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**ELEMENTS OF CHILD-PROTECTION**



# THE ELEMENTS OF CHILD-PROTECTION

BY

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## PREFACE

DURING the latter half of the nineteenth century, the importance of child-protection gained a far wider recognition.

The nineteenth century has been well named "The Century of the Child." But there are reasons no less cogent for describing this century as "The Century of Socialism," or "The Century of Darwinism."

The intimate interdependence of child-protection with Socialism and with Darwinism must on no account be overlooked. It was my own assurance of this twofold interdependence which led me to undertake the study of the whole system of child-protection from the joint outlook of Socialism and of Darwinism. This book is an investigation of all the problems involved by child-protection from the standpoints of the modern socialist movement and of modern social science.

My work makes no attempt to be either a "Philosophy of Child-Protection" or a "Handbook of Child-Protection." For this reason it contains no definitions, it gives no history of child-protection, and attempts no detailed description of the institutions which exist for the purpose of child-protection in the various countries of the civilised world.

In view of the almost incalculable bulk of the materials available in this field of study, I have been forced to content myself with a brief indication of my opinions in the various departments, without endeavouring to go into details. Obviously, therefore, those in need of detailed information will not find it in this book. My aim has rather been to effect a lucid presentation of all the problems of child-protection,

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than to attempt myself to supply the solution of all these problems.

If I have been successful in formulating the main problems of my subject, and if at the same time my discussions and the data I have supplied, enable the reader to draw his own conclusions in each case, my aim has been adequately fulfilled.

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ERRATUM

Page 65, line 6, *for* "wet-nurses" *read* "midwives."

**GENERAL PART**



## CHAPTER I

### CERTAIN POPULATION PROBLEMS

*Child-Protection and the Population Question.*— In the struggle for existence among the nations, that nation is the victor which consists of the greatest number of individuals best endowed with bodily, mental, and moral health.

No national entity can resist the attacks of others if its numerical strength is comparatively small. If a contest takes place between two nations whose numerical strength is approximately equal, the healthier of the two will gain the victory.

Even in prehistoric times a minimal degree of Child-Protection was indispensable to tribal existence. To rear children diminished, indeed, the quantity of wealth available to maintain the life of the parents, and consequently rendered even more difficult than before the struggle with the hostile forces of nature. None the less, it was absolutely essential to rear a minimal number of children. A sufficient number of boys must be reared to maintain the ranks of the warriors needed for the protection of the tribe against the attacks of its neighbours; and since tribal wars were unceasing, the number requisite to replace those who fell in battle was considerable; girls also must be reared in numbers sufficient to be the mothers of the required number of warriors. But it was against the tribal interest that more children than these should come into the world; and it was desirable that superfluous infants should perish.

The most important factors in human evolution are the quantity and the quality of individual human beings. Until quite recently it is only upon quantity of population that any stress has been laid: the quality of the population has been ignored; being either taken for granted, or regarded as dependent upon chance conditions. The problems of population

were not recognised as quantitative and qualitative, but were believed to be quantitative merely. Both Socialism and Child-Protection have intimate associations alike with the quantitative and with the qualitative problems of population. Both Socialism and Child-Protection exert a powerful influence upon the quantity and the quality of human beings; and conversely these latter react no less powerfully upon Socialism and Child-Protection.

The leading aim of Child-Protection is to prevent the death of children before they attain an age at which they become competent to contribute directly to the welfare of society. The next most important aim of Child-Protection is to ensure that the individual whose life has been preserved shall not become useless or dangerous to society. These leading aims may be pithily summarised in the following terms: "the prevention of a high mortality-rate," and "the prevention of a high criminality-rate." The main factor of a high mortality-rate is excessive mortality in childhood; and the main factor of a high criminality-rate is excessive criminality in childhood. (The rate of mortality affects the quantitative element, and the rate of criminality affects the qualitative element, of the race.)

In the course of human racial history certain sentiments make their appearance (parental love, altruism, and humanism), in consequence of which, even among nations to which the fear of a declining population is no longer known, actions endangering the health or the life of children come to be regarded as immoral and punishable; these sentiments subsequently constitute the main foundations of Child-Protection. But a recognition of the expediency of Child-Protection, and a desire to increase the population, have also at all times exercised a very great influence upon the degree to which methods of Child-Protection have been adopted and enforced. In any community in which an increase in numbers would involve over-population, an individual has, *ceteris paribus*, less value than in a community in which no such risk has to be considered; for this reason, in the latter community, more stress will be laid upon Child-Protection than in the former community.



The following examples will show that this reasoning is sound. As a result of the wide acceptance of the "mercantile theory" of political economy, inasmuch as this theory laid much stress upon the importance of an increase in population, the care of foundlings came to receive much more attention, even in Protestant countries. Moreover, though it is an indisputable fact that the fierce attack made by Malthus, in his widely celebrated work on *The Principles of Population*, upon the Foundling Hospitals of his day, was directed especially against the fact that these institutions received children quite unconditionally, yet it is also perfectly true that Malthus's views regarding Foundling Hospitals harmonise perfectly with his ideas as to the possibilities and dangers of over-population. Although some authors maintain that the connection we have pointed out obtains only among comparatively uncivilised peoples, and that as civilisation progresses, sentiment alone is decisive in forming our views in the matter of Child-Protection, those who advance such a contention may be referred to the example of modern France.

The following conception is dominant in France. It is sad but true that the number of births hardly shows any excess over the number of deaths—nay, that in certain years the births are fewer than the deaths; hence it happens that the population of the other states of Europe increases much more rapidly than the population of France. It is essential that something should be done to counteract this difference, by which the position of France as one of the great Powers of Europe may ultimately be endangered. Since all the laws and regulations which have been instituted with a view to increasing the birth-rate have remained fruitless, some new method must be found of bringing about a more marked excess of births over deaths. Since excessive mortality among children is the principal cause of a high death-rate, the State and the community must take all the steps in their power to reduce child mortality to a minimum.

*Fertility of the Lower Classes.*—In the civilised countries of twentieth-century Europe, the mean birth-rate is about thirty; that is, for every thousand inhabitants, there are

thirty births each year; France is far below this mean, with a birth-rate of twenty-one, and Russia far above, with a birth-rate of about forty-nine. In the country districts, fertility and the birth-rate are greater than in the towns. Transient variations in the birth-rate depend upon various disturbing factors, such as war, civil disorders, and rise in the prices of the necessaries of life.

The lower the type of life, the greater is the insecurity of existence; and it is necessary that this should be counter-balanced by greater vigour of the forces of reproduction, and a consequent increase in the number of the offspring. Thus differences between the different species have a great influence upon the procreativeness of these species, so that there is a direct causal connection between the quality of a species and the number of the individuals of which it is made up. But it remains in dispute whether the rise (or fall) in the quantity, directly gives rise to a decline (or increase) in the quality; whether, within the limits of an individual species, the quantitative differences between the individuals making up that species are of importance; whether, within the limits of a single species, the individual members are more fertile in proportion as they stand at a lower level in development; and, finally, whether the fertility of the individuals of any species diminishes as the species advances in its evolution.

As regards the fertility of the human species, the decisive influences are not physiological, but social. The view that higher brain development or prolonged intellectual activity restricts fertility has been rightly contested. Undoubtedly, powerful intellectual activity tends to inhibit the sexual impulse, but this is no less true of great physical exertions. The causes of the high birth-rate among the lower classes of the population are the following:—

(a) Members of the proletariat have to marry earlier in life than those belonging to the middle and the upper classes.

(b) A smaller proportion of the proletariat suffers from venereal infection.

(c) Owing to the overcrowded condition of their dwellings,

those belonging to the poorer classes find it far more difficult to observe "prudential restraint."

(d) The poor make less use than the well-to-do of positive methods for the prevention of conception.

(e) To those belonging to the poorer classes, to have children is often economically advantageous. A child can help in the work of the household, and can early engage in some occupation enabling it to contribute towards the expenses. On the other hand, in the case of the comparatively well-to-do, a large family involves the risk of a depression in the standard of life.

(f) Women of the middle and upper classes are far more afraid than working-class women of pregnancy and childbirth. They actually suffer more from these eventualities, because their sheltered life makes them weaker and more susceptible; in many cases also they shirk motherhood because they think that pregnancy will interfere with their "social duties."

An excessive number of conceptions, pregnancies, and deliveries is harmful, not merely from the outlook of the domestic economist, but also from that of the political economist. If the aim of the State is to secure a population which is not merely numerous, but also of good quality, care must be taken that the number of conceptions, pregnancies, and deliveries shall not be unduly great; for when the number of births is exceedingly large, it is very likely that the number of those to attain maturity will actually be less than if the birth-rate had been lower.

We have to take into consideration, not only the difference between the birth-rate and the death-rate, but also the important matter of the actual number of births and deaths. Although in any two cases the terminal results may be identical, it is a matter of grave economic moment how the figures are comprised by which these identical results are attained. If, to effect a certain increase in population, a comparatively large number of births and deaths has been requisite, there has been an enormous waste of time, energy, and wealth.

The large families of the proletariat provide a greater

supply of labour, and this leads to a fall in wages. Because wages are lower, there results, in turn, an increase in the birth-rate. The great number of conceptions among the proletariat interferes with the effective working of selective forces—an evil which every unprejudiced thinker must deplore, and must endeavour to remedy to the utmost of his ability. The most important means available for this purpose are: first, a rise in wages, and, secondly, the use by the proletariat of positive methods to restrict or prevent procreation.

Parents should procreate so many children only as they are in a position to maintain and educate in a suitable manner; it is obvious, therefore, that working-class families should be comparatively small. Yet to-day we see the exact opposite. Only among the well-to-do and the more intelligent sections of the population do we find that these principles are carried into effect. The tragic consequence is that the more prosperous and the comparatively intelligent procreate very few children, the very reverse of what is desirable. Rich people are in a position to have many children, and have but few; working-class parents, on the other hand, ought to have but few children, and they have a great many. If the weekly wage-earners were more prosperous and more intelligent, they would be in a position to have more children, but they would, in fact, have fewer in that case.

*The Tendency of Evolution.*—During the last quarter of the nineteenth century, a decline in the birth-rate set in in every civilised country in Europe, notwithstanding the fact that in all these countries the proletariat constitutes an ever-increasing proportion of the total population. The probable causes of this decline are: first, women's dread of pregnancy, of childbirth, and of rearing children, and, secondly, pelvic contraction (?).

The death-rate is harder to control than the birth-rate. For the birth-rate is influenced to a far greater extent by factors which are under individual control; whereas, in the case of the death-rate, great natural forces are the chief determinants. Death comes to every one, whether his parents and other relatives desire it or not, but those only are born whose parents desire it. In this matter of the population

problem, well-considered action will be directed where a result may be obtained with comparative ease. By this it is not meant to imply that the campaign against excessive mortality is to be altogether neglected; but rather that the campaign against an excessively high birth-rate demands more attention than it has hitherto received.

The tendency of evolution to-day is to effect a decline in the birth-rate. In the future far more attention will be paid, than has been paid in the past, to the demand of social hygiene that potential parents shall be careful to procreate healthy children only. On the other hand, the knowledge that will enable parents to prevent undesired conceptions will become more and more widely diffused. In times to come, an ever-increasing proportion of pregnancies will be deliberately willed.

The decline in the birth-rate will necessarily result in a decline in the death-rate, and more especially in a decline in the death-rate of infants and children. Ultimately, we shall see a decline, not merely in the birth-rate and the death-rate, but also in the difference between the total number of the births and of the deaths. It is beyond dispute that these figures are tending to become less variable and more constant than they were in former times.



## CHAPTER II

### STATISTICAL PROBLEMS OF POPULATION

*Miscarriages, Premature Births, and Still-Births.*—The statistical data regarding miscarriages, premature births, and still-births are somewhat untrustworthy. There is no general agreement as to the precise signification of these terms among the medical practitioners, coroners, and registrars of any one country—not to speak of differences in these matters in different countries; and this difficulty applies above all to the matter of still-births. In some countries, children dying during the act of birth or within a few hours after birth are regarded as born alive, but in others as still-born. When we are comparing the birth-rate and the death-rate in different countries, these causes of error must not be forgotten.

In the twentieth century, in the civilised countries of Europe, the premature births vary between 5 and 9 per cent., and the still-births between 3 and 4 per cent., of all births. For every 100 still-born girls there are approximately 130 still-born boys. Among the lower classes of the population, still-births are more frequent than among the upper classes. Within the same class, such births are more frequent among those living in unfavourable conditions than among those more favourably situated; and in manufacturing towns they are more frequent than in agricultural districts. The proportion is affected by the age of the mother, and still-births are at a minimum among mothers at ages from 20 to 25 years. In the course of time, notwithstanding the gigantic development of manufacturing industry, and in spite of the more accurate registration of still-births, the proportion of such births has diminished; the principal reason for this is the advance in medical science.

*Mortality.*—In the civilised countries of Europe the death-

rate in the twentieth century varies between 15 and 32 per mille. Among the chief causes of transient variations in the death-rate are: war, civil disorders, and rise in prices. A rise in the price of the necessaries of life affects the lower classes of the population more especially, but its influence upon the general death-rate is trifling. Death-rate varies in accordance with occupation. The lower classes have a higher death-rate than the upper; the weekly wage-earners have a higher death-rate than the rest of the population; and mortality is greater in the towns than it is in the country. Of late years, there has been a gradual decline in the death-rate, the decline in the towns being proportionately greater than the decline in the country districts; in this case also the decline must be attributed mainly to the advance in medical science.

*The Productive Age and the Unproductive Age.*—The distinction of the productive age from the unproductive age is a matter of great importance. The former extends from the age of 15 to the age of 65; the latter, the unproductive age, comprises the years before the age of 15 and those after the age of 65. Certain other classifications of the population, such as the distinction of those of an age for school-attendance from those at other ages (those of the former age comprising about one-sixth of the population), and the distinction between youthful and adult criminals, are of no interest in relation to our special inquiry.

*Classification of the Population according to Age.*—In the civilised countries of modern Europe, persons at ages of 0 to 10 comprise about 24 per cent. of the population; those at ages 10 to 20 comprise about 20 per cent.; and those at ages 20 to 30 comprise about 16 per cent. of the population. Those under the age of 15 years comprise about 30 per cent. of the population, each year of life corresponding to from 2 to 3 per cent.; infants (those under 1 year) making up 3 per cent., and each year of life after that only a little more than 2 per cent. At all ages under 15 the boys are more numerous than the girls.

The age-pyramid of the population has a form which depends upon the birth-rate. When the birth-rate is higher, or the excess of births over deaths greater, the base of the



pyramid is comparatively wide. Thus, in the majority of the civilised states of Europe, about 30 per cent. of the population consists of those under 15 years of age; but in France, where the birth-rate is exceptionally low, those under 15 years of age comprise a much smaller proportion of the total population.

In the country districts, the age-class of the children and the age-class of the old both contain proportionately larger numbers than the same age-classes in the towns. In the large towns and the manufacturing districts, there is an especially large proportion of persons of about 20 years of age. There are three reasons for this: first, the birth-rate is higher in the country districts; secondly, there is a drift from the country to the towns of persons of an age to earn a living; and, thirdly, a proportion of those who have grown old in the towns find their way back to the country.

*The Excess of Women.*—All the civilised countries of twentieth-century Europe contain more women than men. For every 1000 males there are invariably more than 1000 females. The excess of females is not usually greater than 5 per cent. Only in certain uncivilised countries of Europe do we find no excess of females. Whether we compare the total female population with the total male population, or compare only males and females of a marriageable age, the result is the same; the females are always in excess. Even in those countries in which women are comparatively less numerous, we still find an excess of women of a marriageable age.

This excess of women depends upon the following causes:—In civilised countries more boys are born than girls. The average excess of male births over females is 106:100. (In the case of illegitimate children, the excess of male births is not so great as in the case of legitimate children.) But in males the death-rate is much higher than it is in females. Especially high is the death-rate among male infants (in the first year of life), and among males during the ages at which they are competent to earn a livelihood. The reason given for the higher mortality of male infants is that their powers of resistance are inferior to those of female infants; during the productive years of life the death-rate of males is higher

because, on the one hand, they have a far greater mortality than women from diseases of occupation, and, on the other hand, during this period of life males suffer far more than females from the effects of alcoholism, of criminality, and of various other factors exercising an unfavourable influence upon their death-rate.

Thus the excess of women is closely associated with that peculiarity of the modern system of production in virtue of which far more men than women are engaged in the work of production. This is obvious from the consideration that the death-rate of wage-earning women is higher than that of other women, and from the consideration that in great towns the ratio between the death-rates of the respective sexes is very different from what it is in the country districts. The excess of women is one of the causes of the failure of so many women to marry, of the birth of so many illegitimate children, of the wide diffusion of prostitution, &c. But it would be quite erroneous to attribute these various phenomena of our sexual life exclusively to the prevalent excess of women.

If in any country we desire to diminish the excess of women, it is necessary not merely to lessen the emigration of males, but also to diminish the death-rate of male children. This may be effected by reducing infant and child mortality in general, for measures that accomplish this reduction will lower the death-rate of boys to a greater extent than the death-rate of girls; for the higher the death-rate the greater the effect we can produce by measures effecting its diminution. Hence child-protection, the principal means for the diminution of infant and child mortality, is not only an important part of our campaign against the excessive mortality of male children, but will tend to redress the existing numerical inequality between the sexes, and thus to ameliorate the conditions of our social life.

The regulation of the birth of boys and girls (the determination of sex) would be an important means for the restoration of a proper numerical balance between the sexes, and would therefore be of value, not merely to interested individuals, but also to society at large. Unfortunately, contemporary science is not even in a position to ascertain the

sex of the infant before birth; and still less are we in possession of such a knowledge of the determinants of sex as might enable us to procreate boys or girls at will. Should the astounding advance in medical science eventuate in the solution of this problem, it will then be in our power to restore the proper numerical balance of the sexes.

*Marriage.*—In the civilised countries of modern Europe the number of marriages per 1000 inhabitants of all ages is from 6 to 8; whilst for every 1000 inhabitants of a marriageable age the annual marriage rate is 50. Of 1000 men over 15 years of age from 400 to 700 are married, whilst of 1000 women over 15 years of age from 440 to 640 are married. A high marriage-rate is not *per se* either a favourable or an unfavourable manifestation; it is dependent upon economic conditions, and transient variations in the marriage-rate arise from the favourable or unfavourable economic conditions of the year in which these variations occur.

In consequence of the enormous development of the manufacturing industries, there has been a great increase in the numbers of those engaged in these industries; a large proportion of farm servants has been transformed into wage-earners of the towns. Since men of this latter class commonly marry young, whereas a comparatively small proportion of farm-servants marries, an increase in the marriage-rate has been noticeable during the latter half of the nineteenth century. But since the beginning of the present century a decline in the marriage-rate has become perceptible, and the causes of this decline are more difficult to ascertain. During the nineteenth century the divorce-rate underwent a continuous increase. The divorce-rate is higher in towns than in the country, and higher in thickly populated than in thinly populated countries.

*Illegitimate Sexual Relations.*—Except as regards the birth of illegitimate children, the only statistical data available regarding illegitimate sexual relations are those which have been obtained by private inquiries. The following are the most important statistics bearing on this question. The annual number of illegitimate births in Europe exceeds 600,000. In most European countries the illegitimate births constitute

from 8 to 9 per cent. of the total births, and in every large country in Europe the illegitimate number several millions. From privately collected statistics we learn that in all civilised countries the great majority of unmarried mothers belong to the working classes and to the class of domestic servants; in many countries more than 80 per cent. of unmarried mothers may be thus classified. If from the number of illegitimate children we wish to deduce the probable number of unmarried mothers, we have always to bear in mind the fact that an unmarried mother commonly has one child only, whilst married women have on the average from three to four children. We learn from private statistics that of the fathers of illegitimate children not more than about 45 per cent. belong to the proletariat.

The relationship between the number of illegitimate births, on the one hand, and the number of legitimate births and the number of marriages, on the other, is, on one view, the following. The greater the number of marriages, the smaller will be the number of illegitimate births; the greater the average age at marriage, the greater also will be the number of illegitimate births. It is, indeed, extremely probable that a high marriage-rate leads to a low illegitimate birth-rate, and conversely; but we are not justified in regarding such a causal sequence as unquestionable. Variations in the marriage-rate and in the illegitimate birth-rate may be the joint consequences of other common factors.

## CHAPTER III

### CHILD MORTALITY

*Statistical Data.*—The statistics relating to child mortality are in an exceptionally well-developed state, and no unprejudiced student of sociology can afford to ignore them. The literature of child mortality contains a number of extremely important and thoroughly trustworthy works; the reason for this may be that, in comparison with other difficult problems of population, the study of questions of child mortality is easier, because various disturbing influences which complicate adult death-rates have no bearing upon child mortality.

Even simpler is the question of infant mortality.<sup>1</sup> In computations dealing with this matter it is not necessary to make use of the figures of the general census, for the calculations are based simply upon the recorded births and deaths. The calendar year in which the birth took place does not come directly into the question at all. What we record is the rate per thousand at which, in or during a particular year, say 1909, infants have died before attaining the end of the first year of their life; some of these will have been born in the year 1909, others, of course, in the year 1908.

Nearly 30 per cent. of all deaths are infant deaths; about 10 per cent. of all deaths are those of children of ages one to five years; about 50 per cent. of all deaths are those of children from birth to fifteen years. The least dangerous section of human life is between the ages of ten and fifteen years. Child mortality, extremely heavy during the year of infancy, diminishes greatly after the completion of the first

<sup>1</sup> In this work the term *infant* is used to denote all children under one year of age; where reference has to be made to infancy in the *legal* sense of a person under twenty-one years of age, the term *infant-at-law* or *minor* will be employed.

—TRANSLATOR.

year, and diminishes enormously after the completion of the fifth year. In the civilised countries of Europe, at the end of the nineteenth and the beginning of the twentieth century, of every 1000 infants, from 100 to 300 die, on the average, every year. The attainable minimum of infant mortality, under conditions practically realisable to-day, may be regarded as about 70 per 1000. In families in which exceptionally favourable conditions prevail, the infant mortality rate is even lower than the figure just stated; in the families of the higher aristocracy and among the royal houses it is as low as one-half, and even as low as one-third, of this "practicable minimum" of 70 per 1000.

Since the middle of the eighteenth century there has, in nearly all the countries of Europe, been a decline in infant mortality, in the case alike of boys and of girls; this fall in the infantile death-rate is greater than the fall in the general death-rate. Although the data available justify this general statement, it is necessary to point out that authentic statistical data bearing on the question exist only in the case of small and isolated areas, such as individual towns; national registration of such particulars is of much more recent date than the middle of the eighteenth century.

*Certain Contributory Causes.*—The influence upon infant mortality of certain causes commonly regarded as important is in fact small. Statistical data prove beyond dispute that local and climatic factors exercise no direct influence at all upon the infantile death-rate; such influence as these factors do exercise is an indirect one, operating through the effect which climate and locality may have upon social conditions. The same qualification applies to the influence of race and of religion upon infant mortality. There are differences in the infantile death-rates as between Teutons and Slavs, and as between Christians and Jews; but these differences are in no way directly dependent upon the differences in race or in religion, and they must be ascribed to the differences in social conditions. Fertility is well known to exert a decisive influence upon infant mortality; but variations in fertility are not the direct effect of any differences in race or creed; they are a consequence of the varying social conditions in which those of

the respective races or creeds actually live. Thus it is only in certain social conditions that Slavs are more fertile than Teutons, and Jews more fertile than Christians. The constitution of the parents exercises a considerable influence upon infant mortality; but the parental constitution must be regarded as largely dependent upon the social environment in which the parents themselves have grown to maturity.

*The Chief Causes of Infant Mortality.*—Among the commonly enumerated conditions affecting infant mortality the following are conspicuous: the proportion of infants reared by artificial feeding instead of being suckled; work for wages by the mothers of infants; the general intelligence of the lower classes of the population, and their knowledge of the care and management of infants; the general state of the public health, including such conditions as the degree to which the general population is enabled to avail itself of the medical knowledge of our time (in all the countries claiming to be “civilised,” bald official statistics prove beyond dispute that a large proportion of the children dying before attaining the age of one year die without having ever received any medical treatment whatever); the number of illegitimate births, &c. But all these conditions are in essence nothing more than social conditions. Thus we are practically justified in saying that the determining factors of infant mortality are social conditions and nothing else. With striking unanimity, those who have made a special study of this question formulate the conclusions summarised in the following paragraph.

The infantile death-rate is higher among the lower classes than it is among the upper. Within the limits of those making up what are termed “the lower classes,” the infantile death-rate is higher in proportion as the social conditions are unfavourable. The figure attained by the infantile death-rate depends above all upon the social circumstances and the earning capacity of the parents. Inasmuch as an infant does not possess the faculty of spontaneous change of place or of other spontaneous activity, since it is unable even to express its needs in an intelligible manner, its fate depends upon the soil in which it grows—its very life depends upon its environment. Such, from the social standpoint, is the essen-

tial characteristic of the age of infancy. The infant born of well-to-do parents has better chances of life than the infant born of poor parents, for the former lives in more favourable circumstances, and receives in every respect a better upbringing. It is a demonstrable fact that most children that die succumb, not from inherited weakness, but owing to the errors and defects of their upbringing.

The materials available in proof of this proposition are ample and incontrovertible. Whatever the place, the time, and the other conditions submitted to investigation, and whether the investigated materials be large or small, we are led invariably to the same conclusions. In the bourgeois (middle and upper) classes, only 8 per cent. of the children die during the first year of life, but among the proletariat the infantile death-rate is 30 per cent. Even more significant, if possible, are the following facts. The infantile death-rate is higher among illiterate wage-earners than it is among literate wage-earners; it is higher among casual labourers than it is amongst wage-earners permanently occupied. In the strata of the population above the manual workers, we find that the infantile death-rate is lower as we pass from strata in which social conditions are comparatively bad to strata in which they are comparatively good. The infantile death-rate and the income of the parents vary in inverse ratio. The differences in the infantile death-rate as we pass from the poorer quarters of our towns to the richer quarters tell always the same tale.

*The Great Number of Children.*—The chief cause of high infant mortality and of high child mortality among the lower strata of the population is the great size of their families. The number of conceptions, pregnancies, and births varies directly as the infantile death-rate. If out of a certain limited income more children have to be maintained, the share of each in the commodities purchasable out of that income necessarily diminishes. The income of the manual worker is so small that, even if his family is quite a small one, it is exceedingly difficult for him to provide out of that income what he and his wife and children need for the satisfaction of elementary vital needs. With every additional child comes a



further limitation of supplies for each individual member of the family. Not only does this have a directly unfavourable influence upon health, inasmuch as each child receives a smaller share of dwelling-room, food, &c. In addition, as more and more children are born, the worth of the individual child in the eyes of the parents diminishes.

The mother's health is apt to suffer from the rapid succession of conceptions, pregnancies, and deliveries. For various reasons this is disadvantageous to the children. A woman thus affected will subsequently bring more weakly children into the world; the mother whose health is poor is unable to give as much time and pains to the rearing of her children as she would if she were well and strong; many women whose health has been broken by unduly frequent pregnancies die during a subsequent pregnancy or delivery.

