penalty on summary conviction should be increased. Otherwise we are of opinion that the powers of the court are adequate. It must be

(1) Section 1 (1).

(2) Section 1 (5).

borne in mind that offences of cruelty to and neglect of children dealt with in Part I of the Act are in addition to and not in substitution for offences which can be charged under other statutes providing severer penalties, in particular the Offences Against the Person Act, 1861, and the Sexual Offences Act, 1956.

547. Subject to any general decisions affecting fines that have become inadequate owing to the change in the value of money, we suggest that the maximum penalty on summary conviction for cruelty or neglect under section 1 of the Act of 1933 should be increased from a fine of £25 or six months' imprisonment, or both, to a fine of £100 or six months' imprisonment, or both. The maximum penalty on indictment should remain unaltered. In making this recommendation we wish to draw attention to the general desirability of bringing the more serious cases to court under statutes other than the Children and Young Persons Act, 1933.

548. We have been concerned primarily with the fines that may be ordered under section 1 of the Act. There are other fines that may be levied under Part I of the Act (for example, for allowing a child under sixteen to reside in or frequent a brothel, or be used for begging, for giving intoxicating liquor to children under five years of age, or for selling tobacco, etc., to persons under sixteen): we have not dealt individually with these fines but we recommend that they should be examined in the light of what is decided in respect of offences under section 1 and the general review of fines that is being carried out.

549. Several witnesses recommended that greater emphasis should be given to the rehabilitation of parents found guilty of child cruelty or neglect. We endorse that view. We have said that most of the charges brought under section 1 of the Act relate to neglect rather than to calculated cruelty. Cruelty and neglect may spring from a variety of causes—exceptional stress or continuing difficulty (financial or otherwise), frustration, lack of tolerance, anxiety and depression, poor home management, subnormality or mental deficiency in parents, rejection of an unwanted or handicapped child, illegitimacy, overcrowding and poor housing are among them. There is no doubt that much can be done to prevent serious situations from developing by the timely application of preventive and rehabilitative case-work, as envisaged in chapter 2. Often, moreover, where the intervention of the court becomes necessary, training in parentcraft and the running of a home is of prime importance, and, in applying the law, courts should make full use of the facilities available, both statutory and voluntary, for the rehabilitation of the family through residential training or skilled social help. We are of opinion, however, that while in many cases imprisonment might not be a constructive answer, it is nevertheless imperative that courts should retain the power to impose it. Cases in which it becomes necessary to impose imprisonment are likely to require the fullest use of facilities for the rehabilitation of the family both during and after the prison sentence. Every case of mishandling of a child coming before a court, besides posing a problem of treatment of the offender, invariably offers the chance of prevention lest the victim, when he grows up, should repeat the pattern.

PART FIVE

Summary of Recommendations

550. The following is a summary of our recommendations. Reference should be made to the text for a full explanation of our proposals.

The Prevention or Forestalling of Suffering of Children through Neglect in their Own Homes

(1) There should be a general duty laid upon local authorities to prevent or forestall the suffering of children through neglect in their own homes and local authorities should have power to do preventive case-work and to provide material needs that cannot be met from other sources ; these powers should be vested generally in the local authority (paragraph 48).

(2) Arrangements for the detection of families at risk should be over the widest possible front and we urge recognition of the need for early reference of cases and the need for impartiality in and a measure of independence for those responsible for diagnosis (paragraphs 40 and 44).

(3) There should be a statutory obligation on all local authorities to submit for ministerial approval schemes for the prevention of suffering of children through neglect in their own homes ; it should be made clear to which government department a local authority should look for advice or approval on matters of co-ordination (paragraphs 50 and 51).

(4) We urge the importance of further study by the Government and the local interests concerned of the reorganisation of the various services concerned with the family (paragraph 47).

General Principles of Jurisdiction over Children and Young Persons

(5) The present basic principle that State intervention should be dependent upon proof of certain specifically defined allegations should be retained (paragraph 66).

(6) The juvenile court should be retained but in its dealings with younger children and with children whose primary need is for care or protection it should move further away from the conception of criminal jurisdiction (paragraph 77).

(7) The minimum age of criminal responsibility should be raised to twelve (with the possibility of it becoming thirteen or fourteen at some future date) ; under that age a child would no longer be liable to be prosecuted for and convicted of an offence (paragraph 93).

(8) There should be a new procedure for children under twelve who commit offences and for all children who are in need of care or protection or are beyond control as at present defined. All such children should be brought to court as " being in need of protection or discipline ". Parents should be summoned to attend and bring the child with them (paragraphs 83 to 86 and Appendix IV).

(9) Authority to initiate proceedings under the new procedure should be confined to the police or the local authority (paragraph 87).

(10) In dealing with a child found to be in need of protection or discipline the powers at present available to the court in "care or protection" cases should be widened to include power to order detention in a remand home or attendance at an attendance centre. In addition to this or any other order that the court may make, or without making any other order, the court should be empowered to order payment of compensation and/or costs (paragraph 89) (see also recommendations (62) and (69)).

(11) It is inappropriate that married persons should be brought to court as being in need of protection or discipline and it should be made clear that the provisions do not apply to such persons (paragraph 92).

(12) The rebuttable common law presumption of *doli incapax* should be abolished (paragraph 94).

(13) The upper age limit in the definition of "young person" and for juvenile court jurisdiction should remain unaltered (paragraph 102) (but see also recommendation (29)).

(14) The court should be at pains to explain to both parents and child just what it is doing and why, so that they will be able to accept the court's decision as reasonable and appropriate, and become willing to co-operate in carrying it out (paragraph 112).

Proceedings up to the Time of Appearance before the Court

(15) There should be no avoidable delay in bringing before a court a child who is charged with an offence. There should be a statutory provision that, save for adequate reason, proceedings may not be brought more than twenty-eight days after the identity of the offender first comes to the knowledge of the prosecutor (paragraph 118).

(16) While it is desirable to keep children away from adult offenders, everything possible should be done to ensure that a child who has been arrested and not released on bail is brought before a judicial authority without delay—if possible within a period of seventy-two hours (paragraphs 119 to 122).

(17) A child who is taken to a place of safety should be brought within seven days of the removal before a judicial authority who should have power to make an interim place of safety order. Power to bring a child before the court, and the responsibility for doing so, should be laid upon the police and the local authority (paragraph 127).

(18) There should be power for a senior officer of police in emergency to issue a written authority to a constable to enter and search premises for a child suspected of being assaulted, ill-treated or neglected (paragraph 128).

(19) A parent's power to bring his child before a juvenile court on the ground that the child is beyond his control should be revoked (paragraphs 133 and 134).

(20) The aims and achievements of those who have instituted and worked police juvenile liaison schemes are worthy of commendation but there is insufficient justification for the general adoption of such schemes (paragraph 147).

(21) The present system under which the magistrates sitting in juvenile courts are nearly all lay justices should be continued; but it is important that recommendations for appointment to the commissions of the peace should include persons of the right age and experience who are willing and able to give the time necessary for juvenile court work (paragraph 155).

(22) Juvenile court justices should be between thirty and forty years ot age on first appointment but this should not be an inflexible rule; all magistrates both lay and stipendiary who sit in juvenile courts should be required to retire from the juvenile court panel on reaching the age of sixty-five (paragraph 156).

(23) The present method of selecting justices to serve in juvenile courts should be retained (paragraph 157).

(24) Every member of a juvenile court panel, whether lay or stipendiary, should be adequately trained for his duties and it is desirable that a magistrate should be required to complete a course of training before he adjudicates in a juvenile court (paragraph 161).

(25) Magistrates' courts committees should be responsible for reviewing the work of juvenile court panels in counties and for submitting to the Home Secretary proposals for combination. It should be made possible to combine the juvenile court panel for a borough having a separate commission of the peace with that for a neighbouring (county) petty sessional division (paragraphs 165 and 166).

(26) When a person before the court has not attained the age of seventeen when the proceedings are started but does so before the proceedings are completed the juvenile court should be responsible for seeing the case through to its end (paragraph 167).

(27) Where it is discovered during the course of the proceedings that a person has reached the age of seventeen the juvenile court should explicitly be given power to remand the case to the adult magistrates' court for disposal or, at its discretion, dispose of the case in any way that an adult magistrates' court would have power to deal with it (paragraph 168).

(28) The law should be amended to enable a magistrates' court to deal with a person over seventeen years of age who, when under seventeen, was placed on probation or conditionally discharged in respect of an offence for which an adult cannot be tried summarily, as if he were an adult being dealt with summarily for an indictable offence (paragraph 169).

(29) The power of a juvenile court should be extended to enable the court to deal with young people under eighteen years of age who are subject to supervision or fit person orders made before they attained the age of seventeen (paragraph 170).

(30) Each juvenile court in the metropolitan stipendiary court area should be empowered to deal with cases arising anywhere within that area (paragraph 172).

(31) Legislation should provide that one juvenile court can remit any case to another (paragraph 173).

(32) Where a child is charged with aiding or abetting an adult or is separately charged with an " allied " offence, both defendants should appear before the adult court (paragraph 175).

(33) Where a child is found guilty of an offence, other than homicide, by a court other than a juvenile court that court should remit the child to the juvenile court to be dealt with unless there is a special reason to the contrary. Similarly the court before which a person is convicted of one of the offences listed in the First Schedule to the Act of 1933 should, if it has reason to think that the child who is the victim of the offence may be in need of care or protection, direct that he should be brought before the juvenile court to be dealt with unless there is special reason to the contrary (paragraphs 176 and 177).

(34) Juvenile courts should be empowered to hear any proceedings against an adult under the Education Act, 1944, for the purpose of securing his child's regular attendance at school (paragraph 183).

(35) The forms used by juvenile courts should be in as simple language as possible. All reasonable efforts should be made to ensure that forms and orders and the proceedings in court are understood (paragraph 187).

(36) Every effort should be made to provide more suitable accommodation, including the provision of adequate ancillary accommodation, where juvenile courts are at present inadequately housed (paragraphs 190 to 194).

(37) A simpler form of oath should be prescribed for children in all courts ; this simplified form of oath should be taken by adults who give evidence in juvenile courts. A child should still be entitled to make an unsworn statement instead of giving evidence on oath (paragraphs 197 and 198).

(38) When a child is brought before a court both parents should as a rule be required to attend. A warrant to enforce the parents' attendance at court should not be issued without an information in writing and on oath (paragraphs 200 to 202).

(39) If at the time of the institution of proceedings the child is already temporarily removed from the custody or charge of his parents under a court order, the person initiating the proceedings should be made responsible for informing the child's parents of the time and place of the proceedings (paragraph 203).

(40) The recognised rules of evidence should be observed in non-criminal cases as in criminal cases but it should be provided in non-criminal cases that evidence of prescribed matters may be furnished on certificate (paragraph 205).

(41) The difficulties in revealing to a child and his parents the contents of reports furnished for the information of the court can be met in the long run only by the skilled summarising of reports by the chairman as permitted under the Summary Jurisdiction (Children and Young Persons) Rules, 1933. Improvement in present practices can better be achieved by administrative guidance coupled with more training for magistrates, than by formal regulation (paragraph 217).

(42) As a general rule, home surroundings enquiries for the information of the court should be made only after the case has been proved, but because

of the infrequency of court sittings it may sometimes be necessary for enquiries to be made before the trial (paragraph 220).

(43) Responsibility for presenting to the court reports on a child's home surroundings, school record, health and character should remain vested in the children's department of the local authority, or the probation officer where the court wish him to present the home surroundings report (paragraph 223).

(44) The maximum period of remand should not be increased and a minimum period should not be prescribed (paragraph 227).

(45) In certain cases when children on probation are brought back to court, the juvenile court should have power to adjourn the case without recognisances for up to three months (paragraph 228).

(46) It is generally undesirable that young persons, whether offenders or not, should be lodged in prison pending a decision as to their ultimate disposal and every effort should be made to provide suitable alternative accommodation for those certified to be so unruly that they cannot safely be lodged, or so depraved that they are not fit to be lodged, in an ordinary remand home or other place of safety (paragraph 229).

(47) Courts should be empowered to dispense with the attendance at court of any child at the hearing of an application for the renewal of a place of safety order or the revocation of a fit person order (paragraph 232).

(48) The right of a young person to claim trial by jury should be retained (paragraph 239).

(49) Juvenile offenders charged with minor offences should not be enabled to plead guilty without appearing in court (paragraph 246).

(50) The existing power to allow full legal aid in criminal cases should be readily exercised in juvenile courts and provision should be made for legal aid to be available in "care or protection" and "beyond control" proceedings ("protection or discipline" proceedings) (paragraph 251).

(51) The existing restrictions on newspaper reports of proceedings in juvenile courts are satisfactory; the protection from publicity afforded to children appearing before juvenile courts should be extended to the hearing at quarter sessions of appeals against juvenile court decisions (paragraphs 254 and 257).

(52) The power of a justice to take the deposition of a child in respect of whom any of the offences mentioned in the First Schedule to the Act of 1933 is alleged to have been committed should be widened. It should be the responsibility of the prosecutor in each relevant case to consider whether application should be made for the appropriate power to be invoked (paragraph 261).

(53) Section 14 (3) of the Act of 1933, which prevents a magistrates' court from dealing summarily with certain offences against children mentioned in the First Schedule to the Act unless the offence was wholly or partly committed within six months before the information was laid, should be repealed (paragraphs 263 and 544).

(54) Appeal courts of quarter sessions should include members with juvenile court experience when hearing appeals from juvenile courts.

Arrangements similar to those now in force in London should, so far as practicable, be adopted for appeal courts of quarter sessions for all counties. In boroughs with a separate quarter sessions the recorder should have sitting with him, either as members of the court or as assessors, a man and a woman drawn from the juvenile court panel of the borough (paragraphs 267 and 268).

(55) The Magistrates' Courts Rules should provide that an adult magistrates' court should be required to obtain and consider background reports in any case where a juvenile offender appears before them. The Rules should also provide that where a juvenile offender appears at quarter sessions on appeal against conviction or following committal, all written reports presented to the juvenile court or other magistrates' court should be forwarded to the clerk of the peace (paragraph 271).

(56) Superintendents of remand homes should be required to submit to superior courts reports on children committed to their custody to await trial or sentence (paragraph 272).

Methods of Punishment or Other Treatment Available to the Courts in Dealing with Children and Young Persons

(57) For a child under fourteen found guilty of an offence the maximum for a fine should be £10, and for a young person, for all offences tried summarily, whether summary or indictable, £50. Compensation should be treated separately, subject to the same limits as for adults; the parent should be required to meet the cost of compensation that a child under fourteen is ordered to pay (paragraph 276).

(58) Where two or more offences are proved in the same proceedings, it should be made clear that the court can put the offender on probation for one offence and order some form of treatment, not involving detention, for another (paragraph 278).

(59) For a child below the age of fourteen found guilty of an offence, the power to make a probation order should be replaced by a power to make a supervision order (paragraph 282).

(60) The law should be amended to provide that when a court is dealing with a breach of probation or the commission of a further offence while on probation it should have power to amend the requirements of the probation order (paragraph 283).

(61) The maximum period of residence in an approved institution as a condition of probation should remain unchanged at twelve months; but if the period of residence required is in excess of six months, the statutory six-monthly review of the requirement should be replaced by a continuous review by the supervising court on regular reports by the probation officer (paragraphs 284 and 285).

(62) The minimum age for attendance at an attendance centre should be lowered to ten years and the restriction that confines attendance centre treatment to offences punishable in the case of an adult by imprisonment should be rescinded (paragraphs 291 and 293).

(63) When dealing with an application from a local authority, for a child committed to their care to be sent to an approved school, the juvenile court should be empowered to make any order that it could have made originally (paragraph 303).

(64) When revoking a fit person order, upon application being made under section 84 (6) of the Act of 1933, the juvenile court should be empowered to substitute a supervision order of its own volition (paragraph 304).

(65) When a child under supervision is brought back to court, the consent of the local authority to the making of a fit person order should be required only when the court intends that the supervision order should continue in operation with the fit person order (paragraph 306).