But may it not be that the relationship between a large number of births and a high infantile death-rate is the reverse of that which we have suggested? Is it not possible that the great mortality among children may be the cause of an increase in the number of conceptions, pregnancies, and births? It is true that certain purely psychological factors may contribute to such a causal sequence. To a certain degree a high infantile death-rate has such an effect. For if a woman gives birth to a diseased or a still-born child, or if one of her children dies, the parents are more likely than would otherwise be the case to desire to have another child, and the wife will be more ready to undertake the troubles of another pregnancy and the risks of another delivery.

The most important means for the diminution of child mortality is to improve the conditions of working-class life. It is indisputable that the more prosperous members of the working class have fewer children on the average than those who are not so well off; that in any region in which an improvement has taken place in the conditions of working-class life a fall in the birth-rate has ensued; that the poorer the condition of any stratum of the proletariat, the larger is the average family. An increase in the average working-class income will lead to a proportionately greater decline in the death-rate of infants and young children. For this increase

in income will operate in two ways: in the first place, if the number of children remain the same, the rise in income will ensure for each child a larger share of the necessaries of life; and, in the second place, with the rise in income the size of the average family will diminish, and this will reduce the child mortality. Inasmuch as the height of the infantile death-rate depends mainly upon the great infant mortality among the lower strata of the population, every effort at reform in this direction must begin at the lower end of the social scale.

*Child Mortality in the Towns.*—A connection appears to exist between density of population and the death-rate: if the other conditions remain unchanged, the death-rate increases *pari passu* with increasing density of population. The question whether in the towns child mortality is higher than in the country districts has not yet been decisively answered; and it is equally uncertain whether from the hygienic standpoint the existing rural conditions are better than the urban. It appears probable that child mortality is higher in the towns than in the country districts; it is more doubtful, however, if the same can be said of infant mortality. The statistical data available on this question must be subjected to a stringent critical examination. The infant mortality which truly belongs to the towns appears smaller than it really is, for the reason that a proportion of the infants born in the towns are placed in the care of foster-parents living in the country, and some of these die in the country. It is equally true that many people from the country die in hospitals and other institutions in the towns; but this applies much more to adults than to children.

The proletariat constitutes a large majority of the inhabitants of the urban districts; the proportion of artificially reared children is greater than in the country, the housing conditions are less favourable, there is less opportunity for open-air life, venereal diseases are more prevalent, and fertility is lower. But against these considerations we must set the fact that the urban population is more intelligent, and for this reason better understands the various methods of artificial feeding of infants; the fact that charitable institutions are more

effective in the towns, and the fact that in the towns better hygienic conditions prevail. The sanitary improvement of the towns by better cleansing of the streets, an improved water supply, better methods of disposing of sewage and refuse, &c., has led to a reduction not merely of the general urban death-rate, but also of the infantile urban death-rate; whereas in the country districts these rates have remained stationary, or have even undergone an increase. In wealthy towns the death-rate is lower than in poor towns; like differences are observed as between the rich and the poor quarters of one and the same town. Wealth has so marked an influence in lowering infant mortality that in the wealthy villa quarters of large towns the infantile death-rate may be as low as from 10 to 20 per mille.

*The Effect of Housing Conditions.*—The infantile death-rate is very closely connected with the character of the housing conditions. The rate of infant mortality in any particular dwelling varies directly with the number of inhabitants, and varies inversely with the number of rooms available per family. Those living in the upper stories of tenement houses have a higher death-rate than infants living in lower stories and basements. This influence of bad housing conditions in producing a rise in the infantile death-rate is only to be expected. The habitation exercises its influence upon the infant by day and by night, and through every detail of the infant's life. To give one instance, there is an intimate connection between the quality of the dwelling and the quality of the infant's food; in a suitable dwelling milk may be more readily kept cool, preserved from contamination, sterilised, &c.

*The Effect of Age.*—The degree to which bad conditions of life endanger health varies inversely with the age. The maximum danger to health from such conditions is incurred by infants. The younger the infant the greater the danger that bad conditions will prove fatal; and most of the environmental factors unfavourable to the maintenance of infant life come into operation immediately after birth. The younger the infant, the less resistant it is to external influences. Therefore the younger the infant, the more carefully does it need to be watched and safeguarded. Physicians and statisticians lay

great stress upon the degree to which the infant's chances of life depend upon its age in days and months.

*Time of Birth, Seasons, and Meteorological Conditions.*—Is it possible to demonstrate the existence of any connection between the time of birth and the temporal variations in the infantile death-rate? In the months in which the number of births is high, the infantile death-rate is probably also higher than at other times. This is true more especially of the very cold months, when infants cannot be taken freely into the open air; it is true also of the very hot months. It is well known that the annual curve of births exhibits two notable elevations—one in February and March, and the other in September; this depends on the fact that most conceptions take place, on the one hand, in the spring-time—that is, at the time of the general awakening of nature; and, on the other hand, in December, when nature reposes, and agricultural labours are at a standstill. But owing to the fact that the factors influencing infant mortality are so numerous and variable, it is not possible to demonstrate any definite relationship between the times of maximum births and the times of maximal infantile death-rate.

The seasons and the meteorological conditions exert an influence upon infant mortality through the intermediation of their effect upon various social conditions. The infantile death-rate is highest during the summer, the rate in the months of July, August, and September greatly exceeding that in the other months of the year. During the hot season, contaminated and decomposing milk gives rise to fatal illness on all sides. When we compare different years, we find that the height of the infantile death-rate varies directly with the heat of the summer. This influence of the hot season is exerted almost exclusively upon artificially reared infants, and especially on those in whom the technique of artificial feeding is improper. It is an established fact that the children of the well-to-do largely escape a similar fate, simply because that in their case it is possible to keep the milk artificially cool, and to prepare it more carefully in other ways.

## CHAPTER IV

### THE QUALITY OF THE POPULATION; ARTIFICIAL SELECTION (EUGENICS) AND EDUCATION

*Natural Selection and Artificial Selection.*—The selective method practised by Nature works by means of the procreation of millions of individuals, and by the subsequent elimination of those individuals which are imperfectly or not at all adapted to their environing conditions; that is to say, natural selection operates repressively or destructively. Artificial selection, on the other hand, aims at preventing the procreation of individuals inadequately adapted to their environment; it deliberately eliminates those elements which are useless to society, or which can be utilised by society only at excessive cost: thus artificial selection is a preventive method.

Natural selection is cruel and uneconomic. As far as the human species is concerned, natural selection is not essential to our advance towards perfection; it is even to a considerable extent superfluous. In the case of humanity, racial improvement remains possible even in the absence of a relationship between the numbers of the species and the available means of subsistence so unfavourable as to necessitate a fierce struggle for existence. In the earlier stages of human evolution, such an unfavourable relationship between the numerical strength of the species and the supply of the means of subsistence was perhaps a cause of racial advance; but to-day such a relationship would be nothing but a hindrance to progress. For the human species to-day, the significance of natural selection is historical merely; the future belongs to artificial selection. The device for humanity must be, "Not Natural Selection, but Artificial Selection—Eugenics!"

*The Interests of the Future Generation.*—The attitude of our

present legal system towards actions likely to be injurious to the interests of future generations is a quite erroneous one. We concern ourselves solely with the interests of the contemporary generation; the interests of future generations are left entirely to chance; it is perfectly obvious that whenever a conflict of interests arises, the well-being of our descendants is unhesitatingly sacrificed. In our present laws it is difficult to point to a single provision for the protection of subsequent generations against the result of the sexual irrationality and the excessive sexual egoism of our contemporaries.

Bodily injury of one human being by another is a punishable offence. But the man affected with alcoholism or syphilis who procreates a child incurs no punishment whatever, although the consequences of the latter's action are far more serious. To-day hardly any attention is paid to the question of what qualities are desirable in the parents in order to ensure the procreation of offspring well equipped for a happy and useful life. In the breeding of plants and animals, definite rules are followed, in order to secure the progressive improvement of the species concerned. But who trouble themselves about conscious selection for the improvement of the human species?

The view will ultimately prevail that the strong only are of value to society, and that every weak member of the community involves a definite social loss. It will be generally understood that large families are not advantageous, inasmuch as it is not quantity but quality that really matters. The day will come in which fatherhood and motherhood will be permitted only to the strong, and in which every endeavour will be made to prevent the birth of diseased and weakly individuals. As far as the "protection" of a great many children is concerned, the method that will be adopted will be to prevent their ever coming into the world. In the future, we shall know better than we know to-day which children are competent to grow up into useful members of society; and those buds which fail to attain this standard will be pruned away.

Beyond question, it will not be long before it will be generally understood that the proper application of eugenist

principles to the human species will be secured, not so much by coercion, as by enlightenment. But for this very reason it will become of enormous importance to popularise the elements of educational science and of the hygiene of childhood, to effect the sexual enlightenment of children and of adults, and to secure the diffusion of sound ethical ideas. It will be taught that actions injurious to the interests of future generations are immoral, and some of them will even be made punishable offences. Steps will also be taken to ensure as far as possible that only those individuals shall marry whose offspring may be expected to be healthy.

In regard to all these problems, the acquirements of medical science are of enormous importance; for it is upon the acquirements of positive science that legislation dealing with such matters must be based. Unfortunately, however, the medical science of our own day is not always in a position to give a decisive and satisfactory answer in respect of the various problems just stated; and suitable legislation on these matters must be deferred to the future, when guidance may be anticipated from the inevitable progress of medical science.

*Inheritance and Education.*—In human beings, as in other animals, an improvement in the inborn capacities is possible. At the present time we are content to take children as we find them, and we simply endeavour by education to make every child into a useful member of society. But only through influences affecting hereditary qualities can the material of future generations be improved, and a humanity be brought into being better equipped than we are for the tasks of civilisation. Enduring human progress can be effected only by the simultaneous study and application of the laws both of education and of heredity. As by selection the hereditary equipment is improved, the limits of what is attainable by means of education will also be extended.

Even to-day, heredity and education commonly co-operate in the same direction, for in most cases the two influences are exercised by the same personalities. Parents of fine quality tend to procreate children of like quality, and also to give these same children an exceptionally good upbringing; contrariwise,

degenerate parents tend to procreate degenerate children, and to bring them up badly.

*Nature of Education.*—The inherited character of human beings is not a unitary whole, but consists of different parts. Unless this were so, man would speedily succumb in the struggle for existence; for it depends upon the circumstances in which he finds himself, which parts of his inherited character undergo a necessary development. Just as nature brings into existence an enormous number of living beings, and then, by the mechanism of the struggle for existence, selects for survival those individuals which are best adapted to the environmental conditions, so in the inherited human character there exist available for the influences of education thousands of rudimentary capacities, and it is the particular environmental conditions which determine which of these capacities are cultivated and developed, and which are allowed to undergo atrophy.

Among these environmental conditions are the deliberate processes of education, which also select certain capacities for special cultivation, and allow others to atrophy or disappear. The latter part of this process takes place in accordance with the natural law, that every organ which is left unused undergoes atrophy, and may even altogether disappear. The task of education does not presuppose any alteration in the inherited character. On the contrary, the educator utilises the existence of the various inherited characteristics in such a way that he makes those qualities he wishes to develop take the field against those he wishes to suppress.

The inherited character contains certain possibilities of development. If it were fixed and unalterable, education would be entirely unthinkable. In the practical work of education we have to reckon with the fact that there are present in every child certain developmental factors, constituting the pre-conditions of the development which that child will subsequently undergo; that in the course of growth the character undergoes extensive alterations; finally, also, that the child's character is something very different from that of the adult. Education is thus seen to consist of the influences exerted upon the character by the application of certain



external factors; it is a selection from the entire complex of inborn capacities and inborn tendencies.

*Character of the Child.*—The view that the child possesses all the vices and all the peculiarities of the criminal is as erroneous as the opinion that the criminal, owing to the arrest of mental development, remains for ever a child, and that he is one in nature with the savage who, unaffected by conditions of time or place, preserves unchanged the type of humanity in the childhood of our race. As yet no proof has ever been supplied of the hypothesis, that concealed within the child's nature lies the tendency to do evil. But it is an incontestible fact that the child entirely lacks power to withdraw itself from harmful influences, and that if criminal inclinations are artificially implanted in the child, they will infallibly develop if no counteracting influences come into play. The child is a virgin soil, which will in due course bring forth good fruit or bad fruit according to the nature of the tillage; at birth the child is qualitatively and quantitatively incomplete; but all the faculties are there in embryo, and ready for their further development. The smaller the circle of ideas, the stronger will be the influence, the greater will be the effect, of any new idea that enters this circle. In the child, above all, the circle of ideas is so small, that every new idea will constitute a quite appreciable fraction of all the ideas that already exist.

*Limits of Educability.*—Education is able to develop the useful capacities and qualities of human beings, and to repress those capacities and qualities that are useless and harmful; but it is beyond the power of education to develop qualities and capacities of which the germs do not previously exist in the child. Even the best education is incompetent to improve a character which is congenitally altogether bad, or to do anything for a child whose character, though congenitally good, has been completely corrupted by evil influences.

Unfortunately, science is not yet sufficiently advanced to enable us to determine with absolute certainty which children are educable. As long as our knowledge of this matter remains defective, society must undertake the fruitless education of such children.

Educability depends, first of all, upon the inherited dispositions of the brain; when the deviations from the average in this respect are considerable, we have to do with a diseased brain. According to the kind and the degree of the deviation, we distinguish several groups of mental abnormality occurring in childhood, namely:

- (a) Morbid psychical (psychopathic) constitutions.
- (b) Congenital feeble-mindedness (debility).
- (c) Fully developed and well-marked mental disorders.

In the first group we find a number of morbid changes far less severe in character than those comprising groups (b) and (c); these are commonly curable, provided only treatment is begun in early childhood. It is absolutely essential that such cases should be cured if possible: for unless this is effected, in most cases (and especially when they belong to the poorer classes of society) the males become habitual vagrants, whilst the females adopt a life of prostitution. Numerous inquiries have established the fact that a strikingly large proportion of tramps and other vagabonds were from childhood upwards of a psychopathic constitution.

The number of those exhibiting mental abnormality has notably increased in recent times, but this increase does not affect those suffering from true insanity. Many of those who in adult life exhibit symptoms of mental abnormality do so as a result of the psychopathic constitution, and in many such cases the troubles of adult life might have been prevented by judicious measures during childhood. In cases belonging to group (b), comprising persons suffering from congenital feeble-mindedness, the possibility of education depends entirely upon the degree of mental debility. In cases belonging to group (c) education is impossible. The question of ineducability is of importance, above all, in relation to the possibilities of a coercive reformatory education. The possibility that attempts at education may prove altogether fruitless must never be lost sight of; for although it is an established fact that mentally abnormal children usually need a coercive reformatory education, in the case of children whose mental abnormality exceeds certain limits, even such an education is impracticable. In these cases also the rule applies, that the

prospects of success are greater the earlier the matter is taken in hand.

*The Aim of Education.*—What is the aim of education? Should we seek to educate the child for society; or should it be our primary aim to cultivate the inborn capacities of the child? The value of the individual depends upon two factors, upon the capacities and qualities he has inherited, and upon the capacities and qualities he has acquired. Education must not attend exclusively to one group or to the other, but must deal with both groups harmoniously. The child must be taught to adapt itself to all possible circumstances and conditions; at the same time it must receive an education suited to its own capacities and endowments. In the character of every child there exist the germs of individuality. Whether it is normal or abnormal, whether it is a foundling or not, whether it is educated by its parents or at school, in the family or at an institution, it must be educated in accordance with the needs of its own individuality. The educationalist's device should be—individualisation.

The greatest delight of every individual, whether child or adult, is to be occupied in accordance with its own inclinations, and to be treated by others in a manner suited to its own peculiar tendencies. This perhaps depends upon one of the primary laws of physics, that motion takes place in the direction of least resistance. Individualisation in education is an exceedingly difficult matter; and yet it is less difficult than appears at first sight. Differences in individual character are far less extensive than is generally believed, and it is an error to suppose that the character of every child differs in important respects from that of every other. It is an impossible aim of education to make every child a being with a well-marked individuality. If the differences were too great between those whose education is completed—that is, between those grown persons who play their parts in ordinary human intercourse, such intercourse would be less extensive and more difficult than it now is.

The child must be educated in such a way that its actions are not instinctive and uncontrolled, but consciously purposive and self-controlled; but at the same time the educa-

tionalist must guard against the danger of making the child into a will-less puppet. It has frequently been observed that obedient children are unlikely to grow up into men of any particular note, the reason being that they are accustomed to do only what they are told, and have never learned to act on their own initiative.

Knowledge is a mighty weapon, but it is one which can be used either to good purpose or to ill, and it is *per se* neither moral nor immoral. Knowledge is Power, but it is not Virtue. It is not the ability to read and to write which matters; the important question is, what one reads and what one writes. Among those who can neither read nor write, we find many who are extraordinarily rich in practical experience. This is to be explained by the fact that those who can read and write are able to gain impressions indirectly as well as directly, whilst illiterate persons are entirely dependent upon their own direct experience of life.

Among the causes of crime, illiteracy by no means plays so important a part as is generally believed. For this reason, when we are studying the condition of any particular country, we must avoid laying too great a stress upon the percentage of illiterates among its population. The number of illiterates depends in part also upon the proportions of persons at various ages, inasmuch as, in reckoning the percentage of illiterates to the general population, those under school age are left out of the account.

By no means is it the aim of education to provide general culture. The State cannot possibly insist that every individual should devote himself to the acquirement of general culture, for the most talented person is at times unable to earn his own living. In the struggle for existence, general culture, taken by itself, is utterly useless.

*Good Example.*—The phenomena which the child has opportunities for observing exercise a great influence upon its development. Although the view that the child imitates everything instinctively is erroneous, it is unquestionable that education will prove successful only in cases in which the personality of the child's teacher is one which puts a good example before the child's eyes. It is not enough merely

to instruct a child verbally. It is essential that the child should see that the teacher himself practises all which is theoretically asserted to be right and admirable.

*Confidence and Love.*—Authority and compulsion are important factors of education; but those take the wrong path who attempt to influence the child by means of authority and compulsion alone. For individualisation in education the device should be, Confidence and Love. These mean to the child what sunshine means to the plant: without sunshine, the plant lags behind in its growth, and ultimately perishes; but in the sunshine it flourishes abundantly.

*Reward and Punishment.*—The view that neither reward nor punishment should be employed as instruments of education is erroneous, for unquestionably both have considerable influence upon human activities and intercourse. The only matter really open for consideration is, what should be the nature of the rewards and the punishments to be employed, and what should be the method of their application? It is wrong to punish or reward a child so often that either becomes habitual. The teacher, who is in most cases the accuser and the injured person (since a child's wrong actions are apt to take the form of offences against an instructor), should not also assume the office of a judge against whose decision there is no appeal, and the office of executioner. Above all, the time-honoured system whereby every childish offence is expiated by deliberately inflicted physical pain must be abandoned.

The corporal punishment of children is certainly harmful. (a) Corporal punishment is injurious to the child's health. In former times this objection had perhaps less weight, for the child's constitution, and especially the child's nervous system, were then less sensitive than they are to-day. (b) Corporal punishment gradually makes the child quite indifferent to the handling and making-use of its body. In many instances, either in the chastiser or in the chastised, or in both, it gives rise to sexual excitement. It is especially dangerous for girls, whom it is apt to prepare for a life of prostitution. (c) Corporal punishment has a coarsening and hardening influence both on teacher and on child. The

teacher tends ever more and more to give way to his impulses, and thereby becomes a disastrous example for the child. (d) Corporal punishment breaks the child's will, and induces a sense of degradation which is greater in proportion to the intensity of the child's own self-respect. (e) Corporal punishment makes a child hypocritical and deceitful, and gives it a hint to be wiler the next time. For ultimately the idea is formed in the child's mind that it has been punished, not for committing a fault, but because it has been found out.

Punishment should always be of such a nature as to strengthen as much as possible those inner forces and impulses through whose weakness the liability to the punishment has been incurred. On no account whatever should the punishment be such as will encourage in the child's mind the belief that the act for which it is punished was, after all, one it had a right to do. If, for example, a child has injured a servant, it should be punished by making it relieve the servant of some portion of the latter's work. If the child has injured any one, it is not a suitable punishment for the teacher to inflict direct injury on the child, for this would merely encourage the latter to believe that the strong are justified in inflicting injury on the weak.

*Education by the Parents.*—Throughout nature, wherever the young of any animal have to live through a prolonged period of imperfectly protected immaturity, it is the duty of the parent-animals to bring up their offspring. Above a certain level in the animal scale, this duty is universal. The lower in the scale any species of animal, the more rapidly do the young of that species attain maturity; conversely, the higher the stage of development of any species, the longer is the period of immaturity, and the longer are the children dependent upon their parents. This rule applies to human beings also, and the relationships above described obtain among the different varieties and races of mankind. Of all new-born animals, none is so helpless as man; and of all animals, his period of immaturity is the longest. The period of upbringing lasts longer in man than in other animals, the human young are longer dependent on their parents,

and the parents themselves in the human species are more long-lived than the parents of most other species of animals.

The younger the individual human being, the more dependent is it upon others. An infant cannot continue to exist at all without external help. Its only needs at first, indeed, are for food, drink, sleep, and cleansing; but the older it is, the more complex is the care it demands. As the age of the human individual increases, the more do its needs continue to enlarge. The younger the human being, the more dependent is it upon parental care, and more particularly upon maternal care; and the more helpless the offspring, the more does the educational influence of the mother exceed in importance that of the father.

The view that the natural province of work of the father is to provide the means of subsistence for himself and his family, while the mother's work, on the other hand, is to care for the children, is erroneous. It is not merely unnecessary for the mother to spend all her time with her child, but such a course of action imposes an excessive strain upon her, and has a dulling effect. It is also a false view that only those women properly fulfil their duties as wives and mothers who devote their whole time to the upbringing of their children and to the cares of their household.

The influence of the parents upon the child is a very powerful one, because child and parents are, as it were, syntonised through hereditary dispositions and tendencies. Oscillations of character in the parents spontaneously initiate oscillations of character in the child, but in this sytonic influence there may subsist a very great danger. The healthier the parents, and the better suited they are to one another, the better are the dispositions the children inherit from them, and thereby the children are fitted to receive a better education. Among the lower animals, parents educate their offspring solely in accordance with the dictates of instinct. For the upbringing of the human young, the guidance of human instinct is inadequate; educational aptitudes and special educational knowledge are also indispensable. Normal human parents may desire to give their children the best possible education; but in many instances they do not know

themselves what the best education is; and even if they do know this, they will be unable to provide such an education by their own unaided efforts, and will be dependent upon others for the upbringing of their own children. It is quite impossible for anyone to follow a trade or profession, to supervise the management of a household, and at the same time to be the instructor of his or her own child. For this, parents lack the requisite time and energy. As time goes on, the principle of the division of labour comes more and more into application; it is in accordance with this principle that the education of children should be entrusted to professional educationalists.

*Education in Different Social Classes.*—The education received by an individual is determined mainly by the class to which that individual belongs. In every industrial state, the degradation of the working-class families becomes apparent. The wages of the manual workers are very small; and owing to illness, strikes, lock-outs, and commercial crises, even this small income diminishes from time to time, or may entirely cease. Insecurity is the keynote of the working man's economic existence. The consequences of this insecurity are ill-humour and embitterment, which find expression for the most part in domestic life. The place of work is often far removed from the dwelling-place. Husband, wife, and the elder children go to work; they have to get up very early in the morning, when the children are still asleep. Since the spells of rest for meals are very short, they have no time to go home; or if they do hurry home, they have to gulp down their food with lightning speed. Not until late in the evening, when the children have gone to sleep again, do the parents return home. Thousands of working men, owing to the distance of their homes from their work-places, remain a whole week away, and return home to their families only on Saturday. Even if the parents get home from work in the evenings before their children are asleep, the former are so worn out by long hours of exhausting toil that they can do nothing for their children.

The housing conditions of the working classes are rarely satisfactory. In consequence of this, the children are often driven to live in the streets; and this, in turn, leads to immorality and



to crime. Often the children of working-class families do not remain at home at all, but find their way to crèches, foundling hospitals, poorhouses, and other institutions. Proletarian parents have less knowledge and less capacity for the education of their children than parents belonging to other classes of the population. These latter, also, can more readily afford to entrust the education of their children to other persons.

Nevertheless, the education of the children of the well-to-do cannot be unconditionally regarded as better than the education of the children of the poor. The chief defects as regards the children of the well-to-do are, that they are apt to receive too much attention; they are often spoiled, and their initiative is continually suppressed. Rich parents keep servants, and entrust to these in large part the upbringing of their children. In our day it has come to be regarded as necessary and natural that children should be cared for by servants; thus the influence exercised by servants upon the children of the well-to-do is a very extensive and by no means a happy one. For these servants commonly lack refinement and intelligence, and the abilities of the trained educationalist are altogether lacking to them. The domestic servant may bring up suitably his or her own children, but not the children of another; and the failure will be especially marked when the child's social position is much higher than the servant's.

*Parents, School, Environment.*—The three primary factors in education are: parents, school, and environment. Strictly speaking, indeed, parents and school are only parts of the environment. In a sense, however, the whole of education is nothing more than the influencing of the capacities and dispositions of the child by external factors—that is, by the environment. The influence exercised by the environment is very great. As social life develops in complexity, the child is exposed ever more and more to the influences of environment, and the educative influence exercised by this latter becomes ever more extensive. But in our time the child is less exposed than the adult to the influences of the environment.

In the first years of life the work of education is in the

hands of the parents, and above all in those of the mother. Subsequently the schoolmaster and schoolmistress share with the parents in the work of education, and the part played by the parents becomes ever less important. In addition, however, to the influence exerted at first by the parents, and subsequently by the teachers, the general environment does its work from the very earliest days of life. It is a natural postulate of a sound education, that all these three factors, parents, school, and environment, should co-operate, and that each should exercise its appropriate influence. If they counteract instead of assisting one another, the general result will be unsatisfactory and inadequate. In vain does the school attempt to exercise a favourable influence if the work of the school is undone by the influence of the parents. Again, the joint influence of parents and of school is fruitless if the child, when away from home and out of school hours, is under the influence of bad associates. Unfortunately, with the development of capitalism such cases have become ever more common.

*The Tendency of Evolution.*—With the passage of the years, the importance of education continually increases. The seductions and the temptations encountered by young people to-day are at once far more frequent and far more subtle than was the case in former times. To enable them to withstand these allurements, the young require a better and a more careful education. In the early stages of evolution, alike in the struggle for existence between individuals and in the struggle for existence between competing tribes, physical strength was the decisive factor of success; but in the later stages of human evolution it is upon intellectual and moral well-being that victory in the struggle depends. Hence intellectual and moral education become of ever greater importance. To-day, one whose intellectual and moral education has been neglected is far less able to meet with success the demands made by modern life than one living some hundreds of years ago, whose education had been neglected, would have been able to meet the demands made by the life of his own time. In such a case, in our own day, the likelihood that one whose education has been neglected will

be useless and even dangerous to society, is far greater than it would have been in former times; and as time goes on the differences between those who have had an appropriate education and those whose education has been neglected will become more and more extensive.

It is well known that the majority of habitual criminals are persons who began to commit punishable offences in the earlier years of their life. It is only in the rarest instances that by legal punitive methods we prevent a juvenile offender from developing into a habitual criminal; the object of the punishment is seldom attained. The question therefore presses itself upon our attention, whether the prevention of crime cannot best be attained in another way than by the use of penal methods, namely, by the proper education of children.