(66) Parents of children committed to the care of a fit person (or to approved schools) should be required to notify any change of address whether or not a contribution order is in force (paragraph 308).

(67) Section 85 of the Act of 1933 should be amended to empower the police to detain anyone under the age of eighteen who absconds from the care of a fit person (paragraph 310).

(68) Courts should not be given power to commit children to special schools for handicapped pupils (paragraph 312).

(69) The existing power to order detention in a remand home should be retained and should be available in cases of "protection or discipline" (paragraph 317).

(70) For offenders aged fourteen and over but under seventeen there should be a standard period of three months' detention in a detention centre (paragraph 325).

(71) A period of detention in a detention centre should be followed by a period of statutory after-care. After-care should normally be for a period of twelve months from the date of release, but there should be a compulsory review after six months, when the supervisor, if he considers it justified, should make a recommendation for discharge. The power to release on licence should be at the discretion of the Prison Commissioners (paragraphs 328 to 330).

(72) A local authority named in an approved school order should be enabled to appeal on the ground that the child's place of residence is not known (paragraph 345).

(73) The law should be amended to provide that, on making an approved school order, the court should be enabled, when sending a child to a classifying school in accordance with the normal procedure, to indicate, in a special case, the training school to which it would like him to be sent. Such a request should be considered by the classifying authorities who should be required to notify the court if they decide that the recommendation should not be complied with. Where for any reason the child is not sent to a classifying school, the choice should rest with the Secretary of State, who should be required to take into account any recommendations that the court might make (paragraph 346).

(74) The parent of a child committed to an approved school should be enabled to apply to have him removed to an approved school for persons

of his religious persuasion without being required to name such a school. The law should be amended to provide that the applicant's request should be complied with if it is reasonably practicable (paragraph 347).

(75) Section 72 (4) of the Act of 1933, which provides that any person who harbours or conceals a child after the time has come for him to be sent to an approved school is liable to be fined or imprisoned or both, should be strengthened by the inclusion of powers to enable the police to enter and apprehend the child (paragraph 348).

(76) Legislation should provide that, when an approved school order is made in respect of a child who is already the subject of a fit person order, the approved school order should supersede but not terminate the fit person order (paragraph 349).

(77) In dealing with a young person who has attained the age of sixteen years, a court of summary jurisdiction should be empowered to order borstal training (paragraph 357).

(78) When detention centres are developed so that they are available to all areas of the country, courts should no longer have power to impose imprisonment on persons under the age of seventeen (paragraph 360).

(79) Supervision orders should terminate when a child reaches the age of eighteen (paragraph 365).

(80) The law should be amended to provide that when a child who is the subject of a supervision order is brought before a juvenile court in his own interests, under the provisions of section 66 (1) of the Act of 1933, the court should have power to make any order that it could have made when the supervision order was made or amend the supervision order without further process if it wishes to continue the supervision (paragraphs 367 and 366).

(81) Where the court desires to place a child under the supervision of a probation officer, instead of naming a specific officer, it should be required to name in the order the petty sessional division in which the child to be supervised will reside (paragraph 368).

(82) When a court wishes to make a supervision order containing a requirement of residence it should be lawful to bring the requirement into force by endorsement of the order, but only if the endorsement is made within three weeks of the making of the order (paragraph 370).

(83) Courts should be given power to make contribution orders (in respect of children received into care under the Children Act, 1948, or committed to the care of a fit person or to an approved school) with retrospective effect, subject to a maximum of six months' retrospection ; additionally courts should be enabled to make an order in respect of a period when a child was in care, even though he is no longer in care, provided that application for the order is made within six months of the date of ceasing to be in care (paragraph 380).

(84) The power which a local education authority has to bring a truanting child before a juvenile court without first prosecuting his parent for failing to secure his regular attendance at school should be widened so as to apply to a child who has not become a registered pupil at a school (paragraph 382).

The Remand Home System

(85) Remand homes should retain their existing functions and title. While the amount of remand home accommodation must be kept under review, there is a general need for a wide network of remand homes (paragraph 403 (*a*)).

(86) The experiment of establishing a classifying centre in the London County Council's remand home for boys might be extended to other areas of dense population (paragraph 403 (*b*)).

(87) The services of the classifying approved schools should be made available, when circumstances permit, for the more difficult remand cases (paragraph 403 (*c*)).

(88) Where appropriate, remand homes with psychiatric facilities should make those facilities available for the observation of children remanded on bail (paragraph 403 (*d*)).

(89) Where during a period of remand a young person attains the age of seventeen the authority for his detention in a remand home should not be invalidated; the same considerations should apply when a young person is taken to a remand home by the police after arrest (paragraph 411).

The Approved School System

(90) It would be undesirable to merge the approved school system with any other system of residential provision; central responsibility for the administration of approved schools should remain with the Home Office (paragraph 434).

(91) The existing blend of management of approved schools by local authorities and voluntary bodies should be continued but there is need to improve the position as regards the constitution of voluntary committees of management (paragraph 435).

(92) All voluntary committees of management should be required by law to adopt an instrument of management approved by the Secretary of State (paragraphs 436 and 437).

(93) An approved school manager should be required to relinquish his appointment on reaching the age of seventy-five (paragraph 438).

(94) The basis of representation in voluntary committees of management should be broadened where necessary (paragraph 439).

(95) A manual of advice about the approved school service should be issued for the information of individual managers (paragraph 440).

(96) It should be a recognised practice for Home Office inspectors and managers of individual approved schools to meet each other regularly for the purpose of general discussion and exchange of views (paragraph 442).

(97) When it becomes necessary to transfer an approved school child from one training school to another, the boy (or girl) should normally be sent to a classifying school for observation and advice as to reallocation (paragraphs 451 and 462).

(98) In the case of children who pass through the classifying schools on committal the choice of training school and arrangements for transfer should

rest with the classifying schools; orders for transfer signed by or on behalf of the Secretary of State should be dispensed with (paragraph 452).

(99) Specialisation in the treatment facilities in approved schools should be encouraged (paragraph 455).

(100) Every effort should be made to secure adequate psychiatric facilities for all approved schools (paragraph 460).

(101) Flexibility in approved school treatment is highly desirable and should be increased (paragraph 461).

(102) Consideration should be given to the provision of larger approved schools for senior girls, organised on family group lines (paragraph 464).

(103) A local authority should be enabled to receive into care a girl who is pregnant at the date of licence from an approved school or who has given birth to a child during the currency of an approved school order (paragraph 465).

(104) For approved school children of compulsory school age the maximum amount of home leave that may be granted should be increased (paragraph 466).

(105) The experiments being carried out by some approved schools of providing hostels in which suitable boys and girls are accommodated as part of their approved school training should be encouraged (paragraph 467).

(106) The present maximum periods of detention under approved school orders should remain unaltered (paragraph 478).

(107) Release from an approved school should be followed in all cases by a statutory period of two years on licence calculated from the date of release; there should be a compulsory review after twelve months with a view to the cancellation of the licence where continued compulsory supervision is considered to be no longer necessary. The existing statutory period of supervision following licence should be abolished but approved school managers should be empowered to provide voluntary supervision in any case where it is desired after completion of the statutory period of licence, but not after the person concerned has reached the age of twenty-one (paragraph 480).

(108) Recall to an approved school of a person on licence who has reached the age of nineteen should be subject to the authority of the Secretary of State (paragraph 481).

(109) The statutory requirement to obtain the Secretary of State's authority for the release of a child during the first twelve months of his detention in an approved school should be revoked; and managers should be encouraged to review cases earlier than they are required to do at present. Managers should take as close a personal interest as possible in the progress and licensing of children committed to their charge (paragraphs 482 and 483).

(110) Responsibility for the after-care of children released from approved schools should remain vested in the approved school managers (paragraph 487).

(111) The principal agents for carrying out after-care supervision should be the probation service and the local children's authorities. It should be made a statutory duty for local authorities, as it is already for probation

officers, to act as after-care agents if requested to do so. The approved school welfare service should be allowed to run down gradually (paragraphs 488 and 489).