Education has no bearing upon the life of persons living in complete isolation; it is a postulate of social life alone, and becomes impregnated to a continually greater extent with social elements. The modern tendency of social evolution is to relieve the family of the cares of education, which becomes to an increasing extent a communal duty; whilst the share of the parents in the education of their children is limited, social institutions providing more generally and more thoroughly for that education. England offers us a typical example of the working of this modern tendency; for England is commonly regarded as pre-eminently individualistic, and yet there is no country in which more limitations have been imposed upon parental authority, or in which compulsory and universal education is more thoroughly enforced by the State.

The elements of educational science depend mainly upon the social conditions that obtain in the country with which we have to do; as time passes, the science undergoes a progressive alteration, and leads us from individual education to social education. The elements of the education of the future will depend upon the general configuration of social life, upon the characteristics of domestic life, and upon the regulation of parental authority. The individual household of our own time has no regard at all for the special needs of

the child, and the various occupations carried on in such a household constitute a hindrance to the proper upbringing of children. The labours of the kitchen expose children to constant accidents—from fire, boiling water, sharp instruments, &c. The parents, and more especially the mother, will in times to come be much less occupied than at present in domestic drudgery, and will consequently have more time to devote to the upbringing of their children. The parents will also themselves stand at a much higher level of culture, and this cannot fail to lead to an effective demand for the more suitable upbringing of children. The modern dwelling and its furniture take no account at all of the needs of children; at every turn there are sharp corners and hard objects, by contact with which children may be, and often are, seriously injured. In former times various occupations were carried on in the individual household which hardly any one now dreams of doing at home: among these may be mentioned, spinning, weaving, laundry-work, soap-boiling, the slaughtering of animals and the preparation of their flesh, the grinding of meal, &c. &c. In the United States of America even to-day many families take all their principal meals at public restaurants; in America also, to an increasing degree, heating, ventilation, and lighting of the houses is provided from central establishments. The household of to-day is inconvenient and uneconomical. Much work is still done at home which could be done more cheaply, more effectively, and more conveniently elsewhere. As time goes on, one labour after another which is now done at home will be removed altogether from the sphere of the domestic economy, and this will necessarily lead ultimately to the disappearance of the individual household. In the future, human beings will occupy separate dwellings, but not separate households; or, to put the matter more intelligibly, most of the work now carried on in the individual household will be arranged for from centralised organisations. It is obvious that these changes will lead to extensive modifications of our present individual methods of domestic architecture.

The educational developments of the future will depend, not only on the changes that have been foreshadowed in

domestic life, but also on the future development of the institution of the family. Naturally, the characteristics of the family and the characteristics of the household are intimately associated. But, whatever changes may ensue in these respects, the fundamental principle that the parents are responsible for the upbringing of their children is not likely to be abandoned, for it is based upon an instinct deeply rooted in the very nature of human beings. But the actual work of education will probably be in the hands of educational specialists almost exclusively, as soon as the days of infancy and very early childhood are outgrown. When physically able to do so, mothers will, of course, suckle their own children. The transformation of our domestic economy and our domestic architecture will result in giving enormously increased importance to institutions for the upbringing of children; crèches, kindergartens, and elementary schools will play a far greater part than at present in social life; such institutions will probably care for children in every possible way, and will aim at the satisfaction of all their elementary needs.

## CHAPTER V

### PROS AND CONS OF CHILD-PROTECTION

*Introductory.*—The *lex minimi* (“law of parsimony”) is not merely a natural law, but is also the guiding principle both of legislative and of executive activity. From this law we learn, among other things: “When we wish to attain any end, we must arrange to do this with the smallest possible expenditure of means; with the means available we must secure the greatest possible result; the cost of production must not exceed the value of the finished product. No institution should be maintained if its utility is less than the equivalent of the cost of its maintenance. However fine an aim may be, it must never be forgotten that society and the State have other aims in addition to this one, and that if for the attainment of this particular aim an excessive expenditure of wealth is requisite, some wealth will be used up which is needed for the attainment of other aims.”

Prevention is better than cure. One whose actions are guided by foresight will use preventive methods all the more readily because prevention is a part of the natural order of things. It is applicable not only in domestic life, but also in the general life of society; and as evolution proceeds, the importance of repression continually diminishes, whilst the importance of prevention continually increases.

Every social institution serves for the attainment of some particular end—is, that is to say, a means to that end. If an end can be obtained without consuming wealth—that is, without employing the means involving such an expenditure of wealth, then the sacrifice of this wealth and the employment of these means are superfluous, and even harmful. The tendency of every social institution is, in fact, to become superfluous, and to be superseded with the passage of the years.

The wise physician who has to deal with the diseases affecting the human body does not confine his efforts to the treatment and relief of symptoms, but endeavours to ascertain and to remove the causes of those symptoms. He is well aware that a method of treatment which is confined to the relief of mere symptoms will effect no more than a temporary improvement, and that as long as the cause of the symptoms remains in active operation, the morbid phenomena will continue to recur. Now these considerations apply with just as much force to the social organism as they do to the individual human organism. When we pass judgment upon a social institution, we must always endeavour to ascertain whether any defect we may notice connected with its working belongs to the social institution as such, and whether the fault is inseparable from the institution, or whether we may reasonably expect that in the further course of development, or as a result of better organisation, this particular defect will disappear. In the work of child-protection, these fundamental principles must always be kept in mind.

*Objections to Child-Protection.*—A number of objections have been formulated against child-protection, of which the following may be mentioned. In crèches and other institutions for the care of young children, the spread of infectious diseases very readily occurs. Most of the institutions aiming at child-protection are really rewards of immorality, and thus tend to encourage immorality. It is a natural law that a child should be cared for by its own parents, and child-protection, in so far as it separates the child from its parents, is unnatural.

Most of these objections are invalid. Many authors maintain that the protection of juvenile criminals does more harm than good; but even if this is true to-day, it does not follow that juvenile criminals should not be protected, but simply that our methods of protection should be better adapted to their purpose. The objections urged against crèches and other institutions for the care of young children should not lead to the inference that no such institutions ought to exist, but should rather draw our attention to the necessity for taking better measures to prevent the introduction and spread of

infectious diseases. No one can doubt to-day that the suppression of these diseases is within our power.

*Objections to the Care of Foundlings.*—In the literature of our subject we find great diversity of opinion regarding the care of foundlings, and it is therefore necessary that we should examine the objections that have been made to institutions for this purpose. A careful study of the matter will show that the criticisms apply not to the general principle on which foundling hospitals are instituted, but to a particular form of this institution. It is well known that the foundling hospitals of former days received children by means of a turn-table, through an aperture in the wall (so that the person who brought the child might remain entirely unknown), that the children grew to maturity in such institutions, that the infants were artificially fed, that the most elementary hygienic precautions were neglected in these buildings, &c. &c. It is natural that such foundling hospitals as these should be attacked by many writers as harmful in the highest degree. But these writers completely ignore the fact that the defects were not characteristic of all foundling hospitals, and that therefore they did not attach to the institutions as such, but were the outcome simply of defective organisation; they also fail to observe that the care of foundlings may be undertaken without instituting foundling hospitals. The weightiest of all the objections to foundling hospitals is that the cost of maintenance of these institutions is disproportionate to any good they may effect, inasmuch as the value to society of those foundlings who attain maturity is no proper equivalent for the pains expended in attaining this result. In view of the *lex minimi*, to which reference was made at the beginning of this chapter, has such an institution any right to exist?

The turn-table for the reception of children was instituted for two reasons. In the first place, the whole act of “exposing” a child was to be discreetly veiled from the public eye; and, in the second place, no excuse was to be left open for the crime of infanticide. It is true that in our own day there are many reasons to be alleged against retaining the turn-table; it provides a means whereby the parents of children born in lawful wedlock can evade their natural obligations, and impose



these upon society at large; it involves a legal contradiction, inasmuch as it tacitly permits, and even formally invites, parents to expose their children, although this is a criminal offence; finally, it leads to the overcrowding of the foundling hospitals. In short, all the objections to the institution of the turn-table are perfectly sound; but it would be altogether unwarrantable to infer from this that foundling hospitals themselves are unnecessary and even harmful. Foundling hospitals can exist without a turn-table (not a single modern foundling hospital contains any such thing); the defects of foundling hospitals with turn-tables are not defects of foundling hospitals as such, but defects attaching to the institution of the turn-table.

If we are told that foundling hospitals fail to attain their ends (the prevention of infanticide and the increase of the population), if we are told that the foundling hospitals were themselves murder-traps, and that all they could do was to preserve for society a few individuals competent for harm rather than for good, we may rejoin that in modern foundling hospitals the death-rate is much lower than it was in those of former times, that children now receive in these institutions a much better upbringing than was formerly the case, and that the defects alleged do not attach to foundling hospitals as such, but merely to this or that way of managing such institutions. Finally, it is necessary to point out, that whereas the foundling hospitals of former times, owing to their defective administration, probably did not "pay," the progress of medical science has greatly reduced the death-rate in foundling hospitals, the children in these institutions are now much better brought up, and for these reasons the effective return made by foundling hospitals to society is far greater than it used to be.

*Darwinism versus Poor-Relief.*—Many Darwinians oppose Poor-Relief. The interest of the community demands that its members should be physically, intellectually, and morally sound. Social evolution and social well-being depend upon the survival of the fittest. It follows from this that the interest of the community demands that we should prevent the birth of diseased and weakly individuals; and that if such individuals should nevertheless be born, the sooner they perish

the better. If this were unconditionally true, we should have to admit that the relief of destitution is not merely useless to society, but is positively harmful.

In many instances, by the application of medical skill and knowledge, it is possible, at considerable expenditure of effort, to keep alive sickly persons, those predisposed to crime, and those predisposed to particular diseases—persons who, in default of such special care, would inevitably have succumbed. Such defectives, attaining maturity, procreate their kind, producing a new generation of sickly individuals, with deficient powers of resistance. Such applications of medical science are doubtless valuable from the point of view of the individuals thus benefited, but they promote the deterioration of the race. This anti-eugenist influence is exerted in a twofold manner: not only are the defectives kept alive and enabled to procreate their kind, but these defectives utilise goods and services which would otherwise have been allotted to healthy persons, whereby these latter become less well able to found and rear families.

The relief of destitution provides support for the weaker members of the community. Whereas, in default of public assistance, such persons would hesitate to marry, a generous public provision for the destitute facilitates the light-hearted increase of the lower classes of the population, since these latter feel justified in believing that, should the worst come to the worst, their children will be provided for by the community. In the relief of the destitute, the commodities devoted to the maintenance of the weak are taken away from the strong. In consequence of this deprivation, the strong find it necessary to limit their families—an example which the weak will not follow. Thus the relief of destitution favours a reversed selection. The relief of destitution also impairs the efficiency of the processes whereby the diseased and useless constituents are eliminated from the social organism, and this interference with eliminative processes is no less dangerous to the social than it is to the individual organism.

*Darwinism versus Child-Protection.*—The Darwinians maintain that all these considerations apply with equal force to child-protection. We must, they tell us, protect strong children only, and do nothing for the weakly. Child-protection to-day,

they insist, effects the reverse of this. It counteracts excessive child mortality, which is an effective factor in selection, through its destruction of weakly children. For example, the existence of foundling hospitals induces many parents to abandon the care of their own children, and to commit these to the foundling hospitals. Many parents, being aware that the State undertakes the coercive reformatory education of neglected children, deliberately neglect the education of their own children, in order to force the community to undertake it.

During the first years of life, continue these ultra-Darwinians, more children die than in the later years of childhood, because, owing to natural selection in the first years of life, a larger proportion of the weak succumb, so that the level of health of those in the later years of childhood is considerably higher. High infant mortality is at once a symptom and a means of natural selection. Years characterised by high infant mortality necessarily follow years in which the infantile death-rate has been low. In countries with high infant mortality the population is stronger, because the badly-equipped newborn infants die in greater proportion than the well-equipped; in subsequent years the mortality is consequently lower, the fitness for military service is greater, and tuberculosis is less common. To diminish infant mortality would lead to a more rapid increase of population; it would, in fact, give rise to over-population to such an extent that the struggle for existence would become even more cruel and abhorrent than it is to-day. Certain departments of child-protection lead to the preservation of children whose survival is altogether undesirable—children which would otherwise have perished during the first years of life.

(If it is true that illegitimate children are of very little use to the community, and if it is impossible to prevent the birth of such children, it is at any rate desirable, continue the writers of this school, that those which actually do come into the world should die as soon as possible. Consider also born criminals. These inflict grave injury on the community. If it is impossible to prevent their birth, should not society at least take steps to secure that their life should be as short as possible?)

*The Right View.*—These views are only partially correct.

7 It may be true that a great proportion of illegitimate children are weakly, and perhaps for this reason their mortality-rate and criminality-rate are excessive; it is also probable that in the absence of child-protection their death-rate would be considerably higher than it is. Elsewhere in this work we shall consider whether, and to what extent, it is possible to prevent the birth of illegitimate children. It may also be true that the born criminal is physically, intellectually, and morally degenerate, and that for these reasons in the absence of child-protection he would probably succumb in early life.

The race is not always damaged by the survival of those who have suffered from disease. The disease may be of such a kind that the patient who survives may recover completely, and may procreate perfectly healthy children. It is a very thorny question whether it can ever be right to refrain from the cure of certain patients, because to cure them would be injurious to the race. Here humanity and race-interest seem to conflict. If, in the future, by the proper application of preventive methods, we are able to ensure that very few such sick persons shall exist, it will no longer be necessary to attempt to cure such as do exist, for in that day the application of the euthanasia in such cases will no longer be regarded as inhuman, but rather as perfectly natural and right.

To the assertion that only the healthy and strong should be protected, we may answer that the sickly and the weakly are far more in need of such protection. It is perfectly true that those who are not adapted to the conditions of their environment perish. But one of the chief aims of child protection is to enable children to become capable of adaptation to their environment; and in the majority of children we are able to effect this. Even those in whom this is unattainable ought not to be neglected, because, while they are slowly succumbing, society suffers much injury from them. One who is ill or weak from one point of view only may nevertheless be a useful member of society, since perhaps in some other relationship he may be strong or healthy. In the present state of our knowledge, we are unable during a child's early years, and still less immediately after birth, to determine

positively whether the child is intellectually or morally defective, whether it is a born criminal, or whether it is one capable of developing into a useful member of society. We must certainly dispute the assertion that a child which is bodily weak is of necessity also intellectually and morally defective, since thousands of instances establish the fact that a child which is bodily weak often proves to be a useful member of society. If there were no child-protection, children would perish whose survival is unquestionably desirable.

We consider, therefore, that child-protection is necessary, although, notwithstanding great pains and great sacrifices, it often results in the survival of individuals who are useless to society. The view that only the children of the inferior and poorer classes of the population are suitable for the application of the methods of child-protection, is erroneous, if only for the reason that the well-to-do to-day bring forth offspring utterly regardless whether these are strong or weak; and also because capitalism interferes in other ways with the effective operation of natural selection. These various evils can be obviated to-day only by means of child-protection.

In the case of infants, there is no question of the struggle for existence. For their death-rate depends upon two factors—first, upon their inborn capacity; secondly, upon the conditions in which they are reared. The former factor is of far less importance in relation to infant mortality than it is in relation to child mortality. Only in an extremely limited sense is it possible, with regard to infants, to speak of a struggle for existence, in virtue of which the fittest survive. The infant is exposed to numerous dangers, in coping with which its inborn capacity hardly counts at all. When certain external influences come into play, the infant is quite incapable of making an advantageous use of its inborn physiological capacities. Such external influences destroy quite indifferently infants well-equipped and ill-equipped at birth. There is no doubt of the fact that a strong infant could better resist most of the diseases of infancy than a weakly infant; but the differences in power of resistance in infants are far less extensive than is generally believed. It is certainly wrong

to maintain that a strong infant is able successfully to resist all diseases.

For the very reason that certain diseases—for example, certain affections of the stomach and intestines—will destroy even the strongest infant, the prevention of these diseases becomes a matter of the first importance. It is unquestionable that such diseases can be more effectively prevented in proportion as the circumstances are favourable in which the infant is reared.

It is certainly through an error of observation that some writers maintain that in the age-class of children who have survived their first year we find no weaklings. Even the strongest infant will not survive to enter this age-class if its environing conditions are too unfavourable. It often happens that an infant survives an illness, and yet survives in a damaged condition. A high death-rate is a consequence of a high disease-rate; but of the infants affected with disease, only a certain proportion succumbs, whilst the others survive with damaged constitutions, and constitute a favourable soil for fresh inroads of disease. (In the twentieth century, in the civilised countries of Europe, of one hundred children dying during the first year of life, barely twenty die in consequence of inborn defects or congenital diseases (such as congenital debility, atrophy, congenital scrofula, tuberculosis, &c.).)

If it were true that infant mortality exercised a selective function, we should find a high infantile death-rate associated with a low death-rate in the case of children past infancy, and conversely. But everywhere we find that the infantile death-rate and the death-rate amongst children at ages one to five vary directly, and not inversely. Moreover, the variations in the death-rates in children during different years of life are determined by the fact that the younger the child, the less are its powers of resistance; thus the danger to health resulting from unfavourable conditions of life varies inversely as the child's age; and even within the limits of the first year of life, the infantile death-rate is higher in proportion as the time which has elapsed since birth is less. Among the lower classes of the population, the infantile death-rate is higher than it is among the upper classes. If a high infantile death-

rate exercised a selective influence, we should find that among the lower classes the death-rate among children more than one year old would be less than the death-rate of upper-class children of corresponding ages. But this is nowhere the case.

The mortality of children between the ages of one and five years depends chiefly upon the incidence of the infectious diseases. It is well known that these diseases are much milder in civilised than in uncivilised countries. From this it follows that the death-rate among children between the ages of one and five years depends chiefly upon the level of civilisation; the death-rate being higher where the level of civilisation is low, and conversely; but the infantile death-rate is much less influenced by the standard of civilisation. Moreover, recent investigations have shown that (especially in large towns and in industrial regions) high infant mortality is closely associated with a low level of fitness for military service, and with a high death-rate from tuberculosis. It is true that the number of those who succumb to tuberculosis and the number of those who prove fit for military service are influenced by other causes in addition to the infantile death-rate—causes which have nothing to do with that death-rate. But the fact remains indisputable that the causes leading to a great mortality among infants tend to injure the constitution of those infants who succeed in surviving, and thus weaken the general health of the population.

*Socialism versus Poor-Relief.*—Many Socialists are opposed to the relief of destitution. Poverty existed prior to the rise of capitalism, and is found where the capitalist system has not as yet struck root. But the chief cause of poverty to-day is unquestionably capitalism. Capitalism is the creator of the proletariat, the type of the poor class; poverty and proletariat, poor man and proletarian, are almost equivalent terms. Capitalism is also the creator of pauperism (*e.g.* of the industrial reserve army), which must be regarded as an essential pre-condition of capitalist production. In the manufacturing districts, poverty is more extensive than it is in the agricultural districts. In the towns it is more extensive than in the country. Capitalism cannot exist

without poor-relief. Unless the destitute are relieved out of the superfluity of capitalism, certain very undesirable consequences will ensue. For poverty is a chief cause at once of punishable offences and of all kinds of disease. The two main purposes of the relief of the destitute are, in fact, the protection of the rich against criminal outbreaks on the part of the poor, and the prevention of the epidemic diseases which would breed in the surroundings of neglected poverty, and spread thence to the homes of the rich.

The chief aim of poor-relief is to give help in cases of poverty arising from individual causes, to deal with poverty regarded as an individual concern. Poor-relief makes no attempt whatever to do away with the social causes of poverty—nor, indeed, could the methods of poor-relief effect this, even if the attempt were made. In a certain sense, socialism and poor-relief have a common character, inasmuch as both are opposed to free competition. It is the aim of poor-relief to relieve the disastrous consequences of free competition; the aim of socialism is to do away with class distinctions and existing contrasts between wealth and poverty—that is, to equalise and to democratise. But socialism does not favour the relief of destitution, and rather regards the need for such relief as a proof of the unrighteousness of the capitalist system. (Socialism regards poor-relief as nothing more than a way of treating symptoms of social disorder, and as a method necessary only during the age of capitalism. Socialism is hostile to any social institution which serves to safeguard capitalism.)

*Socialism versus Child-Protection.*—The considerations put forward regarding poor-relief bear to some extent on the relationships of child-protection to capitalism. Many departments of child-protection—foundling hospitals, for instance—are merely departments of poor-relief. Child-protection is chiefly concerned with the children of the poor, since these are far more in need of protection than the children of the rich.

Child-protection and socialism both existed, in a sense, prior to the development of capitalism. But in the nineteenth and twentieth centuries, child-protection has received much



more attention than in former times. This extensive development of child-protection is one phase of that general development whose other phase is the development of capitalism. Modern child-protection and modern socialism are necessary consequences of capitalism, and the existence of the last in the absence of child-protection and of socialism is altogether unthinkable. Capitalism gives rise to numerous diseases in the social organism, and then endeavours to cure them, for the most part, by the methods of child-protection. The causal relationship between capitalism and child-protection is not direct or primary. Certain applications of child-protection are not the direct consequences of capitalism itself, but only consequences of the causes by which capitalism has been created and evolved. When we come to examine concrete conditions, such as those of some particular country, we invariably find that child-protection and capitalism are intimately connected with the general development of the country with which we are concerned. This fact may interpose modifying conditions in the causal chain connecting capitalism and child-protection.

(The origin of the Children's Courts in the United States of America offers an instructive example of this. In this country, as in England, special causes led early in the last century to the establishment of reformatory schools. But whereas in England, until quite recently, boarding institutions were preferred for this purpose, from the first, in the United States the attempt was made to arrange for the upbringing of neglected and criminal youths under family auspices. The reasons for the adoption of this latter plan in America were the enormous possibilities of territorial expansion and the lively demand for new population. When juvenile offenders came before the courts, responsible individuals would offer to undertake the upbringing of these children, binding themselves over to report at regular intervals upon the behaviour of the children, and generally accepting all necessary responsibility. The judges ventured upon such experiments, and as the successful results multiplied, this method of procedure attained the force of a customary institution, and subsequently was formally embodied in legislation.)

Certain departments of child-protection were in existence before the days of capitalism, but these departments were greatly influenced by the changes introduced by capitalism. For this reason the direct causal relationship between capitalism and child-protection cannot always be demonstrated. It may of course happen, in any particular country, that child-protection stands at a higher or a lower level of development than appears to correspond to the general state of social evolution or to the development of capitalism in that particular country. As an example of this, we may mention Hungary, which, in the matter of child-protection, is in advance of countries where the development of capitalism and of civilisation are in a far more forward state; and in Hungary the development of child-protection has proceeded in complete independence of the shackles of historical evolution.

It is not an advantage, but a disadvantage, that child-protection is necessary to-day. The country which has need of numerous institutions for purposes of social betterment is in a bad way; and, indeed, the more of such institutions it needs, the worse must its condition be. These considerations apply to other institutions as well as to child-protection. Just as it is desirable that no institutions for social betterment should be necessary, so also we might wish that child-protection were superfluous. To put the matter in other words, it is desirable that in any country those conditions should not exist which have made it necessary to establish institutions for social betterment. The country which has no need for such institutions stands at a higher level than the country to which they are still indispensable. But of two countries which have equal need for such institutions, the one which possesses them stands at a higher level than the one in which they have not yet come into existence. This last consideration must not be forgotten when we are making a comparative study of child-protection in various countries.

Child-protection to-day is solely concerned with attempts to palliate the evils which necessarily result from the essential nature of the social organism of to-day, and is not concerned with efforts to transform the nature of that organism. Child-

protection alleviates some of the symptoms of capitalism, but does nothing to prevent the ever-renewed production of such symptoms. Thus we see that child-protection is not a scientific therapeutic method, for such a method tends, as time passes, to render itself superfluous. Child-protection is an important department of social activity. But there are other much more important departments. If the amount of wealth expended for the purposes of child-protection is excessive, means requisite to the attainment of other ends will be sacrificed, and the pursuit of much more important aims may be rendered impossible. The expenditure upon child-protection is useful to this extent, that it prevents the occurrence of much harm, and yet to-day a large proportion of such expenditure is quite useless, because the evils which child-protection attempts to relieve are not, as a matter of fact, all relieved. Capitalism is the source of the factors which make child-protection necessary. Hence all our efforts for child-protection are useless so long as we continue to create institutions by which capitalism is protected and strengthened. Child-protection to-day is in essence nothing more than a number of repressive measures, which are necessary only because capitalism will not permit the desired ends to be obtained by the use of preventive methods, owing to the fact that prevention would involve the destruction of capitalism. Thus the destruction of capitalism is a postulate, not of socialism merely, but also of child-protection. Unfortunately, few people as yet recognise that prevention is the true duty of the collective intelligence; instead of searching out the causes which have made the use of repressive measures necessary, they expect a cure to result from the use of repressive measures alone.

Let our device be, Prevention. The existing social order must be completely revolutionised. Let us have done with palliatives. It is time for a new creation. Repression is good, but prevention is a great deal better! The use of palliatives is a necessary evil attaching to the existing social order; but it is a crying instance of the contradictory character of existing social conditions. It is not right that child-protection should be the leading social and political activity of the State,

although at present such activity is supposed to be the climax of political science. (The course of action of a community which, while protecting children, oppresses adults, is unjust; for it would be better that children should perish, than that they should grow up to lives of misery, crime, or prostitution.)

It is impossible to sympathise with a country which sends the children of the working class to foundling hospitals, and the adult workers themselves to prison; which protects children simply in order to increase the population, and yet forcibly, as it were, drives the adults from the country as emigrants; which offers adult workers a starvation wage, and yet benevolently keeps paupers alive; which brings up pauper children to become proletarians, which breeds working men to depress by competition the wages of their fellows, and to play the part of miserable strike-breakers.

(Hungary affords an interesting example of this, for the social and political development of this country is by no means of the most modern type, and yet, in the matter of child-protection, Hungarian institutions are perhaps the finest in the whole world. It is true that child-protection in Hungary is to a large extent no more than child-protection on paper, if for no other reason, for this, that the proper administration of the Hungarian methods of child-protection cannot be carried out efficiently by the executive personnel available in that country.)

The true child-protection, the child-protection of the future, will take the form of the destruction of capitalism. It is true that in a certain way, and within certain limits, child-protection alleviates many of the evil effects of capitalism. But there is no doubt whatever that the aims of child-protection could be attained far more efficiently and far more rapidly by the destruction of capitalism. If we were to remove the causes which make child-protection necessary, as they would be removed by the destruction of capitalism, the need for child-protection would disappear. But the causes which make child-protection necessary to-day will not disappear until the State of the future comes into being. The question presses, should we postpone our attempts to deal with the symptoms of the disease, to palliate

the defects of the existing social order, until the day arrives when we shall be in a position to deal with these evils once and for all by radical measures?

No! Even to-day we have to concern ourselves with child-protection. The physician must not refuse to treat his patient because the means available for treatment will not suffice to cure. The wise physician does indeed endeavour to discover and to remove the causes of disease, but he does not neglect the symptoms. He is well aware that the disappearance of the symptoms does not indicate the cure of the disease. Nevertheless, he holds it to be his duty to prescribe certain remedies which do no more than relieve symptoms. For in many cases symptoms are disagreeable and even dangerous, and may actually lead to the death of the patient, before there is time to bring into play methods of treatment which might deal effectively with the causes of the disease. Often, too, a remedial measure which does no more than relieve symptoms may have an excellent effect upon the general bodily well-being of the patient. There are even cases in which a remedial measure exercises an unfavourable influence upon the disease and upon the patient's general condition, and none the less it has to be administered, in order to ward off some greater evil. To-day, child-protection is useful and even indispensable. It is true that a well-planned social order affords the best child-protection, and such an order is of far greater value than child-protection in the narrower sense of the term; but this does not make the latter form of child-protection superfluous.