(112) It is essential that the after-care agent should be appointed as soon as possible after the child's admission to the school. Contact should be maintained between the school and the after-care agent while the child is in the school as well as when the child is released. If it is not practicable to appoint the after-care agent shortly after the child's admission to the school, managers should appoint a suitable liaison agent to provide the link with the child's home while he is in the school (paragraph 491 to 493).

(113) A central advisory committee should be set up, charged to keep the whole question of approved school after-care under review (paragraph 495).

(114) Closed facilities should be provided in the approved school system for children who need to be held securely for a period. If closed blocks are provided they should be associated with the classifying approved schools (paragraph 497).

(115) In emergency, approved school managers should be empowered to apply to a justice of the peace for a warrant to the police for the removal from an approved school of an unruly or subversive boy (or girl) who is having a seriously disruptive effect on the school (paragraph 498).

(116) (*a*) Where it is considered that an offender who has attained the age of sixteen needs long-term residential training the court should be empowered to make an order for " residential training " committing him either to an approved school or to borstal;

(*b*) if the offender is committed to an approved school and during the initial period in the classifying school he is judged to be more suitable for borstal training, the classifying school authorities should be empowered to bring him before the committing court and apply for the variation of the order;

(*c*) when the offender has reached the training approved school and it is considered that in his own interests he should be sent to borstal, he should be transferred to a classifying school for further observation and for the procedure at (*b*) above to be followed if considered necessary (paragraph 503 (1) (2) and (3)).

(117) When an approved school boy absconds or commits serious misconduct in a school the managers should continue to have power to bring him before the local court but the necessity of obtaining the prior consent of the Secretary of State to the bringing of a charge might be dispensed with (paragraph 503 (4)).

(118) Special attention should be paid to the need to stimulate recruitment of suitable staff to approved schools (paragraph 506).

(119) Teaching and house staff should undergo training before taking up appointment in an approved school (paragraph 507).

(120) The engagement of women of suitable personality for senior boys schools should be encouraged (paragraph 508).

The Approved Probation Home System

(121) It should be possible to provide satisfactorily for persons of the kind now sent to approved probation homes in approved schools or in approved probation hostels; but approved probation homes should not be discontinued before suitable and adequate alternative provision is made available (paragraph 530).

The Prevention of Cruelty to and Exposure to Moral and Physical Danger of Children and Young Persons

(122) The law should be amended to make it clear that mental suffering falling short of mental derangement is covered by the definition of cruelty and neglect in section 1 (1) of the Act of 1933 (paragraph 535).

(123) The power at present vested in the local education authority to institute proceedings against parents for cruelty and neglect should be vested in the local authority without specifying the committee through which they must act (paragraph 543).

(124) The maximum penalty on summary conviction for cruelty or neglect under section 1 of the Act of 1933 should be increased to a fine of £100 or six months' imprisonment or both. The maximum penalty on indictment should remain unaltered. Other fines under Part 1 of the Act should be examined in the light of the level of fines generally (paragraphs 547 and 548).

(125) While it is imperative that the power to impose imprisonment in cases of child cruelty or neglect should be retained, courts should, in applying the law, make full use of the facilities available for the rehabilitation of the family through residential training or skilled social help (paragraph 549).

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551. In conclusion, we wish to place on record our debt of gratitude to our Secretary, Mr. W. F. Delamare of the Home Office. This, indeed, is no formality. His task has been long and arduous. Mr. Delamare has been tireless, and we cannot commend too highly his industry, his accuracy, his tact, and his skill in marshalling the facts, and in formulating our conclusions. He has taken a large part in the preparation of our report.

Ingleby, *Chairman.*
Hester A. Adrian
Penelope Aitken
R. H. Blundell[1]
Donald Ford
R. M. Jackson[2]
Mary M. C. Kemball
G. H. McConnell
Alan Moncrieff
Ursula Ridley
Peter Scott
G. A. Wheatley
Thomas Williams[3]
J. P. Wilson

W. F. Delamare, *Secretary.*

5th October, 1960

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(1) Subject to Reservation I below.
(2) Subject to Reservation III below.
(3) Subject to Reservation II below.

RESERVATIONS

I.—Reservation by Mr. Blundell

The minimum age of criminal responsibility

I am of opinion that at this time it is not appropriate for a child between the ages of eight and twelve, who is guilty of any offence, to be dealt with as "in need of protection or discipline". I see no reason for alteration in the present procedure.

The juvenile courts are at the present time as well able to deal with a child who is anti-social and guilty of an offence and in need of discipline as they are to deal with a child who is in need of care or protection. By the age of eight most children have acquired an appreciation of the difference between right and wrong, and there are adequate safeguards against a miscarriage of justice. I consider that the common law presumption of *doli incapax* gives ample protection, and from my experience as an advocate and on the bench in juvenile courts, it should present no difficulties to a bench of justices.

R. H. Blundell.

II.—Reservation by Sir Thomas Williams

The initiation of proceedings under the proposed "protection or discipline" procedure

I find myself unable to agree to the proposals of my colleagues to withdraw from the National Society for the Prevention of Cruelty to Children the authority they at present have to bring before a juvenile court a child in need of care or protection.

The N.S.P.C.C. is the only voluntary body possessing these powers, which were conferred upon them after many discussions and much careful thought. I am convinced that the removal of these facilities would prove a retrograde step and would be a further expression of the unfortunate modern tendency to concentrate too much authority in one place for the sake of a compact administrative pattern. It is understandable that some statutory bodies might welcome the limitation of the powers of the N.S.P.C.C.; this would put them in complete control of the situation since the decision as to whether to bring a child before the court or not would rest entirely with them. I do not accept the assumption that the statutory official is always best fitted to decide the rights or wrongs of a particular case without reference to the judiciary. On the contrary cases have arisen where the local authority has been opposed to the removal of a child but the magistrates after hearing the evidence have upheld the Society's point of view as representing the best interests of the child. I see no merit in the suggestion to reduce the initiating agents from three to two, nor can I accept that the local authority or the police are better able than the N.S.P.C.C. to judge whether or not a particular case should be brought before the magistrates. It is only fair that I should state there was no evidence that either the police or the local authority share the view of the majority of the Committee on the proposed curtailment of the powers now held by the N.S.P.C.C.

Undoubtedly the work of the Society would be seriously hampered if it were to be deprived of its powers to initiate proceedings under section 62 of the Children and Young Persons Act, 1933. It would mean that a

"tribunal" composed of servants of the State, i.e. the local authority or the police, would have to give permission before access could be gained to the magistrates. To whom would an appeal lie if this body disagreed even if the Society felt strongly in a particular case that information should be laid before the magistrates? Difficulties would arise when it was necessary for the N.S.P.C.C. to remove a child on a magistrate's order to a place of safety. Is it proposed that the local authority should have the right to return a child in spite of the magistrate's order without bringing him before a court?

The great majority of the cases which the N.S.P.C.C. investigates are reported to it by the general public who know that it will act speedily and with vigour on behalf of a child who is in trouble. It is questionable whether they would be equally willing to report cases to the local authority or the police. It might well be that their readiness to give information to the Society would be adversely affected if they knew that its powers to act upon it has been curtailed. This, if it were to happen, could only be a disaster to the children concerned.

The Society's concern is the interest of the child and it is not hampered by other duties such as pertain to the police or the local authority. The N.S.P.C.C. is the only one of the three bodies at present authorised to take proceedings in the juvenile court whose *sole interest* is the welfare of the child.

It is unfortunate that this proposed new procedure had not been thought of at the time when representatives of the N.S.P.C.C. appeared before the Committee, but since this was so I regret that the Committee felt unable to call the professional head of the Society before them to address them on these specific proposals, since the Society has had such a long and rich experience in this field. I am not concerned with the status of the National Society for the Prevention of Cruelty to Children, its high reputation renders this unnecessary. I feel after nearly thirty years' experience as a member of a local authority, as a juvenile court magistrate for some years and chairman of a children committee as well as a member of the Central Executive Committee of the National Society for the Prevention of Cruelty to Children, that I am in a position to view this matter quite objectively and without prejudice. I have been impressed over the years by the manner in which the Society carry out their difficult duties and would view with dismay any limitation of the powers which they have exercised over so long a period with tact and restraint.

THOMAS WILLIAMS.

III.—RESERVATION BY DR. JACKSON

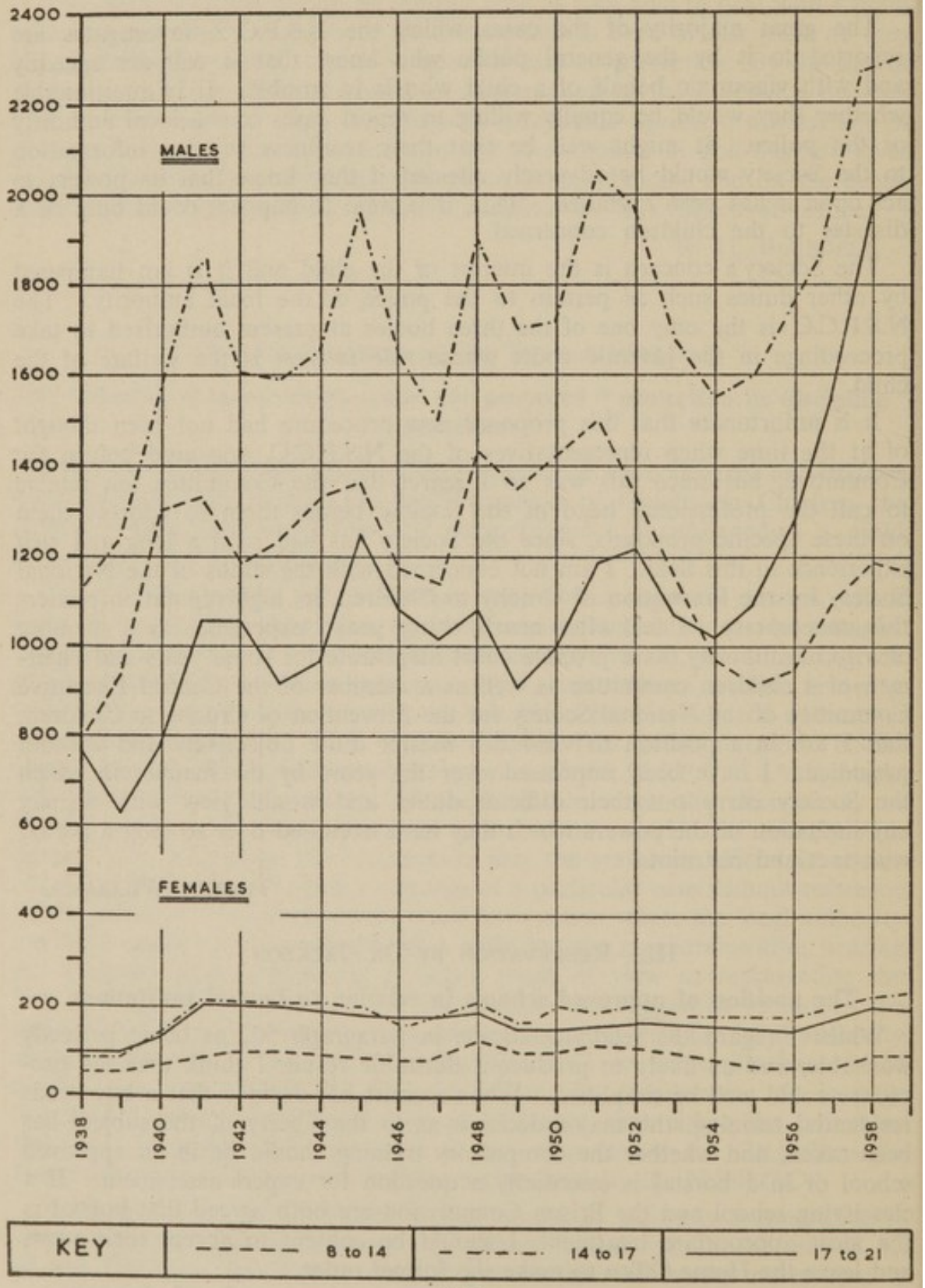
The position of approved schools in relation to borstal institutions

Whilst I regard the recommendation in paragraph 502 as being perfectly workable, and as likely to produce a desirable result, I think that the procedure could well be simplified. When a court has decided that a boy needs residential training, the major decision as to the liberty of the subject has been taken, and whether the compulsory training should be in an approved school or in a borstal is essentially a question for expert assessment. If a classifying school and the Prison Commission are both agreed that borstal is the most appropriate treatment, I should be content to accept their view, and leave the Home Office to make the formal order.

R. M. JACKSON.

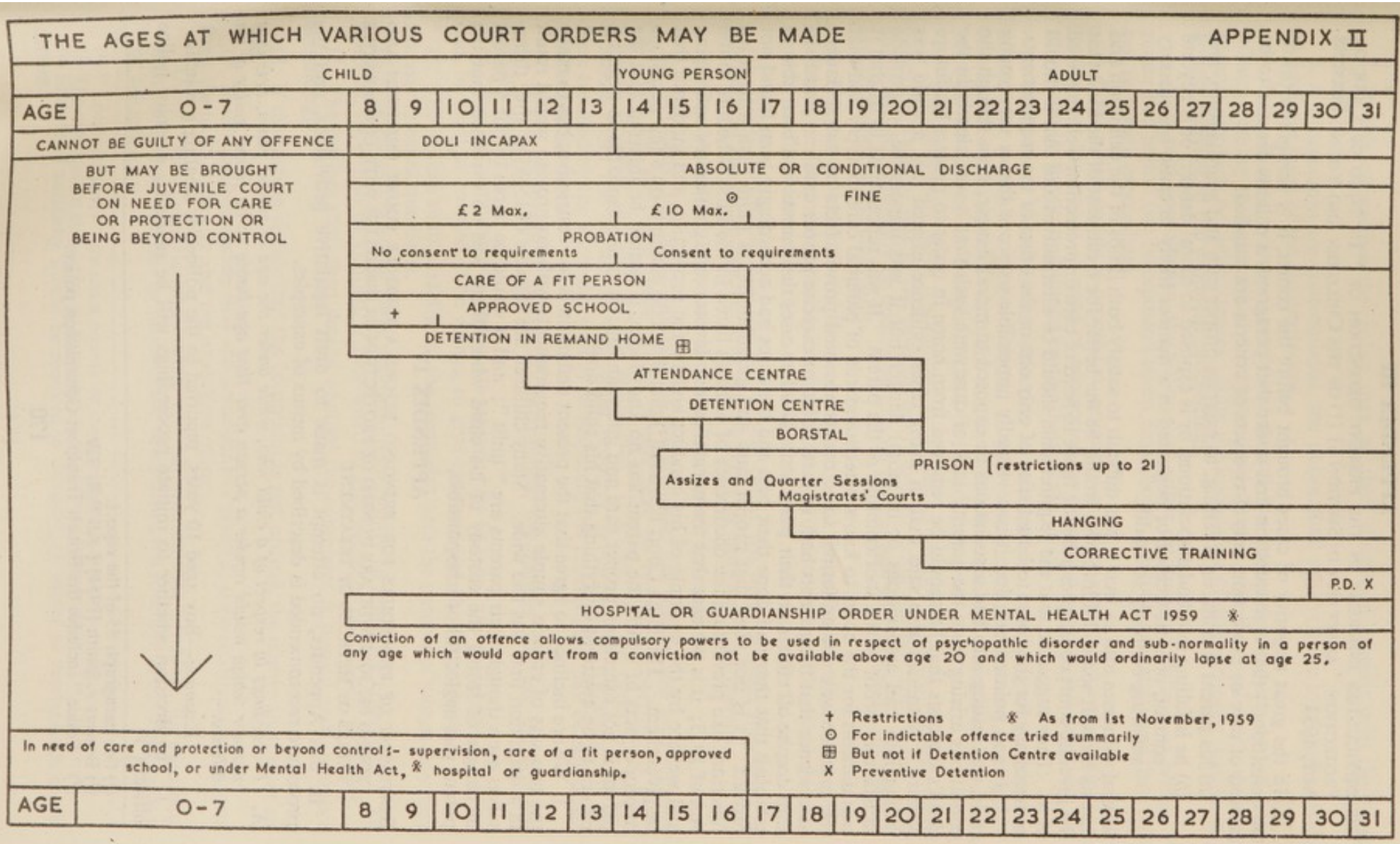
APPENDIX I

NUMBER FOUND GUILTY OF INDICTABLE OFFENCES PER 100,000 OF THE POPULATION IN THE AGE AND SEX GROUP 1938 TO 1959



THE AGES AT WHICH VARIOUS COURT ORDERS MAY BE MADE

APPENDIX II



APPENDIX III

THE DIFFICULTIES INHERENT IN THE PRESENT DEFINITION OF "IN NEED OF CARE OR PROTECTION" AS SET OUT IN SECTION 61 (1) OF THE CHILDREN AND YOUNG PERSONS ACT, 1933