*The Right View.*—The answers to the questions asked in this chapter, and more especially the detailed answer to the question, what subdivisions of child-protection are the most important to-day, and what is the relative importance of these various subdivisions, will be found in the Special Part of this book. There I discuss the individual subdivisions of child-protection, and discuss in each case the tendency of evolution. Unquestionably, the tendency of evolution is in the direction of the better regulation of the activities applicable to the various subdivisions of child-protection.

## CHAPTER VI

### THE EXECUTIVE INSTRUMENTS OF CHILD-PROTECTION

*Introductory.*—In individual countries there are three distinct factors engaged in the relief of destitution: local governing bodies, the central government, and the community at large. In different countries the various departments and activities of poor-relief are differently distributed among these several factors. Which of the three plays the leading part in this work depends upon the peculiar circumstances of the individual country. In any country that factor which predominates in the general and in the special work of administrative and executive activity is likely also to play a predominant part in the relief of destitution. (The same three factors co-operate in the work of child-protection; and in any country their relative shares in this work commonly (but not necessarily) correspond to their relative shares in the work of poor-relief.

In Italy, even to-day, all three of these factors—the local authorities, the central government and the community at large—are engaged in providing for the care of foundlings and illegitimate children; but the distribution of this work among the three factors varies in different parts of the country, these differences being referable to historical causes, and more especially to the former territorial subdivisions of the country. In many countries in which national responsibility for the relief of destitution is unknown, many of the subdivisions of child-protection are nevertheless administered by the State. As an example may be mentioned the care of foundlings in France. There is a special reason for this in France, inasmuch as, owing to the fact that in this country inquiries as to the fatherhood of illegitimate children (*la recherche de la paternité*) are forbidden, the care of foundlings constitutes

a great, general, and very pressing need, which can best be met by State action. In many countries in which the central government is responsible for poor-relief, some of the most important subdivisions of child-protection are administered by voluntary associations; England, the classical land of governmental poor-relief, affords a good example of this. Here the fact that in England voluntary associations, as the outcome of the collective activity of the community at large, have long exercised a decisive influence in all directions, accounts for the special conditions to which attention has been drawn.

*Local Governing Bodies.*—When we are concerned mainly with local conditions, the local governing bodies become of primary importance. They are best acquainted with the people and their needs, and their acquaintance with these is the more intimate the smaller the community. Hence the necessary duties can often be carried out most effectively and most economically by the local authorities. Many retrograde local authorities, especially the smaller ones and those in the country districts, are hostile to many of the applications of child-protection, regarding them as immoral, and they may even be quite unable to grasp the mental attitude of those who advocate child-protection. Many local authorities are very slow to undertake any extensions of communal activity; either on account of this reluctance, or else because in small communities the cost per ratepayer of the work of child-protection is easily calculated, they are apt to be too much influenced by narrow financial considerations. This is, in fact, the gravest defect of child-protection as carried out by local authorities; and this explains also why it is that many local authorities either entirely neglect the most necessary work of child-protection, or fail to perform it adequately; and it explains why the institutions founded by such authorities for the work of child-protection do not always fulfil the aims with which they were originated. It is well known that in many local government areas the homes for destitute orphans are at the same time workhouses, poorhouses, foci of all kinds of evil elements. It is well known that even to-day certain local authorities hand over the children for whose care they are legally responsible, under indentures, to those who will

take them for the smallest premium, the children receiving a wage of from 20 to 30 marks yearly.) For the reasons explained, we find in many countries that the relief of destitution and child-protection are associated throughout extensive areas, and even that special *ad hoc* local authorities exist to deal with these matters. Just what institutions we find in any particular country will naturally depend upon how in that country the individual executive and administrative functions are allotted to the various municipal authorities, district councils, and such *ad hoc* authorities as may exist.

*The Community at Large.*—Where the sphere of functional activity of the local authority and of the central government ends, there the sphere of the community at large begins. The limit is that at which the local authority and the central government regard their duties as fulfilled; beyond this limit they are unwilling to interfere, and the assistance they are able to give is no longer adapted to the individual special cases, because their work is not individual but bureaucratic. Beyond this limit, then, the community at large must take up the burden. The benevolent activities of the community at large are better able than those of the central or local authority to deal with individual cases. The work of the State is done with head and intellect, that of the community at large is done with heart and feeling. But great as these advantages are, they are counterbalanced by very grave defects. Child-protection undertaken by the community at large is often nothing more than a multiplication of fainéant societies, and an arena for self-important busybodies who wish to thrust themselves well forward in the public eye, but are completely ignorant of the subject of child-protection. (In Germany, for instance, no subdivision, however minute, of the work of child-protection can be mentioned, which does not possess a special "Society" to deal with the matter.) Child-protection as undertaken by the community at large lacks co-ordination with reference to any well-defined plan of activity, it effects much that is unnecessary and even harmful, whilst very necessary work is often done badly or not at all. The expenditure of time and money are enormous; the results attained are exceedingly small.



Of late years, especially in England and in the United States of America, societies for the organisation of the voluntary charitable activities undertaken by the community at large (the Charity Organisation Society, &c.) have come into existence; these are central organs to effect the harmonious co-ordination of philanthropic efforts, but do not usually themselves directly undertake charitable work. Such societies may play a very useful part, but they do not render the organisation and administration of poor-relief and child-protection by the central government and the local authority altogether superfluous. A very instructive example of the centralisation of voluntary activities for child-protection is that furnished by the Ungarische Kinderschutzliga (Hungarian Child-Protection League), founded in the year 1906. It is gradually absorbing all the really valuable child-protection societies, funds and administers all kinds of institutions for child-protection, is directly associated with all the executive instruments of the official work of child-protection, and sustains and amplifies the work of government in this direction. Its work is supervised from a central office in Buda-Pesth.

*The Central Government.*—The central government must, first of all, undertake those duties which, for financial reasons, the municipal authorities, district councils, *ad hoc* authorities, &c. cannot attempt. It must also satisfy certain general needs—that is, those needs whose mode of satisfaction is unaffected by varying local conditions. As in other departments of administrative activity, so also in the sphere of child-protection, a certain uniformity is requisite; and this uniformity can be attained in no other way than by the intervention of the central government. The satisfaction of very pressing needs, the overcoming of extraordinary difficulties, is possible only to the central government. Even in those countries in which local self-government is in a very advanced state of development, it is better that such legislative activity as is requisite in the domain of child-protection should be left to the central government.

The central government more readily takes over the duties of child-protection from the hands of the community at large than from the local authorities. As time goes on, ecclesiastical

and voluntary benevolent activities become ever less important and less extensive as compared with those of the State. Whereas in ancient times private benevolence, and in the Middle Ages ecclesiastical benevolence, played the principal parts, in our own times these are more and more superseded by organised communal effort operating through the central government. At first the State takes over only the negative side of destitution—police regulation of mendicancy and the like. To-day there does not remain a single civilised State without at least the first beginnings of a national relief of destitution. The tendency to extend ever more widely the province of national responsibility for the relief of destitution is quite unmistakable. Those who oppose this tendency are already in a minority, and their number continues to diminish. State systems of poor-relief are by no means faultless, but the errors are not ineradicable; many of the defects are remediable, and are, in fact, being remedied as time goes on. In this respect the tendency of evolution in England, the classical land of national poor-relief, is extremely satisfactory.

The central government is harder to move, has more inertia, than the community at large. It is for this reason that new departments of activity are always first undertaken by the latter, and for this reason also that most of the subdivisions and institutions of child-protection owe their inception and the first phases of their development mainly to the community at large. But after this stage, when the new institution has been put upon its trial, when it has become generally diffused, and when its permanence is assured, it is taken over by the State. But, even then, there still remains one field of activity for the community at large, namely, to discover and draw attention to the errors in the State administration of child-protection. The development in Hungary of institutions for the care of foundlings and other illegitimate children since the beginning of the last quarter of the nineteenth century may serve as an example of this.

Every social institution which originates on a broad basis and meets a wide general need exhibits a natural tendency towards a unified organisation and towards centralisation. We see this tendency at work in the history of child-protection.

Another tendency of evolution is an enlargement in the sphere of activity of the State, in the direction of the satisfaction of all the important vital needs of the community by organised communal effort, operating through the machinery of the central government.

The national acceptance of responsibility for poor-relief may take the form of the State being satisfied with the centralised and thorough governmental regulation of the relief of destitution, the administrative details being left in the hands of the local authorities and of the community at large. Of course this is no more than a half-measure, and yet in certain circumstances it may be an advantageous division of labour. For, when we consider the respective rôles of the local authority and of the community at large in the work of child-protection, we must not forget that both are engaged in work delegated to them by the State, and for which the State is really responsible. Moreover, the relief of destitution, and that part of the work of child-protection analogous to the relief of destitution, are intimately associated with the problems of household-right and of domicile; because many central governments admit responsibility for the destitute only in the case of their own citizens, whilst in many countries a right to relief in case of destitution at the hands of the local authority is acquired by residence merely. Thus the problems of child-protection are interconnected with the legal problems of local administrative activity; and it may happen that the local authorities undertake certain departments of child-protection merely because these questions of domicile form part of their circle of interests.

*A Unified System of Laws for Child-Protection.*—Can the State institute a unified system of laws for child-protection, one comprising the entire legal material of child-protection? In former times such provision as there was for child-protection existed only in a dispersed form, as part of laws with other primary objects; not until later, when the question of child-protection had become one of considerable importance, did laws come into being dealing specifically with this subject. Provision for the enforcement in certain cases of a coercive reformatory education was originally a mere supplementary

provision of the criminal law or of certain borough by-laws; but to-day, in many countries, special laws dealing with coercive reformatory education have been passed by the central government. The earliest special laws on the subject of child-protection dealt with the care of foundlings and illegitimate children, this being the first subdivision of our subject to attain specific importance.

The tendency of evolution is to codify, in a unified system of laws, all the legal material bearing upon any particular question. But a unified system of laws dealing with the subject of child-protection is not at present attainable. For child-protection is subject to change, almost from day to day and from hour to hour. If the legislator wished to keep pace with its development, he would have to alter and patch his system of laws year by year; but if this were done, the unified character of the legal system would soon become illusory, and numerous legal technical difficulties would inevitably arise. The question of child-protection finds a place in every department of law. There are many legal regulations regarding children which, owing in part to the technique of legislation, and in part to other causes, are, for practical reasons, best embodied in other laws. For example, laws relating to guardianship and to the care of illegitimate children cannot well be dealt with apart from the general laws bearing on family relationships.

*A Centralised Authority for Child-Protection.*—Is a centralised authority for child-protection possible? That is, is it possible to group under a unitary control all the agencies dealing with the protection of children? This idea certainly represents the tendency of evolution. As regards the care of foundlings and of illegitimate children, the tendency of evolution is in the direction of family care, all the families with which such children are placed being under the supervision of a single central authority, which deals with them all in accordance with identical principles. Still more clearly does this tendency manifest itself in the foundation of children's courts, and in the endeavour to extend the powers of these to embrace all the legal relationships of children. In further exemplification of this tendency may be mentioned the development of

infants' milk depôts and of schools for mothers—a development which has by no means reached its climax. Unquestionably, in the domain of child-protection, institutions which originally appeared very different in character become unified. Thus, infants' milk depôts, schools for mothers, schools for wet-nurses, legal advice in children's cases, &c., are now all being administered in connection with foundling hospitals.

The claims of the other departments of national and social life must not, however, be left out of account. Thus, whether certain questions should be referred to the law-courts, or to the local administrative authorities, to lawyers or doctors, to architects or schoolmasters; whether a local administrative authority should have the right to deal with one or two technical questions only, such as arise in a particular administrative area as to legal and executive powers, or with a number of such questions; whether certain duties should be undertaken only by specialised institutions, or by institutions which also subserve other functions—such questions as these involve a reference to other considerations in addition to those directly connected with child-protection.

*Private and Official Activities.*—To-day much of the work of the relief of destitution and of child-protection is undertaken by voluntary organisations, founded and administered by private individuals who are engaged also in other activities. These private persons work gratuitously, but often discharge their duties better than professional salaried and permanently appointed officials. Their work is better individualised, it is less bureaucratic, and has more heart in it. These advantages are the fruit of good-will and altruistic feeling. Nevertheless the rôle of voluntary societies becomes continually less extensive. The tendency of evolution is to bring into operation more and more the principle of the division of labour, so that questions needing expert knowledge are dealt with by professional experts, persons permanently appointed for such work, paid accordingly, and really in possession of the specialised skill which is needed. The relief of destitution, and child-protection are, as is well known, both questions for experts; and it becomes more and more necessary that their administration should be in the hands of well-paid professional

workers. Lawyers, although in the domain of child-protection they are laymen merely, play a decisive part to-day in this domain, as they do in most branches of administrative activity. They are placed at the head of the expert administrators, and have, if not the first word, what is perhaps even worse, the last word, in the majority of technical questions. It is necessary to enter an energetic protest against this predominance of lawyers. It is absolutely essential that not only the salaried professional workers, but also all those who take part in the work of child-protection in honorary offices or as occasional voluntary helpers, should receive an appropriate training for their work. Quite recently has originated the idea of Schools of Public Welfare—Schools and a Curriculum for Child-Protection. We must carefully distinguish from such schools for professional workers, courses of lectures whose purpose merely is to acquaint wider circles with the aims and methods of child-protection, or to initiate novices into such work.

*The Medical Profession.*—The most important task of child-protection is the protection of children's health. The persons who should undertake the management of this department are those who possess the requisite expert knowledge in matters of health—that is to say, medical practitioners and specialists in the diseases of children. In most branches of child-protection, medical practitioners now play an important part. It rests with them to determine whether there does or does not exist a contra-indication to marriage. They have to render assistance before and during childbirth, they are the most important instruments for the protection of infants and for the care of foundlings and illegitimate children, and as consultants and administrators they exercise important activities in the domain of child-labour. Their part in other subdivisions of child-protection will be discussed in detail in a later chapter of this work. The importance of the work of medical practitioners continually increases. The tendency in almost all departments of child-protection is to arrange for a preliminary examination of the children by the doctor. Among the various reasons for such an examination, we may mention that in the case of uncontrollable children and

juvenile criminals the doctor can make a thorough examination of the child's physical and mental condition, and upon this examination he will base a decision, whether the child should be placed in family or institutional care, in a reformatory school, or in some other specialised institution—as, for example, a home for mentally abnormal children; further, it is the doctor's duty to examine all children, before they begin to work for a living, as to their physical fitness, and upon the results of this examination to base an opinion whether the child is fit to earn its living at all, and if so, whether the trade selected by the relatives is a suitable one. The tendency is, further, that the doctor should give an opinion regarding the method of protection suited for the particular child. Quite recently, indeed, the desire has been widely and strongly expressed that all children should be subjected to continuous and appropriate medical control. The institution of school physicians, supplemented in recent days by medical control of the domestic environment of the school children, shows clearly that such medical supervision of all children is likely in time to become universal. In addition, we owe a great deal to the doctors in connection with the literature of child-protection. The ablest and most important works in this specialty are by physicians. In several handbooks of hygiene, most of the problems of child-protection receive attention, although the matter is not always treated very systematically. The enormous influence which medical science has exercised and continues to exercise upon the development of the individual branches of child-protection will become apparent in the Special Part of this work.

*Women.*—To what extent can women play a part as executive instruments of child-protection? Women are better fitted than men to supervise the bodily care of children. Women can more readily gain the confidence of those who need support and protection—above all, the confidence of other women (especially of lonely and forsaken women) and of children. They are better judges than men of defects in housekeeping and how to remedy them. Many things are confided to women which are kept hidden from men; and women can remedy many concealed defects where

men could do no good. Such duties as these are commonly performed by women more conscientiously than by men, &c.

The following arguments have been put forward against the employment of women: (a) Women ought not to be exposed to the dangers and inconveniences inseparable from visiting the houses of the poor and other places subject to inspection; (b) Women are gossiping, soft-hearted, and credulous, so that they are unable to exercise authority, and are inclined to pay undue attention to exaggerated and quite irrelevant statements; (c) They interfere too much in the management of the households of the foster-parents, &c.

These arguments are worthless. Besides, the question of the employment of women in such capacities can only be decided fairly with reference to the individual subdivisions of the work of child-protection. Unquestionably, women are suitably employed as children's nurses, matrons of children's homes, governesses and school-mistresses, wet-nurses, medical practitioners, factory inspectors, sick-nurses, confidential agents of the official guardians of children, visitors of foster-parents. Where the common people have no confidence in women employées, for example, in rough, uncultivated districts, where, in the interests of child-protection, police intervention is necessary, as, for example, in the case of morally depraved and uncontrollable children, and where trusteeship has to be undertaken as in the case of orphan children who are heirs to considerable property, women cannot be employed. The tendency of evolution is to employ women as executive instruments of child-protection, and, indeed, to employ them as salaried public officials.

Numerous and serious objections must, however, be raised against the idea that ladies belonging to the upper classes should find amusement and relief from the tedium of their ordinary life by engaging in some branch of the work of child-protection (such as supervising the work of midwives, or visiting the foster-parents of boarded-out children). The work of such women is of little value in itself, and it takes bread out of the mouths of women who could do the same work very much better professionally and as a means of livelihood.



**SPECIAL PART**



# A.—DEPARTMENT OF CIVIL LAW AND INDIVIDUAL RIGHTS

## CHAPTER I

### MARRIAGE AND PARENTAL AUTHORITY

*Introductory.*—The two chief purposes of human life are, first, the maintenance of the individuals of the species, and, secondly, the reproduction of the species. The laws relating to property subserve the former aim; those relating to the family subserve the latter. Property itself is the central feature of the former, and the family is the central feature of the latter.

*Parental Authority and Marriage.*—The laws of family life are based upon a physiological or psychological foundation, the love of parents for their children. In cases in which the legal regulation of family life is unduly harsh—as in the case of the maintenance in former times of parental authority in the interest of the parents—parental love exercises a mitigating and counteracting influence.

To-day, the duty of parents to devote themselves to the careful upbringing of their children is universally accepted on principle. (There is but one exception to this generalisation: the duty of the father to provide for the upbringing of an illegitimate child is not as yet generally accepted on principle.) The duty of parents to provide for the upbringing of their children is one prescribed, not only by nature and morality, but also by the laws of human society. And yet this duty is not directly established by law; although it seems possible that children might be able to enforce by legal process the duty of their parents to exercise their parental authority in accordance with accepted rules. The

obligation to provide for the upbringing of their children is legally imposed on parents, if only for the reason that the liabilities thus incurred through the sexual act withhold many persons from needless and excessive sexual indulgence—and such conditional abstinence is advantageous, not merely to the individual, but also to the community. The upbringing of children rests upon the legal basis of parental authority. The suitable upbringing of the offspring is best ensured when the legal relationships between the sexes are properly regulated. In all times, the essence of such regulation has consisted in the fact that a particular form of sexual union offers certain advantages, but that the acceptance of these advantages involves the performance of certain duties. This particular form of sexual union is known as marriage.

*History of Marriage.*—It is a debatable question whether matriarchy ever really existed. The question interests us here only for the reason that many modern scholars, including many Socialists, contend that matriarchy did at one time really exist; and they infer from this that a time will come in which the sexes will have equal rights. In actual fact, in recent times, the importance of patriarchy—the father right—has continually diminished.

*Child-Protection and the Family.*—An overwhelmingly large proportion of child-protection to-day is mainly concerned with cases in which children have (in one sense or another, materially or morally, permanently or temporarily, wholly or partially) been abandoned by their parents. Such cases are those in which: (a) the parents are unable to fulfil their duties, on account of lack of means, illness, or absence; (b) the parents are unwilling to fulfil their duties; (c) the parents make an improper use of their parental authority. But certain children also need protection from the community who cannot in any sense whatever be said to have been abandoned by their parents; and it is altogether erroneous to suppose that the idea of “child-protection” has reference solely to abandoned children. The child is born in a state of complete helplessness, and is unable to protect itself, not only immediately after birth, but for a considerable time afterwards. It lacks the requisite organs for self-protection, it

lacks power, and it lacks instinctive knowledge. For these reasons, if our legal system makes provision for the protection of adults, *a fortiori* must it do so, and to a greater extent, in the case of children. From all these considerations it follows that the most important relationships of child-protection are not, as is commonly assumed, with criminal law and with local administrative activity, but with civil law and individual rights. The kind and degree of child-protection, depend chiefly upon the mutual relationships existing between the State and the family. The institutions of child-protection, in so far as they are associated with civil law and individual rights, will, as a rule, be found to be preventive in character; institutions based upon criminal law, on the other hand, commonly exhibit punitive and repressive tendencies, as will become apparent when a number of concrete instances are studied. If the legal relationships of family life undergo changes, the methods of child-protection will also be transformed.

*Maternal Authority.*—In the matter of love for the offspring the mother, for physiological reasons (pregnancy, parturition, and lactation), stands on a higher plane than the father. The intensity of her love for her children explains the fact that the mother neither needs nor exercises much parental authority. Moreover, inasmuch as hitherto the mother has always been in a state of greater or less subjection to the father, parental authority has at all times chiefly taken the form of paternal authority. But as time goes on, this paternal authority is, in fact, tending to be transformed very gradually into a true parental authority; that is to say, the mother begins to exercise the rights and to perform the duties of parental authority in a manner parallel with or subsidiary to that of the father. To-day we stand at the beginning of this development. Its chief cause is the profound transformation of economic life, as a result of which women are to an ever greater extent entering the arena as wage-earners, whilst the differences between the legal position of men and women continually diminish.

*Fiduciary Character of Parental Authority.*—Formerly, parental authority took the form mainly of a right of

dominion over the child, subserving chiefly the interests of the head of the family—the patriarch. The more complete the social integration of any particular country, the more in that country does paternal authority assume a fiduciary character, the character of a protective authority, arising out of the child's natural need for protection, and subserving its need for guardianship. Owing to their possession of parental authority, it is the duty and the right of the parents to exercise the guardianship over their children in every capacity; as the legal representatives of those of their children who are still under age, the parents are competent to act on behalf of and in the name of their children. Thus the second characteristic of the developmental tendency of parental authority is, that that authority involves the acceptance of an ever-increasing number of duties, and also that the State, through the intermediation of Boards of Guardianship<sup>1</sup> exercises a control over the parents which was almost unknown in former times.

In the modern State, the following ideas as to parental authority are generally prevalent. Parental authority involves duties as well as rights. Our laws give rights to parents only in order to enable them to fulfil their duties. They are, in a sense, plenipotentiaries of the State, entrusted with the duty of bringing up their children in a state of bodily, mental, and moral health, and of ensuring that these children shall develop in such a way that they will be useful to society. To enable them to attain these ends, parents are endowed with certain rights. Just as, in the matter of public education, the State enforces upon the child a minimum of school attendance, even against the wishes of the parents, so also, in the general upbringing of children, the State enforces a certain standard, with which all parents have to comply.

*The Elementary Principles of State Interference with Parental*

<sup>1</sup> *Boards of Guardianship*.—This term is not used in the sense in which in England we speak of *Boards of Guardians*, to denote the *ad hoc* local authorities which administer the English Poor Law, but to denote local committees which, in the continental system of child-protection, administer the functions for which the State is responsible in its capacity of "Over-Parent" (an expressive and convenient term we owe to Mr. H. G. Wells). Dr. Engel suggests *Court of Orphans* or *Court of Wards* as alternate English terms.—TRANSLATOR'S NOTE.

*Authority.* (*The State as "Over-Parent."*)—The modern State interferes with parental authority in accordance with the following principles. It is impossible for the State to supervise in detail the domestic life of millions of families, or to examine the soundness of the upbringing which millions of parents provide for their children. For these reasons, the State can intervene only in cases in which the conviction arises that by the conduct of the parents the mental or physical well-being of the child has been endangered, and thereby the interest of the State seriously threatened. If one endowed with parental authority has disturbed the natural foundations of that authority by criminal offences or immoral conduct, and has thus shown himself unworthy of the confidence exhibited in him by the State which has hitherto permitted him to exercise parental authority, the State is fully justified in depriving him of his delegated powers. In its own interest, in such cases, the State is compelled to withdraw the parental authority wholly or partially, and even to order that the child shall be removed from its parents' house, to be brought up in a suitable family, in a reformatory school, or in some other institution (*Zwangserziehung, Fürsorgeerziehung*).

The legislator is not in a position to define in precise terms the cases in which parental authority should be withdrawn, or the child transferred to other guardianship than that of the parents; it must suffice to explain the general principles which the Boards of Guardianship (see note on last page) have to apply at their own discretion.

There can be no question of the need for State interference when the parents are leading a disorderly or immoral life; when they are ill-using or exploiting their child; when they are quite ignorant of the proper way of bringing up children; or when, owing to severe illness, alcoholism, morphinism, or utter destitution, they are obviously unfitted to bring up their own children. Since long drawn-out proceedings in the law courts are desirable in the interests neither of the parents nor of the children, it is better that the procedure in these cases should not in the first instance necessarily involve an application to the law courts. But the parents must have the right of appeal to the courts, if they consider they have been unjustly

treated by depriving them of the custody of their child. Although the institution of such education under guardianship must not be made dependent upon the financial position of the parents, these latter should be made responsible for the greater part of the cost. Unless this were done, for parents to neglect their children would be a step towards shaking off a financial burden—those parents would be rewarded who failed to bring up their children properly; this would naturally still further weaken the parents' sense of responsibility; and this again, by a vicious circle, would still further encourage them to neglect their children. Indeed, we have to ask whether, in the case of parents able to pay, an effective system of forced labour might not be introduced.

The withdrawal of parental authority must on no account be regarded as a punishment. There may be cases in which the parents are quite blameless, and yet in the interests of the child it may be absolutely necessary to abrogate the parental authority; or, in similar cases, it may be necessary, for educational purposes, to remove the child from its home. Again, it often happens, for example, that only the father is to blame, and yet the mother cannot be permitted to exercise her parental authority, but the child must be removed from its home, because in no other way can the harmful influence of the father be overcome. There are worthy parents who, simply from an excessive blind affection for their children, fail to bring them up properly; there are worthy working-class parents who have positively no time to attend satisfactorily to the upbringing of their children.



## CHAPTER II

### MARRIAGE AND HEREDITY

*Heredity in General.*—Heredity is a general phenomenon of natural life. The offspring resembles the parent to a greater or less degree. In the human species, also, children on the average resemble their own parents more closely than they resemble other persons, but the degree to which this resemblance is manifested is a variable one, and it remains an open question whether the concrete qualities and capabilities whereby the parents are distinguished from other persons are transmitted to their offspring by inheritance. It is possible that the qualities of the parents may not appear at all in the children; that they may appear somewhat modified, or in a very different form; that they may remain latent in one or more generations, to reappear in the grandchildren or great-grandchildren; or that the qualities of the parents may not appear to be present in the children at birth, but that as the latter grow up, these qualities may make their appearance at the same age at which they appeared in the parents. It is still in dispute whether qualities acquired by the parents are inherited by the offspring; nor is there general agreement as to what are the precise limits between inherited and acquired characters, respectively. This question as to the inheritance of acquired characters is one of profound importance; for if acquired characters are not inherited, racial improvement can be effected solely by means of the struggle for existence, and the continued elimination of the weaker elements of the species.<sup>1</sup>

<sup>1</sup> Unless and until humanity is able and willing to apply its intelligence to purposive racial improvement, by discouragement of the procreation of the less fit, and by encouragement of the procreation of the more fit—by an application, that is to say, of the principle of negative or restrictive eugenics, on the one hand, and the principle of positive or constructive eugenics, on the other.  
—TRANSLATOR'S NOTE.