1. In the great majority of cases brought before the courts, it is paragraph (*a*) of the definition(1) that is in question and under that paragraph a child is deemed to be in need of care or protection only if two sets of criteria are satisfied:

(*a*) his parent is unfit, or is failing, to exercise proper care and guardianship, and

(*b*) he is falling into bad associations, or is exposed to moral danger, or is beyond control, or is ill-treated or neglected in a manner likely to cause unnecessary suffering or injury to health.

Several witnesses told us that it was difficult to satisfy both limbs of the definition and that as a result some children who would be the better for treatment of the kind that the juvenile court could prescribe for those in need of care or protection were deprived of it. They suggested that the requirements should be alternatives and that it should be necessary for the court to be satisfied of only one or the other of the requirements.

2. It was pointed out that it was virtually impossible to prove that a very young child was falling into bad associations or exposed to moral danger, even though the conditions arising from the parents' lack of care were such that it was clearly in the child's interests that he should be removed from home in order to protect his future welfare. Witnesses also said that in many cases evidence existed that a child was falling into bad associations or in moral danger but it was impossible to provide satisfactory proof of the shortcomings of the parent. It was represented to us that it was difficult for the court to know what standards of parental care to apply and that the practice was not uniform; some courts accepted proven facts of moral danger as evidence that the parents had, in fact, failed to exercise proper care and guardianship despite all efforts on their part, while in other cases the parents had been able to establish that they had done their best and the cases had accordingly been found not proved. It is our view that proper care and guardianship is more than a negative function, like preventing the occurrence of offences listed in the First Schedule to the Act of 1933; it is the care that the normal parent devotes to his children's upbringing and welfare by the example of his conduct and by the protection and guidance that he gives them. The High Court has held(2) that if a child commits on a few occasions improper acts of which the parent has no knowledge, it cannot be inferred that the parent is not exercising proper care and guardianship; it is unreasonable to expect a parent to be aware of everything that his child does.

3. We are inclined to agree that the present definition is too restrictive, but to make the two sets of criteria simple alternative requirements with no proviso would result in a definition that was too wide. Many children are capable of looking after themselves even though their parents are "unfit"; and it would be harsh to put a parent in danger of losing the custody of his child where there was no evidence that the parent was neglectful or irresponsible.

APPENDIX IV

STATEMENT OF PROCEDURE FOR BRINGING BEFORE A JUVENILE COURT CHILDREN AND YOUNG PERSONS WHO ARE IN NEED OF PROTECTION OR DISCIPLINE WITH COMPARATIVE TABLES OF METHODS OF TREATMENT

In this Appendix, no attempt is made to draft legislative provisions, and the procedure recommended is described by means of examples.

A. *Proceedings in respect of a child who, while under the age of twelve years, acts in a manner which would render a person over that age liable to be found guilty of an offence.*

Example—Boy aged 10 years, reported to the police for stealing a watch.

1. The decision whether to initiate proceedings will be made by a senior police officer.(3)

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(1) See paragraph 85 of the report.
(2) Bowers *v.* Smith [1953] 1 All E.R. 320.
(3) "Police" includes the British Transport Commission police.

2. In this connection the police may at their discretion consult with the local authority.(1)

3. If proceedings are contemplated, the police shall notify(2) the local authority(3) and inform them of the circumstances.

4. In such case, within a prescribed period (we recommend seven days) of the offence coming to their notice, the police shall consult with the local authority concerning any facts or circumstances within the knowledge of that authority that would appear relevant to the proposed proceedings.

5. After such consultation, the police shall either institute proceedings or, within a prescribed period (we recommend seven days) notify the local authority that they will not be taking proceedings.

6. If the police decide to proceed, a senior police officer shall make a complaint to a justice that the boy is in need of protection or discipline on specified grounds. In this example, the ground would be the theft of the watch.

7. While there would be no objection to a complaint specifying more than one offence, for example, a series of thefts, no previous acts that had been the subject of court proceedings or police cautions nor any offence committed more than six months prior to the date of the complaint shall be included therein.

8. The justice will issue a summons addressed to the boy's parents (or guardians) requiring them to attend the juvenile court and to bring the boy with them. The summons shall normally be addressed to both parents and will reproduce the particulars contained in the complaint.

9. The police shall inform the local authority and the probation officer of the date of hearing. The local authority representative and the probation officer shall prepare reports for the information of the court in accordance with existing practice.

10. When the parents and the boy appear before the juvenile court they shall be informed of the complaint but will not be asked to enter any plea thereto.

11. On the hearing, the complaint shall be proved by evidence.

12. Normally, the police officer who enquired into the matter will give evidence regarding the theft and other police officers may be required to testify to other offences properly included in the particulars. It should not be necessary to call evidence from the owners of the stolen property or supporting witnesses. If the facts testified by the witnesses should be disputed, the proceedings may be adjourned for further evidence.

13. If the complaint is adequately established, the justices may ask the boy any relevant questions.

14. The boy shall be given adequate opportunity to rebut the complaint. To this end, he shall be entitled, if he wishes, to give evidence and to call witnesses.

15. The justices shall next discuss the complaint with the parents of whom they may ask any relevant questions.

16. The parents shall be given adequate opportunity to rebut the complaint. To this end, they shall be entitled, if they wish, to give evidence and to call witnesses.

17. The justices shall then decide whether the complaint is proved and announce accordingly.

18. If the justices decide that the complaint is not proved, the matter shall be at an end.

19. If the justices decide that the complaint is proved, they shall receive reports from the local authority and the probation officer.

(*Note:* These reports may include any information that is relevant to the treatment of the boy who has by proof of the complaint been found in need of protection or discipline.)

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(1) " Local authority " means a county or county borough council.
(2) The notification should be given in the name of the chief constable.
(3) Each local authority should be required to designate an officer to receive such notifications.

20. The justices shall consider whether it is necessary to make an order to secure that the boy receives the treatment he requires and in that event shall decide upon the appropriate order.

Variation

21. If under paragraph 5 above, the police notify the local authority that they will not be taking proceedings, the local authority may proceed. In that event the police shall place the evidence in their possession at the disposal of the local authority.

Summary of methods of treatment available in the case of this example

Existing law	*As recommended*
Absolute discharge	No order
Conditional discharge	No order
Order parent to give security for child's good behaviour	Order parent to enter into a recognisance to exercise proper care and guardianship
Order parent to pay compensation—maximum doubtful(1)	Order parent to pay compensation—maximum £100
Order parent to pay costs—maximum doubtful(1)	Order parent to pay costs—properly incurred
—	Attendance centre order
Committal to remand home*	Committal to remand home†
Probation order	Supervision order
Fit person order*	Fit person order†
Approved school order*	Approved school order†
Practically no power to order more than one form of treatment for single offence.	On one complaint the above forms of treatment may be combined in so far as is practicable.

* These orders are available only following the commission of an offence punishable in the case of an adult with imprisonment.

† These orders will be available only where the court is satisfied that the need of protection or discipline cannot be met without removal from home (see paragraph 91).

B. *Proceedings in respect of a child or young person who*

(i) *is exposed to physical, mental or moral danger; or*

(ii) *is in need of control;*

and who, in any such case, needs care, protection, treatment, control or discipline which is likely to be rejected or unobtainable except by order of a court.

Example—Girl aged 16 years, coming to the notice of a local authority as being in moral danger.

22. The circumstances will be reported to the officer of the local authority designated to initiate proceedings in respect of children in need of protection or discipline(2) (hereinafter called " the officer ").

23. Before deciding whether to proceed, the officer may, at his discretion, consult with the police.

24. It would appear impracticable that the officer should be obliged to seek the sanction of a committee of the local authority before initiating proceedings. He should be empowered to do so in the name of the local authority.

(*Note:* As a matter of practice and not of law, some authorities may require the officer to consult his committee chairman before initiating proceedings.)

25. If proceedings are contemplated, the officer shall notify the police and inform them of the circumstances.

(1) See paragraph 275 of the Report.

(2) Each local authority should be required to designate such an officer (see note (3) to paragraph 3).

26. In such case, the officer shall consult with the police concerning any facts or circumstances within the knowledge of that force that would appear relevant to the proposed proceedings.

(*Note:* It is considered impracticable to place a time limit upon this consultation having regard to the less definite nature of the basis for proceedings—compare with paragraph 4 above.)

27. After such consultation, the officer shall institute proceedings or, within a prescribed period (we recommend seven days) notify the police that the local authority will not be taking proceedings.

28. If the officer decides to proceed, he shall make a complaint to a justice that the girl is in need of protection or discipline on specified grounds. These grounds will recite the reason for the current allegation and give particulars of any other relevant conduct indicating need of protection or discipline.

29. While there would be no objection to a complaint specifying different types of relevant conduct, for example, undesirable companions, late hours, dishonesty, failure to maintain employment, no previous acts that had been the subject of court proceedings or police cautions nor anything relating to conduct or circumstances existing more than six months prior to the date of the complaint shall be included therein.

30. The justice will issue a summons addressed to the girl's parents (or guardians) and the matter will proceed in the manner described in paragraphs 8–20.

31. In connection with paragraph 12 which deals with evidence, we recommend that evidence of relevant circumstances within the knowledge of the local authority could be furnished on certificate subject to adequate safeguards in the event of information contained in the certificate being disputed.(1)

Variation

32. If under paragraph 27 above, the officer notifies the police that the local authority will not be taking proceedings, it is not contemplated that the police will proceed, except on the basis of information and evidence in their possession.

Summary of methods of treatment available in the case of this example

Existing law	*As recommended*
Order parent to enter into a recognisance to exercise proper care and guardianship	Order parent to enter into a recognisance to exercise proper care and guardianship
—	Order parent to pay compensation—maximum £100
—	Order parent to pay costs—properly incurred
—	Attendance centre order(2)
—	Committal to remand home*
Supervision order	Supervision order
Fit person order	Fit person order*
Approved school order	Approved school order*
Limited power to order more than one form of treatment on one complaint.	On one complaint the above forms of treatment may be combined in so far as is practicable.

* These orders will be available only where the court is satisfied that the need of protection or discipline cannot be met without removal from home (see paragraph 91).

C. *Supplementary*

33. The examples given in the preceding paragraphs contemplate proceedings by the police when the complaint is based on an offence and by the local authority when it is primarily based on moral danger or neglect. It would, however, be within the

(1) The matter of evidence by certificate is developed in paragraph 205 of the report.
(2) Attendance centres are available only for boys.

competence of both police and local authority to take proceedings, on either basis If, in example A, the theft had been reported initially to the local authority, the procedure outlined in paragraphs 22–30 of this Appendix would apply with the limitations upon the contents of the complaint contained in paragraphs 6 and 7. Similarly, if, in example B, the circumstances had been reported initially to the police, the procedure outlined in paragraphs 1–20 would apply but the complaint could contain the extended particulars exemplified in paragraphs 28 and 29.

(*Note:* It will be observed that the time limit for consultation (seven days), recommended in paragraph 4 does not apply to a local authority (paragraph 26). It is considered that this distinction should be maintained when the variations contemplated in this paragraph are in operation. A police force should be in a position to consult with a local authority within seven days of an offence or a course of conduct coming to the notice of a constable. On the other hand, an indefinite period may elapse between such circumstances coming to the notice of an official of a local authority and being reported to the designated officer.)

Interim orders etc.

34. It will remain necessary for provision to be made for bringing a child under seventeen years before a juvenile court for an interim order of detention in a place of safety pending proceedings in accordance with the above procedure, and it will still be necessary to empower a constable, or any person authorised by a justice, to take to a place of safety a child in respect of whom such proceedings are contemplated until he can be brought before a juvenile court. Furthermore, the court must be empowered to adjourn the proceedings and where necessary to make an interim order for detention in a place of safety or for committal to the care of a fit person, such interim order to remain in force for not more than twenty-eight days.

APPENDIX V

EXPLANATORY LEAFLET ISSUED BY CROYDON JUVENILE COURT

CROYDON JUVENILE COURT

AN EXPLANATORY LEAFLET FOR PARENTS

This is a Juvenile Court: that is, a magistrates' court where offenders below the age of 17 years are dealt with. The court also deals with children and young persons brought before it as being in need of care or protection.

It is a court of law, but proceedings are simplified so that the young people before the court can understand what is happening. The court consists of three magistrates (sometimes two), one of whom is Chairman, and they are advised in legal matters by the Clerk of the Court.

If a young person over 14 years old is charged with stealing or certain other offences which can be tried by a jury, he is given the choice of being tried by a jury or by the magistrates. Practically all agree to being tried by the magistrates. If he is under 14 he has no right to be tried by a jury. There are also many cases where there is no right of trial by jury whatever the age of the child might be.

The accused child is now asked if he admits the truth of the accusation. If he does (that is, if he pleads " guilty ") it is only necessary for the prosecution to relate the facts of the case.

If the child disputes the accusation (i.e. pleads " not guilty ") the prosecution has to *prove* its case by calling witnesses, who will give their evidence on oath. The child and his parents are entitled to challenge the evidence of the witnesses by questions, and are invited to do so.

When the case for the prosecution is finished, if the magistrates think there is a case to answer, the accused child is given the choice of giving evidence on oath or making a statement. If he gives evidence on oath it can be tested by questions by

members of the court or the prosecution. If he makes an unsworn statement no questions may be put. Naturally, evidence on oath which can be tested by questions carries more weight. The accused child can now call witnesses and they must give their evidence on oath and answer questions.

At the end the magistrates will consider everything they have heard in evidence and decide whether or not the child is guilty of the offence. If they are not satisfied that the accusation is proved, they will dismiss the charge and the child or young person goes free.

If, however, they are satisfied that the charge is proved, or if the accused child has pleaded guilty, they will now ask for particulars of the child's character and will call for a school report.

An Act of Parliament makes it necessary for the magistrates to have regard to the welfare of the child or young person in deciding how to deal with a case.

To assist them in this the magistrates will usually ask a probation officer to let them know about the home circumstances and the health and conduct of the child. Often, this cannot be done immediately, and so a case has to be adjourned for the enquiries to be made.

During the period of the adjournment the child will either be allowed to go home on bail, or will be kept in custody in a remand home.

When the magistrates have obtained all the information they need to assist them in deciding the best thing to do in any case, they proceed to make an order.

There are many kinds of orders that can be made—fine; detention in a remand home; detention in a detention centre; approved school; probation order, etc.

It is important that parents should understand that an order—whatever it might be—is made only after the magistrates have considered every possible alternative, bearing in mind their duty to have regard to the welfare of the offender.

Any child or parent who is dissatisfied with the decision of the court has the right to appeal to quarter sessions, where the appeal will be heard by the Recorder of Croydon.