*Inheritance of Diseases.*—The word “disease” is used here in the widest possible signification. Diseased parents as a rule procreate diseased children, or bring up diseased individuals. But the physical, mental, and moral defects of the parents may make their appearance in the children in a transmuted form. A disease in the parent, when transmitted by inheritance, may appear in the offspring as general weakness, either bodily, mental, or moral; or it may appear in the form of a predisposition to the particular disease; and conversely, that which in the parent is no more than predisposition to a disease, may appear in the offspring in the form of the actual disease. In concrete instances, it may be very difficult to determine whether persons are or are not diseased. Again, with respect to atavism and to the hereditary transmission of latent qualities, it is questionable whether, in cases in which the subject of investigation is not himself affected with disease, but his near relatives are so affected, we have reason to fear the hereditary transmission of harmful consequences to the offspring. It is especially with regard to the male sex that the question of the hereditary transmission of morbid qualities is so important, for, in marriage, it is the male partner who contributes the greater proportion of the diseases.

It is not through inheritance only that diseases may be transmitted from parents to children; the same result may follow from the fact that parents and children live in such close association, or because children are brought up by their parents. The existence of morbid qualities or conditions in the parents may lead in the offspring, not only to the inheritance of disease, but to other disastrous results. Morbid conditions in either parent, besides being transmitted to the offspring by inheritance, may be communicated by the husband to the wife, or by the wife to the husband, either in the act of sexual intercourse, or through the close association of married life. Parents suffering from disease cannot bring up their children properly. The treatment of their own illness may be very costly, and may involve the expenditure of much time and pains, and these things work adversely to the interest of the children. Sickly parents whose children are likewise sickly are apt to endeavour to make up for the deficient quality of

their offspring by an increase in their number, whereby matters are made considerably worse. Those who enter into marriage when already ill are apt subsequently to reproach themselves upon their conduct towards their sexual partners; this is likely to react unfavourably upon the illness, and to disturb the married life, to the disadvantage of the children. Sickly parents die sooner than healthy ones, whereby the children are prematurely orphaned, and are exposed to the dangers of poverty. The state of engagement to marry (with consequent ungratified sexual excitement up to the time of marriage), sexual intercourse, pregnancy, and childbirth, may all exercise an unfavourable influence upon the diseased organism, may favour or accelerate the course of the disease, and may even lead to its fatal issue. From the children's point of view, all these things are extremely undesirable. Thus, there are certain persons to whom marriage is permissible, but who should on no account procreate children—that is to say, such a married pair may enjoy sexual congress, but must not fail to use efficient means for the prevention of conception.

*Individual Diseases.*—(a) Of all diseases transmissible by inheritance, mental disorders pass most readily from parents to offspring, and undergo the least alteration as they pass. In the etiology of mental disorders, hereditary transmission plays an important part.

(b) It is still undecided whether alcohol is a specific protoplasmic poison; but it is an indisputable fact that, among the offspring of those addicted to alcohol, the ill effects of the parental alcoholism may be displayed in other ways besides by the appearance of alcoholic tendencies in the next generation. The children of drunkards tend to be cruel, dissolute, dirty in their habits, hypersensitive, or themselves inclined to drink; and in any or all of these ways they may be a danger to society. For example, it has been found in wine-growing districts that the children born in any one year are stupider in proportion as the vintage of their birth-year was a good one. Often the effects of alcohol are better marked in the children of alcoholics than in the parents themselves. When both parents are drunkards, the children are apt to

suffer from moral insanity; and the offspring of drunkards tend to become criminals. Children whose parents were in a state of actual inebriety at the time of procreation will most probably be feeble-minded. Since alcohol increases sexual desire, even though it diminishes sexual potency, alcoholics tend to procreate more children than non-alcoholics; but any advantage that might ensue from the greater quantity of the offspring is more than outbalanced by their inferior quality. And because alcohol strengthens sexual desire, the number of alcoholics who were procreated by parents in a state of inebriety is considerable. Some experts contend that if the father is a drinker, the daughter is unable to suckle her own children.

(c) What has been said regarding alcoholism applies also to some extent to morphinism.

(d) Tuberculosis is not directly transmitted by inheritance. But the predisposition to tuberculosis is so transmitted; that is to say, it is regarded as unquestionable that an inferior power of resistance to the virus of tubercle passes by inheritance from parent to offspring. Those predisposed to tuberculosis tend to have a vigorous sexual impulse, and exhibit a high degree of fertility.

(e) Gonorrhœa lessens or destroys fertility to such an extent that, in from 40 to 50 per cent. of childless marriages, the sterility is referable to gonorrhœal infection. Gonorrhœa, *i.e.* specific gonorrhœal urethritis or vaginitis, is not itself transmissible by inheritance; but gonorrhœa in the parent may lead to certain diseases in the offspring, and the most important of these is ophthalmia of the new-born—the commonest cause of blindness.

(f) Syphilis is in most cases transmissible by inheritance. The children of syphilitic parents are commonly feeble-minded or idiotic; or bodily, mentally, or morally degenerate; and they possess an inferior power of resistance to diseases.

*The Age of the Parents.*—The age of the parents at the time of procreation has a marked influence upon the health of the offspring. The parents should not be too young. It is not well that the mother should be less than twenty, or

the father less than twenty-four years of age. Many of the children of such extremely youthful parents are weakly, and have poor health. On the other hand, the parents should not be very old. When the mother is over forty and the father over fifty years of age, the children are apt to be weakly; also they are apt to be left orphaned at a comparatively early age. It is also undesirable that there should be a great difference between the ages of the parents. Thus the parents should be young, but not too young. The younger they are, the more children can they procreate—first of all, because their fertility is greater in youth, and, secondly, because their married life lasts longer. Qualitatively, also, the children of such marriages are usually healthier. As a matter of fact, the age indicated is the normal age for marriage—the age at which the great majority enter upon marriage.

*The Marriage of Near Kin.*—We still lack precise information to enable us to decide whether the marriage of near kin is injurious to the offspring of such marriages. According to certain (unofficial) statistics, of 1000 marriages, from 7 to 11 are those of persons near akin. Naturally, in certain remote and inaccessible districts, the proportion of such marriages is greater than this. Two very different views have been put forward by scientific authorities. According to one school, the marriages of persons near akin either prove completely sterile, or else produce offspring defective in body or in mind. According to the other school, blood relationship has *per se* no influence upon the offspring of the unions of nearly-related persons; where the parents (in such marriages) are themselves free from defects transmissible by inheritance, there is no reason to anticipate that the offspring will be in any way defective, unless other noxious influences (in addition to the kinship of the parents), such as disease, debility, exhaustion from previous excesses, &c., have been at work. But if such noxious influences have affected both parents, the danger of some congenital defect appearing in the children is very great. We certainly see many cases in which the marriage of near kin results in the procreation of large and thoroughly healthy families; but, in contrast with these, we also see many cases

in which the offspring of such marriages have proved non-viable or degenerate (especially, blind, deaf-mute, idiotic, insane, polydactylous, or affected with congenital developmental defects).

Marriages between persons whose qualities are extremely divergent, and marriages between persons whose qualities are too closely similar, are alike undesirable. Neither the offspring of marriages between those belonging to different races nor the offspring of marriages between those too closely related appear to be a gain for the race. It is the degree of divergence or of resemblance which here plays the decisive part.

It remains a subject of controversy whether the institution of exogamy originated from the fact that it was regarded as desirable to refresh the blood of the tribe by cross-fertilisation with the blood of another tribe. But it is incontestably established that since historic times began there has existed in the human race a natural antipathy to incestuous sexual relations, and more especially to incestuous marriages. The mental abnormalities seen in the offspring of incestuous marriages are to a large extent explicable from the fact that the incestuous relationship was itself the outcome of mental abnormality in those who entered upon that relationship.

The possibility of the hereditary transmission of disease is greater in the case of the marriage of near kin than it is in ordinary marriages. When both parents suffer from the same transmissible defect, the likelihood that that defect will manifest itself in the offspring in a graver form is greatly increased. Thus, in the case of the offspring of nearly related persons, the probability of the appearance of certain transmissible defects is considerable. For perfectly healthy parents are rarities, and when husband and wife are closely related the probability that both will suffer from the same transmissible defect or disorder is relatively high.

*Disease in the Parents from the Legal Standpoint.*—In relation to marriage, disease has a twofold significance: on the one hand, it may be a factor leading to the dissolution of the marriage (owing to divorce, nullity of marriage, venereal infection); on the other hand, the existence of disease may prevent marriage. Very naturally, the latter factor is of

preponderant importance, because we lay the chief stress upon prevention. It is for this reason that so little attention is paid to the legal significance of the former factor.

*Divorce.*—In cases in which one partner to a marriage suffers from disease, divorce should be rendered as easy as possible. The interests of the children are often put forward as reasons against this course. There is no doubt that many married couples to-day refrain from separation or divorce solely because they regard it as to their children's interest that they should continue to live together. But it is precisely on the ground of the children's interest that such marriages ought to be dissolved, and that the child or children should remain with the healthy parent. The opposite course would only destroy the happiness of the healthy parent, without doing the other parent any good.

*Marriage-Prohibitions in Past Times.*—The marriage-prohibitions of former times may be classified under two heads, ecclesiastical and civil. The leading principle of the canon law of marriage is the limitation to monogamy of the permissible forms of the sexual relationship. More strictly, indeed, we may say, the limitation to ecclesiastical marriage. Marriage is a sacrament, and therefore indissoluble; it conforms to ecclesiastical law only when certain formalities have been observed, and when no ecclesiastical prohibition has been infringed (differences in religious belief, broken vows, &c.).

Civil marriage prohibitions date chiefly from the seventeenth and eighteenth centuries. They owe their origin to the fear lest parents should allow their offspring to become chargeable to the community, and especially to the poor-law authorities. Such marriage-prohibitions, of course, concerned chiefly the lower classes of the population, and especially mendicants, prostitutes, persons in receipt of poor relief, persons of disorderly life, offenders against the criminal law. A marriage concluded in defiance of such prohibitions involved the deprivation of certain legal rights, and also rendered the offenders liable to punishment.

To-day, in the sphere of marriage-law, ecclesiastical law has largely lost significance, and continues to lose what little it still possesses, so that its marriage-prohibitions are coming to

possess little more than historical interest. The civil marriage prohibitions were repealed in the nineteenth century, because they were found to have no other effect than to increase the number of illegal unions and the births of illegitimate children, and because they merely increased the burdens upon the poor-law. Even in the nineteenth century, however, certain political parties—the Conservatives, for example—desire that these civil prohibitions should be reintroduced, but in this form, that the marriage of persons actually in receipt of poor relief should be forbidden, or that persons belonging to the lower classes should be allowed to marry only when able to demonstrate the possession of a small capital.

Marriage-prohibitions still exist to-day. The difference is merely this, that in place of the ecclesiastical prohibitions and the civil prohibitions affecting members of the lower classes, moral, hygienic, and economic prohibitions and hindrances have come into being, affecting the middle classes. The State, as a rule, insists upon absolute celibacy in the case of its female employees. Soldiers and officers are hemmed in by rigid regulations, by which marriage is to a large extent rendered impossible; in the case of the proletariat, the liability to compulsory military service offers the greatest obstacle to early marriage. From Catholic priests, ecclesiastical prohibitions demand absolute celibacy. As the result of these various marriage-prohibitions, many persons who would probably have been able to procreate healthy children are prevented marrying. But there is to-day hardly any difficulty in the way of the marriage of persons whose union is likely to lead to the procreation of defective children. At most, minors, certified lunatics, confirmed drunkards, wards in chancery, and near relatives are forbidden to marry.

*Proposed Reforms.*—Increasing attention is, however, being paid to the possible legal applications of the doctrine of evolution. Even those who are opposed to any radical reforms see that persons suffering from communicable venereal disease must be unconditionally forbidden, on pain of very severe punishment, not merely to contract marriage, not merely to practise sexual intercourse, but to perform any act, of whatever kind, by which they could communicate infection. The existing state of the law, by which, notwithstanding the great



frequency of such occurrences, isolated instances only of the transmission of venereal diseases are punished (for example, the case of the nurse who infects the child entrusted to her care), is altogether unsatisfactory; the communication of any kind of venereal infection, in any possible way, should be severely punished.

Those who recognise the need for improving the human species by purposive selection go much further than this. They desire that every person with regard to whom there is strong reason to believe that his or her offspring would be diseased, and every man or woman in a state in which he or she would transmit infection to the sexual partner, should be stringently forbidden to marry. Such persons are: those with disease of the central nervous system, mental disorder, mental weakness, epilepsy, hysteria, idiocy; those with diminished moral responsibility; those suffering from syphilis, gonorrhœa, tuberculosis, rachitis; cripples, &c.

*Objections.*—The following objections are raised by those who are adverse to the institution of such marriage prohibitions as these: (*a*) They limit personal freedom, and even in some cases actually abolish it. (*b*) By means of marriage-prohibitions, it is possible to limit the number of legitimate children born, but not the number of children as a whole, since persons to whom legal marriage is forbidden will in that case procreate illegitimate children. But it is far from being desirable that this should happen. All the defects previously enumerated would be present in such children, and their birth would be unconditionally harmful to society. It is statistically proved that marriage-prohibitions lead to an increase in the number of illegitimate births. In Bavaria, for example, down to the year 1868, the local authorities imposed an unconditional veto upon the marriage of persons supported solely by wage-earning; against this prohibition there was no appeal whatever. In the year 1868 was passed the law relating to marriage and domicile, by which most of the former marriage-prohibitions were repealed. The sequel of this was that, whereas from 1854 to 1868 illegitimate births constituted 22 per cent. of all births, in the seven years following 1868 the percentage of illegitimate births fell to 12·6 per cent. (*c*) It is better, say the objectors, that a

man suffering from venereal disease should marry, for in that case he makes only one woman unhappy and procreates a few children only. But if he is forbidden to marry, he has intercourse with numerous women, especially with prostitutes, he infects many women, and procreates more children. (d) Marriage-prohibitions do not prevent unhappy marriages only, but also those which would be likely to prove happy. Many couples enter into marriage for other reasons than desire for sexual intercourse. There are also many sick persons upon whom marriage exercises a curative influence—curing, or at least alleviating, the disease from which they suffer. For example, many alcoholics become abstemious or temperate as a result of marriage; many weakly and delicate girls become strong and healthy women when they marry. Many marriages are happy although husband and wife do not practise sexual intercourse; and it is by no means uncommon for a woman to marry a sick man simply because she pities him, and wishes to act as his sick-nurse. (e) Marriage-prohibitions accentuate class contrasts. (f) Diseased persons commonly have no offspring. (g) Diseased persons to whom, after consideration of their case, marriage is permitted, have the responsibility taken out of their hands, and consequently tend to lose all sense of responsibility. (h) Marriage-prohibitions interfere with natural selection, inasmuch as they render impossible the acquirement of immunity to disease and the process of regeneration. (i) It would be a logical counterpart to marriage-prohibitions to compel healthy persons to enter upon marriage—a course that is obviously impracticable.

*The Right View.*—The prohibitions suggested in the section on “Proposed Reforms” are sound in principle. The prevention of the birth of such children as are born in the absence of effective prohibitions of this kind, effects an enormous social economy. The children of thoroughly healthy parents, who have married from love, are the healthiest; such marriages are, therefore, to be promoted. But it does not follow that all other marriages than these should be prevented. This would go too far, and would, moreover, be utterly impracticable. Marriage-prohibitions must not err by excess, and too energetic intervention in these matters is undesirable. For such a course of action would render

it impossible for very many persons to marry; and, in fact, no one with any disease, mild or severe, and no one with any kind of defect of body or mind, could enter upon marriage. All that is practicable is, in the first place, to prevent the marriage of those who are obviously suffering from serious disease; and, in the second place, to prevent the marriage of persons exhibiting defects of bodily development, or in whom the sexual characters are inadequately developed, even though such persons cannot be said to be suffering from disease (*e.g.* women with weakly-formed breasts, with poor hips, with a badly-formed pelvis, &c.)

Passing now to consider the objections in detail, (*a*) is true. But the mode of action of a State which introduces such marriage-prohibitions differs quantitatively only, not qualitatively, from the mode of action of other States to-day. The marriage-prohibitions now in existence certainly limit personal freedom; but in other departments of the activity of the modern State we encounter numerous institutions by which individual liberty is far more seriously impaired. Consider, for instance, compulsory military service: the modern State insists that all young men shall undergo a medical examination, and that those found to be physically fit shall devote the best years of their life to the service of the State. Besides, when we are considering the common weal, the question of individual liberty is no longer decisive. The notion that it is an inalienable right of every human being to found a family may be quietly dismissed as a piece of egregious sentimentality. (*b*) By punitive measures, and by the diffusion of enlightenment, it is possible to prevent the classes of persons here mentioned from entering into illegitimate sexual relationships. Women will not allow themselves to become entangled with men to whom, for the reasons here considered, marriage is forbidden; first of all, because such men are considered to be of inferior worth; in the second place, because, in view of the fact that an intimacy (*liaison*) cannot lead to marriage, the intimacy is regarded as fruitless. (*c*) The probability of transmitting venereal infection and the probability of procreating children are both considerably greater in cases of long-enduring intimacy than where there are numerous, brief, frequently-changed sexual relationships. (*d*) It is altogether

exceptional for marriage to exercise a curative influence upon the progress of a disease, and this probability is one which can never be counted upon. Once the marriage is contracted, sexual intercourse and the procreation of children cannot be prevented. (*f*) As regards persons suffering from tuberculosis and alcoholism, the reverse of what was stated in objection (*f*) is definitely established. (*h*) The data available as to the immunising influence of inherited diseases against the same diseases accidentally acquired (*e.g.* of congenital syphilis against acquired syphilis) are extremely debatable. They seem, indeed, to show provisionally that such an immunising effect is non-existent. The question of regeneration is still obscure, and requires thorough investigation. It is certainly possible that in some cases intermarriage between the diseased and the healthy may lead, not to the deterioration, but to the improvement of the race, owing to the fact that thereby favourable elements are introduced into the family. The principal argument against this idea of regeneration is that, from marriages in which both parties are healthy, healthier offspring unquestionably result, than from marriages in which one or both parties are diseased. The resulting postulate is, that the healthy should marry the healthy.

*How to Effect Reforms.*—No general rules can be formulated regarding the marriage of persons suffering from disease. The majority of diseases are of such a nature that their existence can be established only by means of direct medical examination. In most cases, medical examination will not justify the assertion that the particular person must be altogether forbidden to marry, but only that this particular person ought not to marry some other specifically indicated individual; should the question arise regarding another proposed marriage (that is to say, with a different individual), then a fresh medical examination will be desirable. For example, we cannot lay it down as a general rule that the marriage of persons suffering from tuberculosis must be unconditionally forbidden; all we are able to say is, that when anyone suffering from tuberculosis desires to marry, that person ought first to submit to a thorough medical examination. It is therefore necessary that prior to marriage there should be a medical examination made by one of a number of doctors officially appointed for this purpose.

As a result of their examination, these officials will give an opinion, whether the marriage of the person they have examined with some other person specifically named is or is not desirable in the interest of the common weal.

There is yet another way in which this idea might be carried out. (a) Everyone wishing to marry should provide, in addition to the various documents which are now requisite to the official sanction of marriage, a medical certificate to the effect that he is free from any disease which should prevent his marriage with the other party named in the certificate. Many, indeed, wish that, in addition to this certificate, another should be provided, to the effect that of the two parties about to enter into marriage, the woman will be presumably competent to suckle her child, to bring it up, and to educate it; the man, that he will presumably be competent to undertake the two duties last named. (b) Before the marriage is solemnised, the physicians of both parties should hold a consultation, and decide jointly whether the marriage is permissible. (c) Everyone who enters into marriage should be under statutory obligation to insure his life, and this also involves a complete medical examination. (d) Many consider that the following method of procedure would suffice. Before the marriage is solemnised, both parties should be medically examined, and the result of the medical examination of each should be communicated to the other. If they then wish to proceed with the marriage, no further obstacles should be interposed.

*The Tendency of Evolution.*—The importance of marriage-prohibitions on hygienic grounds is continually increasing. Recent legislation in many States of the American Union furnish us with the best examples of this evolutionary tendency. In the social life of the future, marriage-prohibitions on hygienic grounds will play a very important part. The detailed treatment of this question at any particular time and in any particular country will of course depend upon the acquirements of medical science. It is probable that the general principles will be statutorily determined, and that medical examination will ultimately be made compulsory in the case of everyone contemplating marriage.

## CHAPTER III

### THE PROTECTION OF ILLEGITIMATE CHILDREN

*The Legal Position of the Illegitimate Child.*—The legal position of the illegitimate child is regulated by civil law only in respect of certain relationships; and the brief and restricted enactments on this subject are in sharp contrast with the great importance of the matter. Even in those countries in which the position of illegitimate children is relatively favourable, it is only in relation to the mother and to the blood-relatives of the mother that the legal position of the illegitimate child corresponds with that of the legitimate child; no further duty is imposed upon the father of any illegitimate child than to provide for the child until it is sixteen years of age an allowance for maintenance corresponding to the social position of the mother. Even in these countries the proof of paternity is apt to be a matter of considerable difficulty. The father of a natural child can raise various objections; for instance, he may allege loose conduct on the part of the mother (*exceptio plurimum concumbentium*), and the proof of this will discharge him of his duty of maintenance.

In civil law there are various institutions by which the position of the illegitimate child may be improved; for example, recognition, adoption of the child, and, above all, legitimisation. But of course these will redound to the advantage of those children only towards whom the natural father has no feeling of hostility. By legitimisation, the illegitimate child acquires the position of the legitimate child. There are two chief methods of legitimisation, viz., *legitimatio per subsequens matrimonium*, and *legitimatio per rescriptum principis*. About 25 to 30 per cent. of all illegitimate children are legitimised. Of children legitimised

during the first year of life, the process is effected in the great majority during the second and third months after birth. The older the child, the less likelihood is there of its legitimisation; and legitimisation is less probable in towns than in the country.

*Reasons for these Legal Disabilities.*—The defenders of the existing legal order, when asked why it is that the civil law deals so harshly with the illegitimate child, are accustomed to answer as follows. Marriage is the foundation of society; if the legal position of the illegitimate child were as good as that of the legitimate child, this foundation would be shattered. Those who enter into illegitimate sexual relationships, and even the issue of such relationships, must incur serious legal disabilities; for otherwise the principal motive to marriage would be removed, and people would light-heartedly enter into illegitimate sexual unions. Ordinarily, it is only upon the basis of permanent marriage that a groundwork can be erected providing for those moral principles which are the indispensable preconditions of the legal rights and duties of family life; only in permanent marriage, and the family life which is the outcome of permanent marriage, do we obtain adequate guarantees for the fulfilment of these duties and for the proper exercise of these rights. It is only in an insignificant minority of instances that the natural association between an illegitimate child and its father leads to the formation of a more intimate bond between the two. In most cases, the father is indifferent and even hostile to his illegitimate child. He regards it as a burden, and has no interest in its well-being, or in its bodily and mental development. Only in the rarest cases does an illegitimate child share directly in the family life and in the property of the father; and if the father does take over the care for and upbringing of the child, he often does this solely in his own financial interest, in order subsequently to hand over the care of the child to the person who will undertake this at the cheapest rate. In such cases the moral and circumstantial prerequisites to the foundation of true family relationships are utterly lacking; and this is true above all of those cases in which the fatherhood of the child is not voluntarily acknow-

ledged, but is admitted as the sequel of a successful bastardy suit. It has also to be remembered that the proof of the fatherhood of an illegitimate child, though it cannot be regarded as impossible, is nevertheless beset by numerous and considerable practical difficulties; and, in addition, that the adoption of legal measures to enable the paternity of an illegitimate child to be established with comparative ease would involve very grave social dangers, if the acceptance of extensive family responsibilities were to be made consequent upon such proof of paternity. The laws of inheritance protect the institution of private property and the institution of legal marriage; for the integrity of both of these institutions would be threatened if the illegitimate child were endowed with the right to inherit its father's property.

*Advantages and Disadvantages of Illegitimate Birth.*—Three different views prevail regarding the relative advantages and disadvantages of illegitimate births. (1) Illegitimate children come into the world favourably equipped, for their parents are young, and their union depends not upon interest, but upon love. (2) Illegitimate children are hereditarily defective, as is clearly manifest in all relationships. Private statistical data show that in respect of body-weight and body-length the illegitimate new-born, boys as well as girls, compare unfavourably with the legitimate. Many illegitimate children exhibit a disposition to various mental disorders (degenerative neuroses and psychoses). Since in most cases the father is unknown, and his qualities therefore elude observation, there would appear to be some ground for the assumption that the hereditary tainting of illegitimate children is even greater than it is actually proved to be. (3) Illegitimate children come into the world with the same equipment as legitimate children.

The first of these views is erroneous, if only for the reason that in men often nothing more than sensuality, and in women often nothing more than self-interest, leads to the formation of an irregular sexual intimacy. But neither the second view nor the third can be accepted without reserve. In interpreting the statistical data relating to illegitimacy, many circumstances have to be considered. Attention must always be paid to the question, which were the intimacies in



which the conditions were similar to those of married life, and to the question as to the extent to which the peculiarities apparent in the illegitimate are dependent solely upon the legal disabilities of their status. The material conditions in which illegitimate children are placed must be compared with those of legitimate children belonging to similar social classes. It would be altogether fallacious to compare the condition of illegitimate children with the average condition of legitimate children, instead of with the average condition of children of the proletariat. If these considerations receive due attention, it will become apparent that illegitimacy *per se* is not a decisive factor, but merely renders more apparent the disadvantages attendant on being brought up under the conditions inevitable for the children of the proletariat.

*Abortion, Premature Birth, Still-Birth.*—The general causes of abortion, premature birth, and still-birth operate even more frequently in cases of illegitimate than in cases of legitimate birth. The chief causes are the following: (a) Keeping at work up to the time of childbirth. (b) Criminal abortion. (c) Syphilitic infection, which, as is well known, is intimately associated with extra-conjugal sexual intercourse. With regard to (a), unmarried mothers, who are for the most part working-class women, servant-maids, laundresses, sempstresses, &c., are commonly compelled to remain at work until pregnancy is far advanced. With regard to (b), the fear of disgrace and the prospect of poverty impel many unmarried women about to become mothers to attempt to procure abortion. These factors naturally affect town-dwellers to a greater extent than they affect persons living in the country.

In Europe, miscarriages and still-births occur in cases of illegitimate births about 25 per cent. more frequently than in cases of legitimate births. These statistical data must, however, be corrected by the consideration of the following facts: (a) Many live-born illegitimate children are returned as still-born, in order to conceal the manipulations which were effected during or immediately after birth. On the other hand, many still-born children are returned as live-born, for the reason that many material interests may render such a misreport desirable. (b) The larger moiety of illegitimate

births are children born to primiparae. For this reason, the percentage of still-births is greater than in the case of all legitimate births taken together—although the effect of the primiparous state of the mother is to some extent counteracted by the fact that the mother of an illegitimate child is commonly quite young.

*Childbirth in Unmarried Mothers.*—When a married woman is about to become a mother, she makes early preparation of all that will be required during childbirth and the lying-in period. A large proportion of unmarried mothers, on the other hand, spend their last penny before the termination of pregnancy, and are altogether destitute when the time of their delivery arrives. A sense of shame prevents many pregnant women from entering a lying-in hospital, although to do this would provide them with free medical aid. Most women also have a dread of the gynecological clinique, because they think they will be made use of there for the instruction of students. To unmarried mothers, many charitable institutions close their doors. (a) But notwithstanding this, the majority of unmarried mothers are delivered at public lying-in hospitals, gynecological clinics, and obstetric wards of general hospitals. (b) A small proportion are delivered in private lying-in institutions (and these naturally of a bad class, since such women lack money to pay the fees demanded by the better-class institutions). (c) A third moiety are delivered amid conditions the most unfavourable that can possibly be imagined. All these circumstances combine to exercise a most unfavourable influence upon the morbidity and the mortality of illegitimate new-born infants.

*Causes of the Great Mortality of Illegitimate Children.*—Owing to causes which come into operation immediately or shortly after birth (syphilis, marasmus, congenital debility, &c.), a much larger percentage of illegitimate children succumb than of legitimate children. The mother returns to work almost immediately after the birth of her child; usually her work takes her away from home, but if otherwise, it is almost certain to be work which will prevent her giving proper care to her child. Hence the great majority of unmarried mothers are forced to separate from their children almost immediately

after the birth of the latter. In many cases, the mother does not even commit her child to a foundling hospital, or entrust it to a foster mother, but she kills it or exposes it immediately after birth. It is well known that infanticide and the exposing of infants are almost exclusively the work of unmarried mothers; and in a considerable proportion of cases, criminal abortion is the outcome of an attempt on the part of an unmarried woman to conceal the fact that she has been impregnated,

Baby-farming is in actual practice nothing but a cruel method of infanticide—a method whose causation is apparent on brief consideration. It has been pointed out that the great majority of unmarried mothers belong to a social stratum in which the average income is extremely low. A maid-servant receives at best [in Germany and Austria] an annual wage of from £10 to £15, a female factory-hand from £25 to £30. The maintenance of an infant, if the elementary principles of the hygiene of childhood are to be observed, and if the foster-parents are to make any profit at all, costs at the very least £15 a year. The mere nutriment of a child during the first year of life costs 4d. per day, or a little more than £6 per annum. When allowance is made for house-room, clothing, and necessary incidental expenses, we reach a minimal total of £10 to £11. How is it possible for the average unmarried mother to find the sum asked by the foster-parents? Those who, as foster-parents, assume the charge of an illegitimate child, cannot reckon on the child's remaining permanently in their care, and ultimately becoming a useful member of the family. The mother's payments are scanty and irregular. Her intentions may be good at the outset, and perhaps she has not yet completely exhausted her savings. At first too, perhaps, the father gives, or at least promises, a little pecuniary aid. But when the child is out of sight, his willingness to make sacrifices on its behalf soon wanes. Nothing more is heard of the father. The mother is perhaps out of work for a time, and a fresh pregnancy may ensue. The foster-parents know very well that if this particular child dies, they will readily find another to be entrusted to their care. Sometimes the mother's own interest in the life of her child fades. How,

indeed, can she continue to love it, when it is kept at a distance from her, and when to provide the money needed for its maintenance demands the greatest possible sacrifices? Why should she not desire the child's death, when this would not merely remove a difficulty from her own path, but might well be regarded as the best possible thing for the child itself, ailing and in lack of proper and loving care? Thus there is often a tacit understanding between the mother and the foster-mother, that the child's life shall be as short as possible. Unfortunately in such cases it is rarely possible to punish the foster-parents, since in the case of infants it is so difficult to determine precisely where ignorance, stupidity, and poverty end and infanticide by deliberate neglect begins. The law rightly prescribes severe penalties for infanticide; but we may well ask whether it is worse for a mother to suffocate her child immediately after its birth, or, by the lack of proper care, to inflict upon the infant a more tedious but no less certain doom. We often hear it asserted that such murderous baby-farming is in Europe a thing of the past. My own opinion is that France is the only European country of which this assertion may possibly be true.

The food and other necessaries supplied to illegitimate children are commonly inadequate. The more important contributory causes of the enormous mortality of illegitimate children (the primiparous condition of the mother, syphilis, and intra-uterine influences) have previously been mentioned. It is owing to the co-operation of these various unfavourable factors that the death-rate of illegitimate is so much higher than that of legitimate children—the ratio between the two death-rates in the civilised countries of Europe during the twentieth century being, according to my calculations, as 1·4:1. Only in those countries in which the mortality among legitimate infants or the general infant mortality is higher, does a comparison between the infantile death-rates of the legitimate and the illegitimate, respectively, furnish a result which appears less unfavourable to the latter. What this high death-rate of illegitimate children really means becomes apparent when we recall the fact that every year in Europe no fewer than 600,000 illegitimate children are born. In reality the infantile

death-rate among the illegitimate is even greater than these figures would appear to show ; for a proportion of those born as illegitimate are subsequently legitimised, and, in consequence of this, many infants which at birth were included among the illegitimate, appear in the mortality lists among the legitimate. In the country, the infantile death-rate is greater than in the towns. The differences in the death-rates of illegitimate and of legitimate children, respectively, are greatest in the first month of life, and diminish month by month as age advances. In other words, the expectation of life of an illegitimate infant increases month by month after birth. After the first year of life, the ratio between the death-rates of illegitimate and legitimate children is less unfavourable to the former than in infants under one year of age.

*Criminality in the Illegitimate.*—Private and official statistical data combine to prove that in illegitimate children criminality is considerably more common than it is in the legitimate. In individual countries, and in respect of different criminal offences, the relationships are very variable ; but there is not a single civilised country in which we fail to find that the average criminality-rate of illegitimate children is considerably higher than the average criminality-rate of the legitimate. We see this difference maintained, alike in respect of the number of punishable offences committed on the average by each convicted person, in respect of particular offences in the case of those who experience only one conviction, and finally in respect of the percentage of convicted offenders among the two respective classes. Not a single punishable offence can be mentioned, in respect of which we fail to find that the percentage of illegitimates convicted of that offence is larger than the percentage of legitimates so convicted. Moreover, if we compare recidivists and major offenders with other criminals, we find that the unfavourable influence of illegitimacy is especially marked in the case of the former. The conclusions drawn from the criminal statistics are confirmed by those obtained from reformatories and similar institutions ; everywhere we find a higher criminality-rate among the illegitimate.

One circumstance, however, which is commonly overlooked,

has to be taken into account. Among those convicted of criminal offences, a certain percentage are persons of illegitimate birth (*a*); a certain percentage of all births are those of illegitimates (*b*); a certain percentage of persons who have attained the age at which they become legally liable to punishment for their actions are persons of illegitimate birth (*c*). It is not the ratio between the numbers in class (*a*) and the numbers in class (*b*) that we have to consider, but the ratio between the numbers in class (*a*) and the numbers in class (*c*). For the death-rate among illegitimate children is much higher than the death-rate of the legitimate; and the number of the illegitimate diminishes through legitimisation. Thus a much smaller proportion of young persons and of adults consists of persons of illegitimate birth than in the case of the new-born. The proper method of comparison would be to ascertain whether the percentage of illegitimate children at a certain age convicted of criminal offences or undergoing education in a reformatory is greater than the percentage of legitimate children of like age found to be undergoing the same punishment or the same education.

All the causes of crime—imperfect education, poverty, hereditary taint—are present to a greater extent in the illegitimate than in the legitimate. How can we expect that an illegitimate child will be properly brought up when the father commonly accepts no responsibility for the matter, and the mother is usually forced to commit her child to the care of a baby-farmer or to send it to a foundling hospital? By the contemptuous attitude of the general public towards him, and by his inferior legal, social, and economic position, the person of illegitimate birth is, as it were, forced to seek revenge from society for the wrongs which, in his opinion, society has inflicted upon him. Medical statistics establish beyond dispute the fact that among illegitimate children the proportion of feeble-minded is larger than among the legitimate.

*Illegitimacy and Prostitution.*—I have not been able to obtain trustworthy statistical data as to what percentage of prostitutes are persons of illegitimate birth, but it is generally supposed that the proportion is as high as 30 per

cent. A very brief examination of the matter shows that among prostitutes there is a higher percentage of illegitimates than among the general population. The reason for this state of affairs is doubtless the inferior legal position of illegitimate children under the conditions of our time. Illegitimate girls are not properly brought up; they are despised by the world even if their conduct is irreproachable, and thus one of the most potent reasons for remaining respectable—the fear of the loss of good repute—is lacking in their case. A woman who receives no help, or inadequate help, from the father of her illegitimate child, is very apt to become a prostitute.

*Occupation in Relationship to Illegitimacy.*—The illegitimate originate in the ranks of the proletariat, and remain in those ranks. The statistics of the subject show that about 90 per cent. of adult persons of illegitimate birth are manual workers, and that not more than a fourth of these are skilled artisans. Statistics prove also that about 10 per cent. more of legitimate males are able to qualify by examination for a reduction of the term of military service to one year, than in the case of illegitimate males.

*The Different Classes of the Illegitimate.*—Those who wish to understand the position of illegitimate children must consider the different classes of the illegitimate. (a) There are many differences in these respects in various countries. For example, in certain countries the children born to a betrothed pair have a better legal position than other illegitimate children. In some countries, again, the legal position of children born of an adulterous or of an incestuous union is worse than that of other illegitimate children.

The social position of the parents, and the existence or non-existence of differences in social rank between father and mother, are circumstances which may exercise a decisive influence upon the position of an illegitimate child. It might almost be maintained that the higher the social position of the unmarried mother, the worse will be the position of her child. For the higher the social position, the more sinful is sexual indulgence considered on the part of a woman except under the forms of marriage; the unmarried mother,

when her social position has been a good one, is apt to be driven from her family, boycotted by society, and abandoned by her seducer. The greater the difference in social rank between the two parents, the worse will be the position of the child; when the father's position is much better than the mother's, he usually refuses to acknowledge the child at all.

(c) The assumption that those women who marry after bearing an illegitimate child, marry in most cases the father of their child, is erroneous. Erroneous also is the assumption that the position of an illegitimate child with a step-father is less favourable than the position of the illegitimate child which has been legitimised through the subsequent marriage of its true parents. As regards Germany, we learn from private statistical data, on the one hand, that nearly 50 per cent. of the women who marry after giving birth to an illegitimate child, marry another man than the father of that child; and, on the other hand, that the position of illegitimate children who thus acquire a step-father is about as good as that of legitimate children in similar classes of society; and their position is certainly much better than that of those illegitimate children whose mothers remain unmarried. We should be led to expect this from the fact that the step-father in such cases marries the woman because he loves her, and does not regard the child as a serious objection; moreover, the records show that such marriages are commonly effected when illegitimate children are still quite young, so that from its early youth upwards the child is a member of the family circle. It seems almost incredible that it should be better for an illegitimate child for its mother to die than for her to remain alive, but unmarried; and yet this may very well be the case, for the upbringing the illegitimate child receives from its own mother is apt to be most unsatisfactory; but should the mother die, the child will usually be cared for by the poor-law authorities.

*Illegitimacy and Child-Protection.*—The mortality and the criminality of illegitimate children are important elements in general mortality and general criminality; they are closely dependent upon the legal position of illegitimate children, and one of the principal aims of child-protection is to



diminish criminality and mortality. For these reasons, the legal position of illegitimate children exercises a decisive influence in determining the methods and the intensity of child-protection. The history of illegitimate children would, as a rule, be even more tragic than it is, if the community at large and the State intervened only in order to counteract the disadvantages resulting from the inferior legal position of illegitimate children, and if no attempt were made to undertake the work of child-protection from the point of view of criminal law or from that of local administrative activity. But when we study the position of child-protection in the individual countries of Europe, we see at once that that position is influenced mainly by one consideration, namely, the legal status of the illegitimate child. Numerous and important branches of child-protection—the care of foundlings, for instance—are concerned chiefly with illegitimate children; and in other departments of child-protection the protection of the illegitimate must be more vigorous than that of the legitimate. But the more unfavourable the legal status of the illegitimate child, the more energetic must intervention be from the side of criminal law and from that of local administration, not only for the protection of the illegitimate themselves, but also for the protection of society against the illegitimate. Where the status of the illegitimate child is a favourable one, the importance of child-protection by means of criminal law and local administrative activity is much less than elsewhere.

The Teutonic and the Latin methods of dealing with illegitimate children are distinguished by the fact that in the Teutonic States inquiry into paternity is permitted, whilst in the Latin States it is forbidden. Where the Latin system prevails—that is, where inquiry into paternity is forbidden—as in France and Italy, the local authorities find it necessary to board out more children than in those countries in which the inquiry into paternity is allowed; for in the latter a larger proportion of unmarried mothers secure an allowance for maintenance from the fathers of their children, and for this reason more illegitimate children are boarded out directly by the mothers. An assimilation

of the legal status of legitimate and illegitimate children would obviate numerous evils, so that a few paragraphs in the code of civil law would render superfluous a considerable proportion of the child-protection now dependent upon criminal law and local administrative activity.

Until the Italian legal code provides for the proper recognition of *figli di genitori ignoti*, any attempt at administrative reform of the Italian methods of dealing with foundlings would be futile. [In Italy, not even the mother is compelled to recognise her child; recognition must not be confused with legitimisation. A child which is recognised neither by the father nor by the mother is termed *figlio di genitori ignoti* (the child of unknown parents), and it is only a child recognised by at least one parent which is termed *figlio illegittimo* (illegitimate child).] As long as Section 340 of the French Civil Code continues to state categorically, "La recherche de la paternité est interdite," not even the risk of capital punishment will restrain from infanticide the mother of an illegitimate child, more especially in view of the fact that in such cases humanely disposed jurymen now so frequently bring in a verdict of Not Guilty.

It may be hoped that before long it will be generally recognised that any attempt to reform child-protection, and especially our dealings with foundlings, must begin with a reform in the legal status of the illegitimate child. Nevertheless, child-protection by the local authorities and through the instrumentality of the criminal law, and, above all, our ways of dealing with foundlings, exert a great influence upon the position of illegitimate children. It is still in dispute whether these things affect the numbers of illegitimate children. It is widely assumed that the existence of foundling hospitals leads to an increase in the number of illegitimate children. But in reality foundling hospitals are not a cause, but a consequence, of the large numbers of illegitimate children.

*The Tendency of Evolution.*—As time goes on, the position of illegitimate children steadily improves. Formerly, illegitimacy entailed grave civil and ecclesiastical disabilities; to-day, the only differences between illegitimate and

legitimate children concern their respective legal status, and even these differences are gradually disappearing. The circumstance that public opinion is taking an ever milder view regarding illegitimate sexual intimacy, exercises a great influence upon the position of the illegitimate child, and a much more extensive mitigation of public opinion in this direction may be confidently anticipated. The fate of the illegitimate child is greatly influenced by the judgment passed upon illegitimate sexual intercourse by the associates, parents, and relatives of the mother. Among the Jews, owing to the sacred character of their family life, the birth of illegitimate children was altogether exceptional. But such a high estimation of marriage is apt to result in complete rupture of relations between the fallen one and her family. Although among the Jews infant mortality in general is lower than among the Gentiles, the mortality of illegitimate children among the Jews is even higher than among the Gentile population.

In most countries to-day we may observe an unmistakable tendency towards the improvement of the legal position of the illegitimate child. This tendency is perceptible in those countries in which inquiry into paternity is permitted. In the Latin countries the necessity of permitting inquiry into paternity is becoming more and more widely recognised. In many countries we find, often in association with foundling hospitals, institutions for the provision of maintenance for illegitimate children.

The reforms of the immediate future, some of which, in certain countries, have actually been effected, are the following: (*a*) In every country the inquiry into paternity must be permitted. (*b*) The legal proceedings for the discovery of paternity must be initiated and pursued by the local authorities or some other official body. (*c*) Where the father fails to pay the necessary maintenance for his illegitimate child, vigorous measures of compulsion must be available (imprisonment, forced labour, &c.). Such measures of compulsion already exist in many countries. (*d*) The child's maintenance should not be merely such as will provide what are called "bare necessaries," but should suffice for its proper

upbringing. (e) The natural father should be forced to pay, not for the child's maintenance only, but also the mother's expenses in childbed; he should be forced to contribute the last-named expenses, and what is necessary for the child's maintenance shortly after birth, before the child is actually born—that is, at a time when the needs of mother and child are greatest. (f) The objections which the father is to-day able to raise in bastardy actions should be abolished.

*A Radical Reform.*—Marriage will best be protected by preventing the birth of illegitimate children. This can only be effected by imposing upon the father of an illegitimate child the same responsibilities that are now imposed upon the father of a legitimate child. Men would be much more careful to avoid the procreation of illegitimate children if they were unable to get off so cheaply as they can to-day. The objection that in the moment of passion no one thinks of consequences is unsound. In most cases, before the sexual act there is a period in which the man has leisure to think of the consequences of what he is going to do. The fact that in countries in which inquiry into paternity is permitted the number of illegitimate children is no smaller than in countries in which such inquiry is forbidden, proves nothing. For other circumstances besides this influence the number of illegitimate children, and in the Teutonic countries it is probable that inquiry into paternity is permitted only in order to counteract these other factors. The objection that such regulations as have been proposed would promote immorality, that they would make women far more ready than they are at present to enter into an illicit sexual relationship, and would thus lead to an increase in the number of illegitimate children, is unsound. The present system tends to render inoperative factors which might exercise a great influence on the conduct of the stronger sex. Moreover, all these objections are rendered nugatory by the fact that hitherto the most severe punishments and the most extreme moral condemnation of illegitimate sexual relationships have not sufficed to hinder these.

It is objected that the proposed reforms could only be introduced in association with the abolition of monogamy and

the introduction of free love. If the legal consequences of marriage and of illegitimate sexual union were made identical, there would be no reason for entering the marriage state, for monogamy would be a legal institution without any peculiar legal consequences. But in marriage three distinct legal relationships have to be considered: the mutual relationship of husband and wife, their relationship to persons outside the family, and the relationship of the parents to their children. The fact that the children resulting from a sexual relationship are legitimised does not constitute that relationship a marriage.

In the interest of the illegitimate child the argument is often put forward that it is not right for the illegitimate child to be punished for the errors of its parents. This argument is totally false. If the interest of marriage and that of society really demanded that the legal position of the illegitimate child should be an unfavourable one, the circumstance that the child is blameless is altogether irrelevant. The interest of society is paramount, and in case of need even innocent children must be sacrificed to this interest.

## CHAPTER IV

### LIMITED POWERS OF MINORS AND GUARDIANSHIP

*Limited Powers of Minors.*—The legal protection of the child against the consequences of its own acts is closely associated with the questions of parental authority and of guardianship. In fact the regulation of this matter really forms part of the regulation of parental authority and of guardianship. The minor lacks the requisite degree of intellectual maturity and of business experience to enable it to act independently in legal matters without injury to its own interests; hence, in the matter of legacies, it often happens that a child is willing to enter into bargains which its maturer judgment would rightly repudiate. The law, indeed, protects everyone against usury and extortion, and gives to everyone the legal right to dispute the validity of an undertaking extracted from him by knavery or under stress of threats. But these institutions would not suffice to protect children, inasmuch as the right to repudiate an undertaking when that undertaking has already been acted upon would be of extremely questionable value. Moreover, the law of parcimony forbids that persons should enter into legal undertakings, and subsequently attempt to repudiate them.

The special legal protection conferred upon minors consists of a limitation of their powers to enter into valid business engagements, the extent and consequences of the limitation being such as to render any engagements made by minors as harmless as possible. In the majority of legal systems, this leading idea is carried into effect as follows. Two classes of undertaking are distinguished: first, those by which the minor acquires certain rights or is freed from certain obligations; and, secondly, those which effect neither the one nor the other. Inasmuch as undertakings of the first-named order

are only such as are to the minor's advantage, no guardianship is necessary in the case of these, and the minor's powers to act are here unrestricted. But undertakings of the last-named order can be entered into by a minor only with the consent of his legal representative; thus, a disadvantageous undertaking given by a minor without the consent of his legal representative is invalid, and the validity of the undertaking is conditional upon the consent of the guardian.

*The Tendency of Evolution.*—Two points have especially to be considered in respect of the future regulation of this problem: the abolition of free competition, and the abolition of the right of individual inheritance. Many persons consider that it would be a logical outcome of the abolition of the right of individual inheritance for the State to undertake the maintenance of all widows and orphans, either through the instrumentality of a system of compulsory insurance analogous to Workmen's Insurance, or else by a method of provision analogous to that now made for the widows and orphans of those in the employ of the State.

*The Nature of Guardianship.*—The purpose of guardianship is to provide minors with the equivalent of parents. A guardian is appointed for a minor when the latter is not subjected to any parental authority; or when, although the minor has parents, these are unfitted, through lack of means or through defect of personal character, to make a proper use of their parental authority. The analogy between parental authority and guardianship should result in the guardian, in his care for the person and property of the ward, being invested with almost the same duties and rights as belong to the possessor of parental authority. But since the relationship between ward and guardian is less intimate than the relationship between a child and its parents, the guardian's sphere of activity is naturally a more restricted one. For example, in respect of certain very important undertakings, outside the limits of the guardian's usual sphere of administrative activity, the latter's powers are restricted by the qualification that in such cases the undertaking is rendered valid only with the prior assent of the Board of Guardianship (see footnote to p. 74).

*Guardianship of Poor Children.*—The principal aim of guardianship to-day is to provide for the careful administration of the property of the ward, and it thus has no bearing upon the fate of orphans of the proletarian class, although these are really more in need of guardianship than orphan children belonging to the upper classes. The only “property” of the proletarian child, whether orphaned or not, is its power of working for wages. The adequate cultivation and utilisation of this power is more important to the proletarian child than the right administration of its property is to the child of the well-to-do. Although, as a rule, the proletarian child begins to work for wages while still under age, our existing legal systems make no provision for guardians and the Board of Guardianship to exercise much influence upon the working conditions of such children. It is owing to this defect in our laws that the exploitation of the labour-power of minors is so widely prevalent.

To obviate these disadvantages, the following institutions are necessary, although they would temporarily interfere with social intercourse. Contracts of service in the case of minors should not be valid without the assent of the latter’s legal representatives and that of the Board of Guardianship, and such contracts should be terminable at any time by the legal representative with the approval of the Board of Guardianship. Should the parents of a child secretly arrange for it a contract of service, or should they compel the child to work for wages, they should have no legal claim to any portion of these wages. Where such measures are in operation, as in some of the States of the American Union, children are much less frequently compelled by their parents to work for wages.

*Guardianship of Illegitimate Children.*—The guardianship of illegitimate children is a matter of great importance: first, because a very large number of influences affect illegitimate children unfavourably, and the children have to be protected against these influences; secondly, because the guardian has to safeguard the interests of his ward against the natural father and also against the Destitution Authority; thirdly, because in many countries the laws provide that every illegitimate child should have a guardian. Who should be the guardian of an



illegitimate child? The guardian may be, (a) the mother, (b) the father, (c) some other relative, (d) a stranger.

(a) According to the laws of most countries, the mother has no parental authority over her illegitimate child; indeed, in some cases, the mother is not even granted legal powers of guardianship over her illegitimate child (or is granted such powers only if she herself is of full age). The reasons for this are as follows: The considerations on account of which the granting of parental authority to the married mother is regarded as permissible, have no bearing upon the case of the unmarried mother. The interest of the illegitimate child, and, indirectly, the interest of society at large, urgently demand the securest possible guarantees that the child will be properly brought up. Even if the unmarried mother is capable of undertaking and exercising the duties and rights involved in parental authority, she still too often lacks the necessary goodwill and the requisite earnestness. In many cases the unmarried mother does not feel for her illegitimate child the interest and the love which are felt by the married mother for the legitimate child; she is rather inclined to be indifferent towards her illegitimate child, and to regard it merely as a serious burden, from which she hopes to be free, and the sooner the better. In addition, the unmarried mother seldom has a settled home of her own, and in order to gain her livelihood she commonly has to separate herself from her child. Moreover, the position of the unmarried mother differs from that of the married mother in this respect, that the latter, as a rule, does not acquire the parental authority until after the death of her child's father—that is to say, when she is herself of mature age. The care of the property and the exercise of the powers of a legal representative are associated with the exercise of parental authority, and there is an obvious danger, in many instances, that a thoughtless mother might utilise the child's property—more especially an allowance for maintenance made by the father, or a capital sum paid by the latter to provide for the child—in her own interest, instead of in that of the child, and that in this way the provision made by the child's natural father would be unprofitably employed. If the mother of an illegitimate child be disallowed the right of acting as the

child's legal representative, we obviate the danger that that right may be misused by a dissolute or thoughtless mother by making fraudulent claims for a bastardy allowance in the name of the child upon various men who may have had intercourse with her during the period of pregnancy. In many cases, unmarried mothers are dissolute, extravagant, and therefore untrustworthy persons, and for this reason it is in the interest of morality that the unmarried mother should not be able to derive any direct pecuniary advantage as a result of her position. Often she cannot or will not make the necessary claim upon the father of the child, either from shame or from undue sentimentality, or, again, because she still secretly hopes that he will marry her, and fears to offend him, or, finally, because in many cases she is not herself certain who is the father of her child. The various reasons we have been considering are not altogether free from objection. The advocates of the emancipation of women, and also the socialists, contest these reasons with considerable force on the ground that other persons than the mother of an illegitimate child, who are suggested as guardians, are even less fitted for the position than she may be herself.

(b) It is impossible, in any case, that the natural father should be the child's guardian. How, for example, can he be expected to sue himself for the child's maintenance? It often happens that the mother refuses to name the father of her child, but recommends him as guardian, and he actually is in some cases appointed guardian. To avoid this, many wish to make it the mother's legal duty to disclose the name of the child's father to the Board of Guardianship.

(c) One of the child's relatives is no suitable person for guardian. The mother's relatives have in most cases broken with the mother owing to the birth of the illegitimate child. The relatives of the father of an illegitimate child are as little suited to act as guardians as the father himself.

(d) A stranger is utterly unsuitable for the guardianship of an illegitimate child. In most cases he has no interest whatever in the child, and very frequently, from sheer laziness, he fails to make good the claim for maintenance against the father. Indeed, he is not in a position to make such a claim

good. He is ill-informed, inexperienced, ignorant of the law, does not understand the procedure of the Boards of Guardianship, and is incompetent to overcome the mother's opposition. His appointment is often long delayed, although it is a fact of general experience that a claim for maintenance can more readily be established the earlier proceedings are taken against the father. The father often changes his residence, and the guardian has no facilities for obtaining information about his dwelling-place or his means.

*The Defects of Individual Guardianship.*—As time goes on it becomes increasingly difficult to obtain suitable guardians for children of the lower classes. Owing to the increasing frequency of migration, owing to the search for work and means of livelihood, and owing to the development of the means of communication, the wider family ties have been loosened and in part entirely destroyed. Since it is only in the case of propertied wards that the guardian receives any remuneration, the guardianship of a ward without means is a purely honorary office. But we cannot rely upon finding a self-sacrificing disposition in the relatives of a proletarian child. If a man of a higher class than that to which the child belongs be appointed, he will be afraid lest he should have to put his hand in his own pocket. If a man of a lower class be appointed, the child will not regard him with the necessary respect.