APPENDIX VI

List of Witnesses

The following gave written and oral evidence:—

Association of Chief Police Officers of England and Wales		Mr. N. W. Goodchild, O.B.E. Mr. E. W. C. Pendleton, O.B.E. Mr. D. Osmond, O.B.E.
Association of Child Care Officers	...	Mr. L. F. Wicks Miss M. Taylor
Association of Children's Officers ...	...	Mr. A. S. N. Allison Miss K. L. Ruddock Miss G. A. E. Shee Miss J. D. Cooper Mr. R. B. Woodings
Association of Education Committees	...	Mr. R. Beloe Mr. E. G. Barnard Mr. R. Parsons (as observer)
Association of General and Family Case Workers		Miss D. M. Deed Mr. S. Miller
Association of Headmasters, Headmistresses and Matrons of Approved Schools and the Association of Managers of Schools approved by the Secretary of State		Mr. H. Cohen, Miss J. Horrox, Mr. J. Gittins, Mr. N. H. Mattock — Association of Headmasters, Headmistresses and Matrons Lady Michelmore, Mr. T. F. Tucker — Association of Managers

Association of Municipal Corporations ...	Alderman F. Holmes, O.B.E. Alderman F. Garstang Mr. J. Besserman Miss D. L. Ridd Mr. E. J. Gardiner Mr. P. Hodgson
Association of Superintendents of Education, Welfare and Attendance Departments	Mr. A. White Mr. M. Taylor Mr. L. Rankin
British Medical Association	Dr. F. Bodman Dr. A. Barker Dr. Beryl Corner Dr. T. P. Rees Dr. Elspeth Warwick Dr. E. E. Claxton
British Psychological Society	Professor E. A. Peel Mr. J. R. Fish Miss J. M. Lomax-Simpson Mr. D. H. Stott Mr. G. Westby
Commissioner of Police of the Metropolis	Mr. J. Simpson, O.B.E. (now Sir Joseph Simpson, K.B.E.) Miss E. C. Bather, O.B.E. Mr. J. S. Williams
Council of the Law Society	Mr. A. F. Stapleton Cotton Mr. D. Heap Mr. F. C. Stigant Mrs. M. Goodwin
County Councils Association	Miss M. O'Conor, O.B.E. Mrs. G. Buxton, C.B.E. Mr. J. A. Chatterton Miss J. D. Cooper Mr. H. R. Irving Mr. S. Rhodes
Education Welfare Officers' National Association	Mr. M. McKinnon Mr. J. Baglee Mr. R. H. Patton
Fabian Society	Mrs. M. Stewart Mr. D. V. Donnison Mr. J. E. MacColl, M.P.
Family Service Units	Mr. T. C. Stephens Mr. D. Jones
Family Welfare Association	Miss F. A. R. Mitchell Mr. H. R. Durham
"Fisher Group"	Mrs. H. Halpin Mrs. D. Hunter Mrs. P. Jay Mr. C. H. Rolph Miss E. Younghusband, C.B.E.
Home Office...	Miss W. M. Goode Mr. F. J. MacRae, D.F.C. Miss A. M. Scorrer, C.B.E.
Justices' Clerks' Society	Mr. G. S. Green Captain R. H. Langham, M.C. Mr. J. N. Martin Mr. A. J. Chislett

London County Council	Mr. H. Shearman Mrs. B. Serota Mrs. F. E. Cayford Mr. W. O. Hart, C.M.G. Mr. T. G. Randall, O.B.E. Dr. J. A. Scott, O.B.E. Mr. J. Wilson Wheeler Mr. G. A. N. Lowndes, M.C.
London Magistrates' Clerks' Association...	Mr. L. G. Banwell Mr. C. J. Collinge Mr. G. Crankshaw
Magistrates' Association	Mr. J. E. MacColl, M.P. Mr. J. A. F. Watson Mrs. F. C. Spurgin Mr. L. M. Pugh Mr. J. F. Madden
Metropolitan Juvenile Court Magistrates...	Mrs. Dermot Morrah Miss E. Younghusband, C.B.E. Mr. W. J. Langford
National Association of Approved Schools' Staffs	Mr. E. Taylor Mr. J. E. Leck Miss B. M. Baxter Mr. G. F. Towes Mr. P. Beall Mr. F. A. Ebert
National Association for Mental Health and the Association of Psychiatric Social Workers	Mrs. H. Halpin } N.A.M.H. Miss R. S. Addis } Mrs. J. Hutten } A.P.S.W. Miss J. Parsons }
National Association of Probation Officers	Miss E. P. Corner, M.B.E. Mr. S. R. Eshelby, M.B.E. Mr. A. Bannerman Mr. E. G. Pratt
National Association of Remand Home Superintendents and Matrons	Mr. C. E. Dean Mr. J. Tonks Miss J. Drury Mr. J. Connolly, M.B.E.
National Council of Women of Great Britain	The Marchioness of Reading, C.B.E. Mrs. C. U. Frankenburg Colonel Dorothy Muirhead (Salvation Army) Mrs. M. Rice-Pyle
National Marriage Guidance Council ...	Mrs. F. L. Attenborough Mrs. D. G. O. Ayerst Mr. A. J. Brayshaw
National Society for the Prevention of Cruelty to Children	Reverend A. Morton Mr. C. Lamble Mr. C. Rick Mr. E. H. Maryan Mr. G. E. Foster
National Union of Teachers	Miss A. M. Stewart Mr. A. G. Prior Mr. H. Pierce Mr. W. Griffith
Penal Reform Committee of the Society of Friends	Mrs. D. Gundry Mrs. C. Harris Mr. C. Garland Mr. R. C. Higdon

Royal College of Nursing (Public Health Section)	Miss E. M. Wearn Miss D. K. Newington Miss N. C. Daniells Miss M. K. Knight
Royal Medico-Psychological Association ...	Dr. J. G. Howells Dr. R. F. Barbour Dr. T. R. Malloy
Society of Labour Lawyers...	Mr. E. Wallis-Jones Mr. E. Falk Miss J. Graham Hall
Society of Medical Officers of Health ...	Dr. J. S. Logan Dr. H. M. Cohen, C.B.E. Dr. Dorothy F. Egan Dr. A. A. Lisney Sir Selwyn Selwyn-Clarke, K.B.E., C.M.G., M.C.
Women Public Health Officers' Association	Mrs. A. Byrne Miss G. M. Francis Miss N. K. Ross, O.B.E.

Oral evidence only:—

Sir Charles Martin, C.B.E.

The following submitted written evidence:—

Association of Social Workers
Dr. Barnardo's Homes
Boy Scouts Association
Bristol North West Labour Party
Catholic Child Welfare Council
Clerk of the East Suffolk County Council
Conference of Principal Probation Officers
Council for Children's Welfare
County of Devon Probation Committee
Crowley House Family Rehabilitation Centre
Garston Constituency Conservative Association
Herefordshire Federation of Women's Institutes
Highgate Juvenile Court Panel
Howard League for Penal Reform
Kingston-upon-Hull Lord Mayor's Juvenile Delinquency Committee
Liverpool City Juvenile Court Panel
London Police Court Mission
Lord Chancellor's Office
Manchester Family Welfare Service
Medical Officer of Health, Lancashire County Council
Ministry of Education
Ministry of Health
Moral Welfare Council (Church of England) of the Church Assembly Board for Social Responsibility
National Assistance Board
National Children's Home and Orphanage
National Council of Associated Children's Homes
National Society of Children's Nurseries
National Society for the Prevention of Cruelty to Children, Blackburn and District Branch
National Women Citizens' Association
Nursery School Association
Oxfordshire Area Probation Committee
Shoreditch Project

Society of Clerks of the Peace of Counties and of Clerks of County Councils
Society of Juvenile Courts Probation Officers
Southwark Diocesan Catholic Parents' and Electors' Association
Study Group set up by the Social Studies Department of the University of Birmingham
Surrey Quarter Sessions
Town Clerk, County Borough of Brighton
Town Clerk, County Borough of Southampton
Women's Voluntary Service for Civil Defence
Mrs. E. Andrews, O.B.E.
Mr. F. A. Bishop
Mr. W. S. Boundy
Mr. I. R. W. Cook
Dr. A. Elliott, County Medical Officer of Health, Kent
Mr. H. E. Evans
Mr. F. G. Hails, Clerk to the Justices Dartford, Kent
Mr. E. G. Hall
Mrs. E. Hicks
Captain J. Holbrook
Mr. D. Linton
Mr. R. E. McCutcheon
Mr. G. R. Mitchison, Q.C., M.P
Mr. J. Morrison
Mr. G. H. Mumford
Mr. W. S. Newton
Mr. W. A. L. Raeburn, Q.C.
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