In small communities, where the circumstances are simple, where the number of births and deaths is small, where everyone knows everyone else, and where the guardian is under the control of everybody, the difficulties are not so great. But in large towns the population is in a state of continual flux, a large proportion has immigrated from the country districts, and has neither relatives nor acquaintances in the towns, and the Boards of Guardianship are unlikely to know anyone suitable for the position of guardian. In large towns, persons living under the same roof may be utter strangers, not knowing one another's name nor even one another's general appearance. Since the appointment as guardian is one which as a rule cannot be refused, it is easy to understand the manner in which one who has been appointed guardian against his will is likely to neglect his duties. As the legal representative

of the child, the guardian has frequent dealing with the local authorities. Since the ward can make claims upon the Destitution Authority, his domicile must be established, for which purpose it may be necessary to pay a visit to the locality in question, &c.

The guardian, especially one who belongs to the lower classes, is without experience, is ignorant of the law, is ignorant of the methods of procedure of the local authorities, and fails to inspire respect in the strangers with whom he has to deal. Often the guardian, far from assisting the poor-law authorities in their work, puts needless obstacles in the way of these latter, and renders it difficult for them to carry out their aims. This last remark applies even more forcibly to the other legal representatives of minors, viz. to their parents. It often happens that the legal representative endeavours to exercise an evil influence upon a child under the care of the poor-law authorities; while the child is still quite young, he ignores its existence, but as soon as it attains an age at which it becomes competent to earn any money, he demands that it should be handed over to his care. If the Board surrenders the care of the child, all the trouble previously taken to bring it up properly will usually be found to have been wasted, for the child now returns to the evil environment from which it had formerly been removed. In England, a law passed in the year 1899 gives the Poor Law Guardians the right to refuse to accede to the request of parents that a child should be restored to their care in cases in which the parents' life is such as to make it impossible for them to provide for the child's regular education, or when the parents are persons with vicious habits. Attempts are being made to improve the system of individual guardianship, by a thorough reconstruction, by the organisation of the guardians, &c. It is mainly owing to the defects that have been pointed out in the system of individual guardianship that official (general or collective) guardianship, and institutional guardianship, have come into existence.

*Nature of Official and Institutional Guardianship.*—The legal basis of official guardianship is the right and the duty of the State to act as the supreme guardian of all minors. Its characteristics are as follows: Over a specified group of

children—children put out to nurse, foundlings, or illegitimate children, a particular person (he may be a private individual or one in an official position), in virtue of the authority of the law (that is, without specific appointment in each case, and without the option of refusing in particular cases to exercise his powers), exercises the powers of a guardian. In certain cases, official guardianship involves powers superseding those of ordinary parental authority (this applies to the case of illegitimate children, destitute children, and children put out to nurse). There can be no reasonable objection to this, for in such cases the parents' own authority exists *de jure* only, and not *de facto*. But the parental authority is not irrevocably invested in the official guardian, and the latter exercises only such rights and duties as properly belong to a guardian. For example, the right of usufruct in a child's property cannot be assigned to the official guardian. Institutional guardianship consists in the exercise of guardianship by a State educational institution, or other State institution for the care of children, over children in that institution, the actual powers of guardianship being invested in the director or some other official of the institution.

*Advantages of Official and Institutional Guardianship.*—(a) The local authorities entrusted with the general care of a particular group of children—destitute children, for instance—can readily, and with little additional trouble, assume the duties of guardianship. Experience shows that this combination of duties gives extremely satisfactory results, without imposing on the Boards in question any serious increase in their duties. The administrative Boards controlling reformatory schools must, if their duties are to be properly performed, possess unlimited authority in respect of all matters bearing on the upbringing of those under their care. In Europe, the official guardianship of morally uncontrollable children is likely to bring into being a system of children's courts, with probation officers, or to develop that system further where it already exists.

(b) The official guardian is much better able than the individual guardian to make good the claim for a maintenance allowance for an illegitimate child. The official guardian, who is in most cases an official working on behalf of the poor-

law authorities, will push such a claim with the greatest possible vigour, in order to prevent the cost of the child's maintenance from coming upon the poor law. The official guardian will be actively at work on the child's behalf within a very few days of its birth, and will probably have been able to secure that a proper provision for maintenance shall have been made at the very time when it is most urgently needed. The father will show much more respect to the official guardian—a man in an official position—than he will to the individual guardian. In Germany it has been the general experience, that in most cases the father of an illegitimate child, when summoned by the official guardian, puts in an appearance, admits his paternity, recognises the child, and undertakes to make an allowance for maintenance. Nor does it so rarely happen that, under the persuasion of the official guardian, the child's father and mother agree to marry, and to legitimise their child. The official guardian owes his influence to his official position.

(c) The official guardian possesses special legal and educational experience, and in the management of the large number of cases with which he has to deal acquires yet more experience. For these reasons he is often consulted in difficult cases by individual guardians, and even by many parents.

(d) It is easier for the official guardian than it is for the private guardian to find suitable employment for his wards. He is better acquainted with employers and with working conditions. It is not to his interest that his wards should begin wage-earning at the earliest possible age; thus, under his guardianship, many who would otherwise have become unskilled labourers, are trained to be skilled artisans. (But to make it possible to attain this end, and because the years immediately after leaving school are the years most dangerous to the child, the official guardianship must be continued until the child attains its majority.)

(e) Since the existence of the official guardian makes the appointment of private guardians superfluous, the persons who would have otherwise been engaged as private guardians are set free for other spheres of activity.

(f) Institutional guardianship renders it possible for the

influence of the guardians to be maintained very effectively even after the minor has left the institution.

*Objections to Collective and Institutional Guardianship.*—The following objections to collective and to institutional guardianship have been put forward. (a) A conflict of interests and duties may arise. The business of the poor-law authorities is to keep down expenses, but the guardian has to think first of all of the interests of his ward, who may need the financial assistance of the poor-law authorities. (b) The local authorities are not in a position to carry out properly the duties of official guardianship. In a large local governmental area the circumstances of individual residents are not adequately known; whilst in a small area, suitable official guardians are not likely to be forthcoming. (c) The authority administering the work of official guardianship has to accept a position of subordination in relation to the (central) Board of Guardianship. Thus there arises friction, and the autonomy of the local authorities may even be endangered. (d) Owing to the fact that the wards under the charge of an official guardian are very numerous, the duties are necessarily discharged in a bureaucratic and stereotyped manner, and the requisite individualisation is lacking.

*These Objections Answered.*—There is no doubt whatever that official guardianship gives better results than an otherwise equally efficient system of private guardianship. But the very statement of the antithesis involves a fallacy, for the kernel of the matter is, that in cases in which no competent and willing individual guardian is available, the official guardian is there to take over the necessary duties. The fact that an official guardian exists need not prevent the placing of the child under the guardianship of a suitable private person, should such a one be forthcoming. Objection (b) is valid to this extent, that in small local governmental areas, in which the cost of official guardianship falls upon the poor rate, and the burden of this rate is grievously felt, official guardianship cannot be properly carried out. Objection (d) has but little validity. Of course, the official guardian cannot do everything himself. He must have confidential assistants, who will visit the foster-parents of the ward, and report to him everything of importance concerning the child. The

official guardian has not only to supervise the work of these confidential assistants, to support them with his advice in difficult cases, and to control the necessary expenditure; he has also to attend to all the legal aspects of his charge, and to perform the duties entailed upon him as legal representative of his ward. Thus the official guardian's duties may be classified as follows: (a) the upbringing of his ward; (b) legal duties; (c) the choice of confidential assistants. In the first department, the most important matter is the careful choice of the foster-parents. The official guardian's experience and business connections undoubtedly make him far more likely than the individual guardian to secure good foster-parents. The legal duties of the official guardian, such as the provision of maintenance for the child, are merely routine official duties. It is much easier to secure the requisite ten confidential assistants than to secure a hundred private guardians.

*The Tendency of Evolution.*—(a) The property of a ward is usually inherited, and as time goes on such property becomes of less and less importance. The guardianship we are considering here has very little to do with such questions of property, and the guardian's activities are practically limited to securing the personal well-being of the child. (b) Official guardianship is a typical example, on the one hand, of the manner in which a matter appertaining to civil law tends to become an affair of local administrative activity, and in which duties originally honorary and benevolent tend to pass into the hands of a salaried public official; and, on the other hand, of the fact that in this sphere also the principle of the division of labour comes to be ever more strictly applied, so that functions formerly exercised non-professionally by private individuals are now discharged professionally by public servants.

The importance of official guardianship has steadily increased. The idea that the guardianship of children supported by the community might be exercised by the poor-law authorities was first put into practice in France towards the end of the eighteenth century. In other countries the same idea has been applied with greater or less modification. In Germany, official and institutional guardianship were permitted by the Civil Code of 1900. Official guardianship



exists at present only in the larger towns; but the institution continues to spread. In France, a law enacted in the year 1889 permits the voluntary transference of parental authority to the *Assistance Publique*, in which case the Prefect or his representative, the Departmental Inspector *des enfants assistés*, acts as guardian. By the law passed in the year 1904, the same inspector acts as guardian of the *enfants assistés*. But the inspector has no concern with the enforcement of the rights of illegitimate children as against their father, since any inquiry into paternity is forbidden by the French Civil Code. Official guardianship exists in many of the cantons of Switzerland.

*Certain Civil Laws which are of Importance in Relation to Child-Protection.*—(a) Legitimation has been considered above.

(b) Adoption would be a very important and valuable institution from the point of view of child-protection, if adopted children were more numerous. The fact that this institution exists is often disadvantageous from the point of view of child-protection. In many cases it operates as an obstacle to the legitimation of the child by the father, although legitimation would be more advantageous to the child than adoption. For in many cases the father, if he could not adopt the child, would legitimise it. A certain though small proportion of foster-parents adopt their foster children. This tendency is certainly one worthy of encouragement.

(c) We have also to refer to the legal relationships which arise when a contract has been made for the temporary or permanent, partial or complete, upbringing of a child. As an example of permanent and complete upbringing, may be adduced the upbringing of a child by foster-parents. In this case, the duties of the foster-parent are controlled by special legal stipulations. As an example of temporary or partial upbringing, may be mentioned the case of a child sent to a boarding school at a distance from its home, a child boarding with a family, and various similar arrangements. All these legal relationships are covered by the laws relating to contract, and by the laws relating to family life. This is a matter of considerable importance, because, in a legal relationship taking the forms of family life, the presumption is that a child's upbringing is effected without any expectation of a return, *i.e.* gratuitously.

## B.—DEPARTMENT OF LOCAL ADMINISTRATIVE ACTIVITY

### CHAPTER I

#### CHILD-PROTECTION BEFORE, DURING, AND IMMEDIATELY AFTER BIRTH

*Introductory.*—The physical, mental, and moral health of human beings depends very largely upon the conditions in which they are brought up, upon the conditions which operate upon them while still within the mother's womb, and upon the circumstances in which they were born. Was the child the offspring of a legitimate or of an illegitimate sexual relationship? At the time of procreation, were its parents mentally and physically healthy, or were they diseased? During pregnancy, was the mother obliged to work for her living, or could she take proper care of herself; did she or did she not deliberately attempt to injure or destroy the fruit of her womb? During parturition, did she or did she not receive proper medical aid? These are the stars with a knowledge of which we can accurately forecast the individual human horoscope.

*Before Birth.*—It is a matter of great importance that pregnant women should regulate their lives in accordance with certain elementary rules of hygiene, and for this reason it is urgently necessary that women should be properly instructed in this respect. Syphilis is one of the most potent causes of intra-uterine death and of abortion and premature labour. Everything possible should be done to prevent persons suffering from syphilis practising sexual intercourse, and to protect the fruit of conception from subsequent syphilitic infection. One of the most effective means of prevention would be the abolition of prostitution. Abortion

is possible from the very outset of pregnancy, and attempts at its prevention must therefore be taken in hand thus early. In the later stages of pregnancy care should be taken to prevent pregnant women doing any arduous work. The data obtainable from lying-in hospitals show that the vitality of the new-born infant is greater in proportion as a longer time is spent by the mother in the institution prior to delivery. The best course, but one which is at present almost impracticable, from considerations of cost, would be for pregnant women to enter a public lying-in hospital during the sixth month of pregnancy, and to remain there till the time of delivery, doing nothing more than the lighter household duties of the institution. A less radical procedure would be to prohibit pregnant women from working for wages for a certain time—such as eight weeks—before the expected termination of pregnancy. (At the present day, the only restrictions imposed are upon wage-earning by women for a certain period after childbirth, and this prohibition relates only to employment in factories and workshops.)

The following are the objections to the enforcement of such a prohibition as has been suggested. (*a*) Administrative difficulties would make it impossible of application except in the case of women employed in factories and workshops. (*b*) The prohibition would force pregnant women, if they received no material compensation, to earn a living, either by prostitution or else by some work—perhaps even more arduous than that which has been forbidden to them—outside the purview of the Factory Acts; in domestic service, as sempstresses, washerwomen, ironers, &c. To-day, in large factories and workshops, the employer pays no attention to the question whether his female employees are or are not pregnant; and other employers than those are disinclined to employ pregnant women at all. Consider, for instance, the case of women servants. To-day, many pregnant women go to work in a factory or a workshop, simply because there is no other employment open to them. (*c*) The prohibition would necessitate the compulsory notification of pregnancy.

*During Birth.*—The health both of the mother and of the child suffers in many cases, unless during and after delivery the mother is attended by a qualified midwife or by a medical practitioner. The reasons for the frequent lack of skilled help in such cases are as follows: (a) Poverty; (b) desire for secrecy—this particularly in unmarried mothers; (c) in thinly-populated districts the help of a qualified midwife or that of a medical practitioner is not always easy to obtain; and even should such help be forthcoming, in the event of serious difficulty in delivery, the assistance of a skilled specialist will be unattainable.

With regard to (a), it is necessary for poor pregnant women that the services of midwife and physician should be available gratuitously. This may be arranged, either through the woman being attended gratuitously in her own home by a monthly nurse or midwife and a doctor, the fees of these latter being paid out of charitable or public funds for poor relief; or else by her free admission to a public lying-in hospital. In many countries, the *Krankenkassen*<sup>1</sup> support women (in most cases only women employed in factories and workshops) for some weeks after delivery, and provide for the free attendance of doctor and monthly nurse or midwife.

(b) It is necessary that unmarried mothers should be legally compelled to arrange for the attendance of a midwife or medical practitioner, and, on the other hand, that the services of these should be provided for unmarried mothers in childbirth. Of course, it would be going too far to insist that unmarried mothers, or other persons who are aware of their condition, should, under heavy penalties, notify the local authorities of the state of affairs. Although such a provision does exist in the legal system of several countries, it is unworkable in practice.

(c) With regard to provision for proper midwifery attendance in thinly-populated districts, what is needed is a proper organisation of the services of medical practitioners or mid-

<sup>1</sup> *Krankenkassen.*—These are the executive institutions for the administration of the medical benefits of the workmen's insurance laws of Germany, and of other countries with laws based on the German model.—TRANSLATOR'S NOTE.

wives in such a way that these are equitably distributed throughout the country in proportion to population, and so that in every local governmental area there shall be at least one midwife and one doctor. The proper training of midwives is a matter of great importance, but, above all, a midwife should understand that at the least sign of danger it is her duty to send for a doctor. It is also a matter of great importance that all medical practitioners should have an adequate training in midwifery.

*After Birth.*—In public lying-in hospitals, women usually remain no more than one to two weeks after delivery; they are then discharged, regardless of their condition (physical and mental helplessness, &c.). Those institutions which are connected with a foundling hospital are exceptions in this respect, for some of the women enter the foundling hospital as wet nurses. In the interest of the child it is, above all, necessary that the mother should be well cared for after delivery, for it is during the first three or four weeks after birth that the child is most of all dependent upon the maternal breast. The resumption of work by the mother very soon after delivery, before the resolution of the uterus is completed, and before the abdominal walls have recovered their tone, plays a great part in the causation of the numerous acute and chronic diseases of women. If the woman is sent back into the street almost immediately after delivery, she has no option but to return to work. She must do this, first, because pregnancy and childbirth have exhausted her savings, and, secondly, because she is afraid, if she delays to return, that she will find her place filled. To-day this is becoming generally understood, and institutions are arising in which women can be properly cared for during and after childbirth. Homes for lying-in women and convalescent homes, in which mothers with their children can remain for a considerable time after delivery, subserve this purpose. Quite recently, organisations have been founded for the domestic care of women in childbed—the so-called *Hauspflegervereine* (Domestic Care Clubs). They send out *Hauspflegerinnen* (Domestic Assistants), who do the housework of the woman during her confinement, and thus secure for her the necessary rest and

quiet. But, unfortunately, in most cases, these associations help married women only. Very little has as yet been done by the State to help women in childbirth. All that communal activity has effected in this direction has been the work of the community at large. Institutions are now being founded, equipped with proper apparatus (incubators, warm chambers, &c.), in which prematurely-born children can be cared for until they acquire the normal powers of resistance of the full-time infant.

*The Insurance of Motherhood.*—Recently, the insurance of motherhood has been recommended, especially by the advocates of the emancipation of women, on the following grounds. Neglect of women during pregnancy, childbirth, and the lying-in period, and neglect of new-born infants, are responsible for numerous and serious disadvantages. Childbirth is very painful and extremely arduous, and the woman who gives birth to a child performs a supremely valuable social service. The suggestion is, that the insurance of motherhood should provide for every aspect of women's task of reproduction. It should support women during pregnancy; during parturition, and during the lying-in period; a full allowance should be provided for eight weeks before and eight weeks after delivery; free attendance of a midwife, with free medical help if requisite, and such other care as may be needed, should be provided for the delivery. In connection with the insurance of motherhood, suitable homes should be erected for pregnant women, lying-in women, and new-born infants, and the women and children admitted to these institutions should be gratuitously supported. The insurance of motherhood, it is suggested, should be compulsory, on the one hand, for all wage-earning women, and, on the other, for all married women whose husbands earn less than a certain minimum wage. All these women should pay contributions. In other respects, the cost of the insurance of motherhood should be met on the same lines as the cost of the *Krankenkassen* (see note on page 120). Thus it is not proposed that the insurance of motherhood should take the form of an entirely independent branch of national insurance. Many contend that child-bearing is just as necessary a branch of national economy as the

wage-paid labour of men, and that for this reason women should be directly remunerated for this social service; they wish that the insurance of motherhood on these lines should provide for the child's upbringing until it becomes old enough to earn its own living. But even the most radical advocates of the insurance of motherhood regard this idea of the endowment of motherhood as extreme, and as impracticable at present.

The following objections have been raised against the insurance of motherhood. (a) No sound actuarial foundation can be provided for such insurance. The birth-rate cannot be predicted with certainty, so that the amount of contributions and the benefits cannot be calculated with the requisite precision. (b) Motherhood depends upon physiological processes, and has nothing whatever to do with illness.

The objection (a) is based upon ignorance or upon misunderstanding of the facts. The expected number of births can be calculated with the same precision as the expected number of deaths. The objection (b) is also erroneous. Women need medical aid during pregnancy, childbirth, and the lying-in period. Moreover, the aim of sickness insurance is not merely the care and the cure of sick persons, but also the prevention of the diseases, which in many cases can be prevented by the proper treatment of women in pregnancy, childbirth, and the lying-in period. Since, in the case of pregnancy and parturition, malingering (for fear of which liberal payment during sickness is considered undesirable) may be almost entirely excluded, the insurance of motherhood can be effected on very liberal terms, and there is all the more reason for this, because pregnancy and childbirth entail upon the mother greatly increased expenditure. It is hardly conceivable that women would incur pregnancy and parturition solely on account of the proposed pecuniary advantages.

Insurance of motherhood is to-day of considerable importance in Germany, France, and Italy. In Italy it was introduced some years ago on national lines. In France and Germany, mutual co-operative associations for this purpose have been founded by the women concerned. The principal

contributors to the expenses are the insured themselves, all contributing alike, irrespective of the fact whether they are poor or well-to-do—that is to say, motherhood insurance is entirely free from the characteristics of poor relief. The co-operative organisations for motherhood insurance are run upon similar lines to the *Krankenkassen*, with which, indeed, they are sometimes closely associated (*Mutterschaftskassenverbände*). The local authorities have nothing more to do with the matter than to co-operate in the foundation, organisation, and management of these *Kassen*. The results of this development have been extremely satisfactory; for example, experience shows that a much larger percentage of insured mothers than of non-insured suckle their own children.

*The Tendency of Evolution.*—It is as yet impossible to predict the future course of development in this matter, and to foresee whether it will take the form of a further elaboration of motherhood insurance. This much only is certain, that all women will receive proper care in pregnancy, and during and after childbirth. From a certain stage in her pregnancy until a certain period after delivery, no woman will be allowed to work for wages. Women far advanced in pregnancy, during delivery, and throughout the lying-in period, will be cared for almost exclusively in institutions. Such institutions will be very numerous, if only for the reason that the domestic care of childbirth will become rarer and rarer, that the institutional care of such women is far better and cheaper than any other, and that the extension of institutional care is a tendency of evolution.



## CHAPTER II

### INFANT-LIFE PROTECTION

*Introductory.*—The protection of infant life is all the more necessary in view of the fact that it is during infancy that human beings are least able to withstand injurious external influences. The success of the campaign against excessive child mortality depends above all upon the success of our measures for infant-life protection. During intra-uterine life the relationship between the child and the mother is of such a kind that the legislator must protect the mother if he wishes to protect the child. The institutions described in the last chapter relate chiefly to the mother, and it is indirectly only that they redound to the advantage of the child. After birth the relationship between the child and its mother is a different one. The child is no longer a part of the mother's body, but is obviously and unmistakably a separate human being, although for nine or ten months after birth (that is to say, for a period about equal in duration to the period of intra-uterine life) the child remains absolutely dependent on the mother. It is characteristic of all the mammalia that the individual young should be suckled by an animal of its own species; for the milk of every species contains certain substances peculiarly adapted for the needs of that species, so that suckling by a mammal of another species is likely to exercise an injurious influence. Man is also one of the mammalia, and in the case of human beings suckling by any other mammal is almost excluded from possibility. There are important differences between human milk and the milk of all other mammals. For example, human milk contains certain substances which exercise a preventive influence against certain human diseases, but cow's milk contains these substances in much smaller proportion, or not at all. It follows from this, that in the

nourishment of a human infant we cannot without danger replace human milk by the milk of any other mammal—and cow's milk is an especially dangerous substitute for human milk. For this reason, numerous methods of treating cow's milk are employed to make it resemble human milk, such as dilution, the addition of sugar, &c.

*Advantages of the Natural Feeding of Infants.*—The natural method of nourishment—that is to say, suckling at the maternal breast, is the only method of infant-feeding which properly complies with natural requirements. The adoption or non-adoption of this method is a matter of decisive influence upon the subsequent health of the child. The ideal is that the child should be suckled until it is nine months old. But, at least, we should insist upon the mother giving suck for the first weeks of the infant's life, two months being regarded as an irreducible minimum. After two months, the dangers of artificial feeding are considerably less. Within certain limits, the longer infants are suckled, the lower are their disease-rate and death-rate, the greater is their power of resistance to disease, and the higher is their mental capacity. When we compare the results of natural feeding with those of artificial feeding of infants, we cannot fail to recognise that the former method gives children greater powers of resistance to and recovery from those diseases which are inseparable from the nutritive processes. Artificial feeding frequently leads to illness, life-long debility, premature death, &c. In children suckled by their own mothers, digestive disorders are usually trifling; in children suckled by a wet-nurse, such disorders are more frequent and more obstinate, but are seldom really dangerous; in artificially-fed infants, such disorders are extraordinarily common, their course is extremely serious, and a fatal issue is far from rare.

Statistical data prove beyond question that methods of feeding have a great influence upon infant mortality. The death-rate is higher in proportion to the degree to which the mode of nutrition diverges from the natural method of suckling by the child's own mother; the death-rate is higher in children suckled by wet-nurses than in those suckled by their own mothers; it is much higher in children fed on cow's milk

than in breast-fed children. Among 1000 children dying during the first year of life, medical returns show that 450 succumb to digestive disorders and marasmus. Many physicians go so far as to ascribe 70 per cent. to 80 per cent. of all infantile deaths to artificial feeding. A statistical error arises in this way, that children dying immediately after birth, before they could have been put to the breast at all, are apt to be included among the deaths due to artificial feeding, whereby, of course, the evil effects of this practice are over-estimated. Where artificial feeding is badly carried out, the infantile mortality is enormous. The children that escape death tend to become rachitic, anæmic, or weakly, and later in life readily succumb to tuberculosis.

The enormous importance of natural feeding, and the extent of the difference between artificial and natural feeding, are manifested by the following examples: The statistics of child mortality invariably show that in those European countries in which most children are suckled by their mothers, child mortality is lowest. In Sweden and Norway, where even the wealthiest mothers suckle their own children, mortality during the first year of life hardly amounts to 10 per cent., whereas in other European countries the infantile death-rate is 12 per cent. to 15 per cent., or even more. It is erroneously believed that there is a law in Sweden making it obligatory upon mothers to suckle their children. No such law exists. During the siege of Paris, in the years 1870-71, the infant mortality in that city fell from 30 per cent. to 17 per cent. The reason for this fall was that the Parisian women were forced to suckle their own children, for, owing to the siege, cow's milk was unattainable, and the usual supply of wet-nurses from the country was cut off.

Natural feeding is not only better than artificial, but also cheaper. Of course, in considering the question of the cost of artificial feeding, the method employed has to be taken into account. For example, artificially-fed infants are often given much more milk than they really need. But artificial feeding is artificial, and whereas instinct prescribes the methods of natural feeding, it gives no guidance in the matter of artificial feeding. The changes occurring in the female breast in conse-

quence of pregnancy and childbirth draw a woman's attention to the fact that she has certain maternal duties to fulfil. The neglect of nature's commands commonly entails disorders to health. It remains uncertain whether disease germs can be transmitted to the infant through its mother's milk. It is still more questionable whether, in the act of suckling, vitally important maternal qualities can be transmitted from mother to child. There is some doubt whether the continuance of lactation is a fairly sure preventive of the occurrence of a fresh pregnancy. If this question can definitely be answered in the affirmative, there can be no doubt that for a mother to suckle her infant gives an increased chance of life not to that infant only, but to the other children in the family, because thereby these children are relieved of the dangers entailed by too large a family.

*History of Artificial Feeding.*—It is uncertain during what respective periods of human history the practice of rearing infants by means of wet-nurses, and the practice of rearing them by artificial feeding, first made their appearance. To-day, certainly, both these methods of rearing infants prevail very widely—far more widely than at any former time. No official statistics exist showing the proportion of all infants born alive that are suckled by the mother, suckled by wet-nurses, and artificially fed, respectively. According to some private investigators, in large towns less than half of all infants are suckled by their own mothers, and in France the proportion of those which are otherwise nourished is said to range from 60 per cent. to 70 per cent. Certainly, the conditions with regard to this matter are worse in France than they are elsewhere.

Many physicians believe that the constitutional incapacity of women to suckle their children is increasing. They point out that an unused organ tends to atrophy; and they consider, not merely that the incapacity to suckle is transmitted by inheritance, but that when so transmitted, the incapacity persists throughout all subsequent generations. But this view, whose soundness would deprive us of our most effective weapon in our campaign against excessive infant mortality, is erroneous. The recent investigations of various medical practitioners especially interested in the diseases of children

have shown that (even in districts in which for generations mothers have almost completely abandoned the practice of suckling their children), when properly advised, 90 per cent. of all women proved capable of suckling, if not for the full nine months, at any rate for a considerable period, before it was necessary to have recourse to cow's milk. There are doubtless women who are really unable to suckle their children; and there are others who could do so, but in whom suckling is contra-indicated, either in their own interest or in that of the child. For example, a woman who is pregnant cannot give suck, for the human organism is not adapted to bear the common strain of pregnancy and of lactation. In the interest of the child that is being suckled, it is necessary that weaning should be effected directly a new pregnancy begins. Women suffering from chronic alcoholism and those addicted to morphine should not suckle their children, for the reason that a comparatively large quantity of the alcohol ingested, or of the morphine, as the case may be, is excreted in the milk. A child suffering from an infective disease, such as syphilis or tuberculosis, should be artificially fed, owing to the danger of infection.

*Causes of the Failure to Suckle.*—The reasons for a mother's failure to suckle her infant may be classified under two main heads: she will not, or she cannot. Unwillingness plays a great part among the upper classes of society. Dread of inconvenience, laziness, fear of the loss of physical charms, social duties and pleasures to which such women devote a great deal of time, and which they are unwilling to renounce—such are the considerations operative in these cases. Inability to suckle is a more frequent cause among women of the proletariat. In consequence of their poverty, such women are often forced to work away from home the whole day long. It is not yet definitely ascertained whether constitutional inability to suckle is commoner among proletarian women than among women of other classes. It is a greater evil for a proletarian mother to fail to suckle her infant than it is for a mother of the upper classes similarly to fail. The proletarian mother cannot afford to pay a wet-nurse, and the child must therefore be artificially fed. In this event, the

proletarian mother is likely to feed her child less well than an upper-class mother who also adopts artificial methods of feeding, for the former is too poor to obtain the best milk, and she lacks time to prepare the milk properly, and to give it to her child in suitably small quantities and at suitably short intervals.

The idea that a smaller proportion of mothers of the poorer classes suckle their children than among the well-to-do is erroneous. But it is a fact that of those children who are not suckled by their own mothers, among the upper classes a much larger proportion are suckled by wet-nurses than among the lower classes; it is also the case that when children of the upper classes are not suckled by their own mothers, they commonly have wet-nurses in their own homes, and are not entrusted to the care of foster-parents; and finally, when we come to hand-fed children, among the upper classes a greater proportion of these are comparatively well fed than among the lower. A smaller percentage of illegitimate than of legitimate children are suckled by their own mothers; a larger percentage of the illegitimate than of the legitimate are artificially fed. The unmarried mother is in most cases poor, the birth of the child makes her poverty extreme, and by no means always does she receive a maintenance allowance from her child's father. To be able to live, she must either act as wet-nurse to another woman's child, or must go out to work.

*Wet-Nurses.*—Poverty not only makes it impossible for many women to suckle their own infants, but forces them to suckle the child of another. The great majority of wet-nurses are recruited from the ranks of the proletariat, and, indeed, for the most part, belong to the class of unmarried mothers. Married women are less inclined to sacrifice their own child for the good of the child of another woman. The readiness of many mothers to renounce the duty of suckling their children is perhaps referable to the fact that wet-nurses may be procured so easily and at such small cost. Thus poverty is also an indirect cause of the fact that many upper-class mothers fail to suckle their children. The children of wet-nurses are either fed artificially, or suckled by another

woman. The sad position of such children, and their enormous death-rate during the first years of life, are only too well known. When a woman takes employment as a wet-nurse, two children suffer—(a) the child she suckles, and (b) her own child, which would otherwise, in all probability, be suckled by its own mother. In favour of the traffic in wet-nurses, it is frequently maintained that the children of wet-nurses, owing to the good wages earned by their mothers, are well cared for, whereas otherwise they would be badly cared for. The sophistical character of this argument is sufficiently obvious.

If a child is not suckled by its own mother, it is either suckled by another woman, or else artificially fed; and the child may either remain in its maternal home, or it may be sent to be reared elsewhere. If the infant is sent elsewhere, either its relatives or some benevolent society may arrange for its care. Wet-nurses are thus resident or non-resident. In foundling hospitals, those wet-nurses who give suck to children in the institution are known as resident wet-nurses. From the standpoint of civil law, resident wet-nurses have entered into a contract of service with their employer, and the latter undertakes to provide in return for their services a stipulated remuneration. A non-resident wet-nurse, on the other hand, undertakes to provide in a certain manner for the infant boarded with her. It is obviously preferable that an individual child should be suckled by a resident wet-nurse, since in such conditions the wet-nurse can be supervised much more strictly than when she receives the infant in her own home. But in the case of children in a foundling hospital, it is preferable that they should be boarded out with non-resident wet-nurses, for in the present condition of medical science, the institutional care of infants is a very difficult matter to carry out with success.

But the choice of a wet-nurse involves other considerations in addition to those just stated. A woman can safely be employed in this capacity only if her own confinement has taken place some little time before. By suckling the child of another the wet-nurse deprives her own child of its natural nourishment. The wet-nurse may be suffering from some

infective disorder, and may transmit this disorder to her nursling. Conversely, the nursling may be suffering from congenital syphilis, or from tuberculosis, and may infect the nurse. It is very difficult in infants-in-arms to recognise syphilis with certainty. For these reasons it is only to healthy wet-nurses, for whose own children a proper provision can be made (for instance, when the wet-nurse's child has already been suckled for six months, or when it has died), that the local authorities give permission to suckle the child of a stranger. This applies both to resident and to non-resident nurses. In the case of the latter, in view of the fact already mentioned, that they cannot be properly supervised by the child's relatives, supervision by the local authority is indispensable. There are no physiological difficulties in the way of suckling two infants, either simultaneously or successively. The latter procedure is, however, to be preferred. In all civilised countries baby-farming has been subjected to legal regulations. Although these regulations vary greatly in different countries, they relate not only to infants, but also to older children. The age at which supervision of such children ceases is a very variable one. As an example may be mentioned the French law of the year 1874. This law deals with children boarded out by foundling hospitals, but only to those under two years of age received for a money payment. It is becoming obvious to-day to most persons that children boarded out by their relatives require official supervision, even if the children are received gratuitously.

*Cow's Milk.*—Pure cow's milk is the best substitute for the maternal milk. Where milk is to be used for infant-feeding, it should be drawn in a properly-kept cowshed, it should be cooled, placed for delivery in vessels of a suitable size for an individual infant's meal, diluted or otherwise prepared as demanded by the age and special necessities of the case, and used as soon as possible. To-day the price of cow's milk suitable for infant-feeding is so high that the lower classes find it almost impossible to obtain it. It is a matter of very great importance that good milk should be rendered available for the lower classes at a low price. Recently much attention has been paid to the improvement of the technique of milking,



of the transport of milk, and of the care of milk when delivered. The local authorities supervise the production and transport of milk as a part of their public-health administration. Improvements in cattle-breeding, a thorough organisation of the cowsheds and dairies and of the methods of milking, and an organisation of the entire dairy business have effected much improvement. Both private associations and the local authorities begin to lay stress on the supply of milk for infants, especially in towns, in which the provision of good milk is even more important than it is in country districts. We must leave the question open whether infants can be infected by the milk of cows suffering from *Perlsucht* or bovine tuberculosis; it certainly cannot be a matter of indifference whether the milk contains tubercle bacilli. At the present time, unfortunately, in the anything but hygienic dairies of our country districts, many of the cows are suffering from *Perlsucht*.

In many countries, especially France, Germany, and England, Infant's Milk Depots (*Gouttes de Lait*) have been founded, at which the poor can obtain infant's milk gratuitously or very cheaply. The deficit is made up by individual contributions, by public grants-in-aid, or by the profit on milk sold to the well-to-do. Of late years a few English municipalities have begun to administer such Infant's Milk Depots themselves. Such Infant's Milk Depots appear to do more harm than good. By providing milk gratuitously or very cheaply they give a premium to those mothers who feed their children artificially, and this leads many who would otherwise suckle their children to bring them up by hand. Vainly in France are prizes offered to mothers, and especially to unmarried mothers, to induce them to suckle their own children, when simultaneously institutions are founded to reward mothers who bring up their children by hand. Infant's Milk Depots must be under continuous medical supervision, such supervision to include the mothers and children attending the depot, since in default of this there is no guarantee that the mothers would use the milk properly in the nourishment of their infants. Of late it has been found necessary, especially in France, to associate with the administration of the Infant's

Milk Depots the continuous medical supervision of the infants, medical advice to the mothers, control of the use of the milk, and advice to the mothers to suckle their own children. The French Infant's Milk Depots are now associated with the giving of advice to mothers (*consultation de nourrissons*), so that the mothers can be properly instructed regarding all matters bearing on infant-feeding. Several times a week mothers' classes are held, at which all possible stress is laid on the need for women to suckle their own children, this theoretical advice being re-enforced by the giving of prizes. If natural feeding is rejected or is impossible, advice is given as to suitable artificial feeding. Domiciliary visits are made to see that this advice is properly followed. Thus the Infant's Milk Depots tend more and more to develop into centres for the general care of infancy; their original aim will pass more and more into the background as advice to mothers becomes associated with children's clinics (such as we find already in many university towns), or with hospitals for infants, schools for midwives, and lying-in hospitals. Such a development may be expected in the near future.

Infant's Milk Depots, advice to mothers, and all the institutions and measures forming part of the campaign to lower infant mortality, must invariably have the general aim of promoting the public welfare, and must never assume the form of Poor-Relief, otherwise many who need their services will fail to avail themselves of these, for, as is well known, a great many people are frightened away from any institution connected with the system of Poor-Relief. It is sufficiently proved that those Infant's Milk Depots in which the milk is given in accordance with individual medical prescriptions, which are subjected to medical supervision, which are associated with the giving of advice to mothers, which give milk free or at a low price only to those whose infants are kept under regular observation, promote breast-feeding by the mothers, and effect a notable diminution in infant mortality.

*Other Methods of Artificial Feeding.*—Nothing more need be said here of the other methods of artificial feeding—that is, of those in which no cow's milk is used—beyond this, that they are in opposition to the essential principles of hygiene,

and that they are of less than no value. Everyone who has the interest of society at heart should do all in his power to secure the complete discontinuance of such methods.

*Institutional Care of Infants.*—The institutional care of infants, if it is to be carried out in accordance with hygienic principles, is too costly. Hence it is applicable only in the case of weakly and sickly infants, and is out of the question for the permanent care of healthy infants. With regard to the institutional care of healthy infants, it is asserted that, even in the most modern and best-managed foundling hospitals and hospitals for infants, epidemic diseases—such as pneumonia, contagious ophthalmia, and intestinal catarrh—inevitably appear, and in such circumstances are extremely difficult to treat with success. It is, however, necessary to consider the following facts. Unquestionably, the institutional care of infants was formerly far from satisfactory. Certain diseases, the seeds of which have been sown in the institution, only develop in full severity after the child has been boarded out. This depends upon: (a) the primary lack of resisting power of the infants, which is the disastrous sequel of the unfavourable conditions of life to which they were exposed before entering the institution; (b) the lack of proper individualisation (for example, the continuous lying in bed, bad air, lack of sufficient cleanliness)—the so-called “hospitalism” or “hospital-marasmus” is referable to these influences; (c) a failure to meet the demands of hospital hygiene, so that the origination and the development of the infectious diseases are facilitated; (d) artificial feeding, by which the working of these evil influences is powerfully reinforced. But all these errors are avoidable. Nothing more is requisite for their avoidance than strict observance of the rules of modern hospital hygiene, with individualisation in all departments, and especially in the matter of diet, which should whenever possible be carried out through the instrumentality of wet-nurses. Since wet-nurses of the best quality are difficult to obtain in sufficient numbers, it is best that the hospital for infants should be associated with a lying-in hospital.

*The Crèche.*—In the families of the poor, the elder children have in most cases to work for their living, so that

even these are not continuously available for the care of the younger children. This applies especially to those families whose members work away from home, and in places to which the younger children cannot be taken. When a peasant with his wife and his elder children works in the fields, it is possible to take even quite little children to the place of work and to keep an eye on them there; but when a workman with his wife and his elder children works in a shop, a factory, or a workshop, to take the younger children there is impossible. But young children must on no account be left without supervision, for this exposes them to all kinds of dangers—to burns and scalds, falling out of window, &c. Moreover, an infant-in-arms cannot be entrusted to the care of the older children, if only for the reason that this is injurious to the latter alike in body and in mind. They have, for example, to drag the baby about with them wherever they go, are kept away from school, &c. To board out an infant is, in the first place, costly, and, in the second place, separates the infant completely from its parents. In many cases it is only by the fact that she keeps her child with her, and becomes attached to it, that an unmarried mother is restrained from adopting an immoral life. Thus there is need of a place to which the children may be sent, either permanently or only during the hours in which the family are at work. Institutions for this purpose actually came into existence only as a sequel of the development of the factory system. They are known as *crèches*, and provide for the care, not of infants merely, but of children up to the age of three. The need for and value of such institutions is obvious. It is a real service to parents of the poorer classes, if not far from their dwelling or from their place of work there exists an institution at which, either gratuitously or for a nominal payment, their little children can be properly cared for. Early in the day the mother takes her infant to the *crèche*, during the midday pause goes there if necessary to suckle the child, and fetches it home in the evening.

Illegitimate children are in many places refused admission to the *crèches*. This refusal merits our strongest disapproval. The reasons alleged for this course are of two

different kinds. First, we are told that we must not encourage girls to be immoral; secondly, it is said that married mothers will hesitate to entrust their children to a crèche which also receives illegitimate children. The injustice of this practice is more and more generally understood, and the better course more commonly prevails. Of course, only such illegitimate children should be received at a crèche as are cared for by their own mothers during the hours of the day when they are not at the institution. Illegitimate children boarded out with foster-parents should not be admitted to a crèche, because foster-parents who send to a crèche the child entrusted to their care are not properly fulfilling the duty they have undertaken, and those who cannot look after the foster-child themselves should not receive one at all.

In most countries crèches are founded and maintained by private benevolence, and are merely supervised by the State. Only in a few countries—Hungary, for instance—has the State imposed upon the local authorities the duty of founding and maintaining such institutions; and the central authority has itself founded and maintained such institutions, and in these the matrons of the Public Homes for Children (*Kinderbewahranstalten*) receive their training.

To-day various defects exist in these crèches. Not infrequently the attendants lack the necessary experience in the care of children, medical supervision is often inadequate, the building is unsuitable, the infants are artificially fed, the crèche is often too far from factory, workshop, or home, so that artificial feeding or feeding by a wet-nurse is encouraged. Before long crèches will become national institutions. They will become more numerous; they will be used more readily; their faults will be corrected.

Particular mention must be made of factory crèches and family crèches. (a) Many factory owners construct crèches and feeding-rooms for the infants of women working in their factories, and arrange for such women to leave work at intervals to suckle their children. The employers do this, not so much from the goodness of their hearts, as with an eye to their own well-considered interest. The working time they

lose amounts to very little, and they hope that their benevolent actions will secure the goodwill, and consequently the hearty co-operation, of their workpeople. (b) A recent development is the family crèche. Adequate maintenance and free house-room are guaranteed to a widow, in return for her undertaking to care during the day for a restricted number of infants (and in some cases, also, children of school age). Family crèches share to some extent the advantages of the family care of infants. Their great and obvious advantage lies in the fact that they facilitate decentralisation—that is, the crèche can be nearer to the homes of the infants' parents. Their main defect lies in their failure, as a rule, to satisfy the demands of modern hygiene; a second disadvantage is that systematic occupation for the older children is usually difficult to arrange in the family crèche. For these reasons it is unlikely that they will ever become very general.

*Proposed Reforms.*—Proper training and discipline are requisite, not only for midwives, but also for medical practitioners. Proper training of mothers is also necessary. Most young mothers seek advice above all from midwives, and these latter often advise very badly. In the first place, there are many matters connected with the care of infancy about which midwives have no expert knowledge. Secondly, midwives often advise mothers not to suckle their children, but to bring them up by hand, because the case is sooner done with and the midwife has less to do when the mother does not suckle.

In many German towns, a number of the institutions for the care of infants, and also the offices for the registration of births, distribute printed instructions regarding the care of infants, with especial reference to the matter of infant-feeding. The principle of these attempts is sound, but unfortunately many such leaflets are rather long-winded, and consequently remain unread.

It has been suggested that every woman entering upon marriage should have to display a knowledge of the elements of the hygiene of infant life, and more especially of the principles of infant-feeding; or else that the duty should be imposed upon women of acquiring the requisite knowledge within six months after marriage—by attendance at one of

a number of schools to be founded with this end in view. The idea of this proposal is sound, but it is one which it is hardly possible to put into practice precisely in the form here stated.

*Radical Solution of the Problem.*—It is one of the most important aims of child-protection that during the first year of life the infant should be nourished at the maternal breast. Every possible effort must be made to secure that the infant should not be separated from its mother; and if separation from the mother is unavoidable, that the child should not be hand-fed, but suckled by a wet-nurse. Finally, when artificial feeding of the infant is inevitable, it is the aim of child-protection to secure that the technique of this feeding should be the best possible.

Two of the institutions of modern civil law are of such a nature as to favour wet-nursing and hand-feeding, and to hinder the attainment of the primary aims of child-protection. The first of these is that, within limits, the parents are free to determine how their child shall be brought up; so that, for instance, the mother is free to entrust her child to a wet-nurse, or even to have it brought up by hand. Hence the reform of these matters must begin with legislation securing that the legal position of legitimate and of illegitimate children shall be identical; and, secondly, imposing it upon all mothers as a legal obligation to suckle their own children when they are physically competent to do so.

The last-named measure is by some considered too radical, on the ground that its enforcement would infringe the sacred principle of the freedom of contract, and would violate the sanctity of family life. But these are merely empty phrases; and such considerations cannot for a moment counterbalance the urgent need for the proper protection of infant life. Even to-day, it is an accepted legal principle that in the case of contracts involving the personal service of the contracting parties within the limits of family life, the contract cannot be fulfilled by proxy. Thus, in the matter of the nourishment of an infant during the first months of life—that is to say, in respect of the performance of an act which is merely the continuation and the sequel of the physiological state brought into being by sexual intercourse

and by pregnancy, the demand that no substitution be allowed, that lactation by proxy be prohibited, is a logical application of existing and accepted legal principles. In the sphere of family life, the principle of the freedom of contract finds even to-day no more than a restricted application; and with the disappearance of the economic order based upon free competition, the principle of the freedom of contract is destined altogether to disappear. Beyond question, the suggested reform would involve a very serious limitation of personal liberty. But the limitation would be no greater than those that are imposed in most modern States by various ordinances affecting the right of the individual to the free disposal of his own body—for instance, compulsory military service, compulsory vaccination, and compulsory removal to a hospital for infectious diseases. The proposed reform would knit closer the bonds between mother and child, and it would curtail the love of personal luxury and the pleasure-seeking of the women of the well-to-do classes. The legal measure here suggested was known to the old Prussian law, and to this law alone. It does not appear in any legal code of to-day. The two reasons that prevent its immediate adoption by any modern State are these: in the first place, it would affect the women of the upper classes much more than those of the lower, and would expose the former in especial to punishment; in the second place, a necessary corollary of any such law would be the provision for women of the lower classes of a suitable allowance for maintenance during the period of lactation.



## CHAPTER III

### THE CARE OF FOUNDLINGS, WET-NURSING, AND BABY-FARMING

*Terminology.*—In this work, when we speak of “the care of foundlings,” the term is used throughout in the widest signification, to denote the general care of the children boarded out, or otherwise placed in external care by the Poor Law Boards or other administrative instruments of poor-relief. Thus we do not refer to the care of all abandoned children, nor even to the care of all foundlings, but merely to the care of children permanently and completely abandoned by their relatives. It is necessary to lay this great stress upon the accurate definition of the term, for the reason that in Germany and in England the systems by which the community undertakes the care of foundlings is fiercely attacked; but the opponents of the institution are attacking something very different from what many of them imagine. To-day the care of abandoned children, and institutions for the care of these children, are altogether different from the foundling hospitals of former times; abandoned children are cared for by the community, not only in countries in which foundling hospitals exist, but also in Germany and England, for in these latter countries, the so-called Germanic system for the care of abandoned children, though there not spoken of as “care for foundlings,” amounts to the same thing.

*History of the Care of Foundlings.*—For two reasons it is necessary that we should deal with the history of the care of foundlings. In the first place, it is a branch of child-protection which is rightly considered to be of great importance, and yet in regard to this branch the most erroneous views prevail alike among laymen and non-laymen. In the second place, the care of foundlings to-day cannot possibly be understood by

those who know nothing of the history of the institution. Even during the time at which infanticide and the exposing of children were still legally permissible among the Romans, these practices were condemned by public opinion, especially when the excuse of great poverty was lacking, and they were regarded as a misuse of parental authority. This applies even more to infanticide than to the exposing of children; for in the case of the latter, it was always possible that the child would be rescued and brought up by a third person. The Church naturally regarded both infanticide and the exposing of children as immoral and sinful. But what could the Church do to prevent infanticide? Infanticide was largely a result of the fact that the Church and public opinion strongly condemned illegitimate sexual relationships; in actual fact, infanticide was usually the act of an unmarried mother. The only course open to the Church, if it wished to prevent infanticide, was to tolerate the exposure of children, and to take steps to ensure that the children thus exposed should not perish. The Church permitted the lesser evil in order to prevent the greater. According to some authorities, the priests even publicly exhorted fallen women to expose their children at the church doors. In many churches, marble basins were placed, in which children could be left. In many communities, it was the duty of the verger to take first charge of exposed children. Thus, the exposing of children on these lines became transformed into a kind of legitimate transference to another of the duty of maintaining a child. To expose a child in any other way was a punishable offence. Since those children that survived had to be brought up, the Church made provision for this also. Gradually institutions were founded, to which children were brought secretly, where they were received without restriction as to number, and where they were brought up. The institution of the turn-table dates from about the year 1200, and for many centuries thereafter was the general method for the secret reception of the children. The turn-table is a box, one side of which is left open, fixed in the outer wall of the foundling hospital, and rotating upon a vertical axis. Anyone wishing to leave a child at the institution has merely to pass the child

through the opening on to the turn-table, and then to ring the bell adjacent to the turn-table. Someone within the institution thereupon rotates the table to receive the child, while the person who brought it can go away unseen.

The foundling hospitals of former times were mere death-traps, with an infant mortality of 60 to 95 per cent. With the advance of medical and educational science, and with the growth of milder views regarding illegitimate sexual relationships, foundling hospitals have been greatly transformed. Turn-tables have for the most part been abolished, so that they remain to-day in a few countries only, and in a few foundling hospitals. Unrestricted and secret reception of infants has been replaced by restricted and public reception; institutional care has given place to external care; natural feeding, wherever possible, is preferred to artificial feeding. By these means, the infant mortality has been greatly diminished, and those children that survive receive a much better upbringing. With the passage of time, the foundling hospitals have come to receive not foundlings (abandoned and exposed children) only, but also other children inadequately cared for by the persons legally responsible (parents, guardians, &c.). The foundling hospitals thus take over the work formerly done by orphan asylums and similar institutions.

The children received by a modern institution remain under its roof for a short time only, until foster-parents have been found for them, and return to the institution only in the event of illness. Children that are ill when first received, are boarded out only after they have recovered. The foster-parents are remunerated and subject to inspection. Thus the modern foundling hospital is: 1. A depot for the reception of children; 2. A children's hospital; 3. The centre for the supervision of the children that are boarded out. The latest phases in the development of the care of foundlings can best be studied in Hungary. In this country the matter has been the subject of recent legislation and regulation, and every child declared by the local authorities to be abandoned or neglected is received into a foundling hospital. There have, of course, been countries and districts in Europe in which such institutions as foundling hospitals never de-

veloped, or in which those that did develop soon passed into disuse (for instance, in consequence of the Reformation); here foundlings were cared for in another way. The feudal chiefs, who, as is well known, cared for the poor within the limits of their fief, took over also in such cases the care of foundlings. Owing to the desire for the rapid increase in population characteristic of the dominance of the mercantile system of political economy, foundling hospitals existed transitorily in Protestant countries.

*The Latin System and the Germanic System.*—Two circumstances mainly determine the manner in which in a particular country the care of foundlings is regulated. The first of these is the condition of poor relief in the country we are considering, inasmuch as the care of foundlings is merely one section of poor relief. The second is the legal position of illegitimate children, for the majority of the children to be dealt with in this connection are illegitimate. The essential peculiarity of the Latin system lies in this, that abandoned and neglected children are dealt with through the mediation of foundling hospitals. This system obtains especially in those countries in which no inquiry into paternity is permitted. In the Germanic system, on the other hand, foundling hospitals are unknown, and abandoned and neglected children are dealt with on the same lines as other destitute persons. The children are cared for directly by the local authorities responsible for poor relief, being in some cases boarded out, in others cared for in orphan asylums or other institutions. The foster-parents of boarded-out children are directly supervised by the Poor Law authorities. If the parents or other near relatives of the children are living, it is only when the relatives are unable to provide properly for the children, or are themselves in need of poor relief, that the children are regarded as requiring public assistance. The public assistance, in such cases, is not given to the child, but to the person or persons regarded as legally responsible for the child's support. Thus, the child remains with its family as an individual relieved in common with its relatives. The Latin system employs a similar method to the one just explained for the relief of unmarried mothers (*secours tem-*

*poraire—secours aux filles-mères*). To render it unnecessary for the mother to send her child to a foundling hospital, and to relieve her of the cost of maintaining it outside, she is provided with a monthly allowance. This method, which, notwithstanding obvious defects, is ever more widely applied, is of course associated with a supervision of the mother—a supervision that is too often defective.

Institutional care is altogether unsuitable for infants. For the child which cannot be cared for in its own family, the only efficient and natural substitute is that it should be cared for in another family; in comparison with this the best institutional care is purely mechanical. Depots are, however, indispensable for the temporary care of children until a suitable family can be found for their reception. It often happens, for example, that a child needs public assistance immediately after birth, and for such a child the depot is the only place available. Of late years, even in the Germanic countries, this has been more and more clearly recognised, and the Germanic system has in consequence undergone substantial alterations. Depots are being instituted, and much greater stress is being laid on family care. In England again, the significance of institutional care (the workhouse system) becomes continually less, and that of family care (the boarding-out system and its modifications, scattered homes, &c.) becomes ever greater. For the same reasons, orphan asylums are undergoing, though very slowly, a transformation similar to that which most foundling hospitals have already experienced. The orphan asylum of the future will merely be: 1, A children's depot: 2, a children's hospital; 3, a central station for the supervision of children placed in external care.

Thus, in course of time, alike the Latin system and the Germanic system have been extensively transformed, and as a result of these transformations the two systems have been assimilated to such an extent as to have become almost identical. It is, in fact, almost impossible to point out any notable difference between the modern Germanic and the modern Latin system; and the few differences that still exist are gradually disappearing. The unmistakable tendency of

evolution is that these two systems, so divergent in origin, will ultimately be completely assimilated.

*Some Modern Methods for the Care of Foundlings.*—It is necessary to allude, further, to many modern methods for the care of foundlings, some of which are applicable also in the case of neglected children. These modern forms are—(a) upbringing in agricultural colonies and training ships, (b) rescue homes for children, (c) scattered homes (*Kindergruppen-Familiensystem*), (d) placing of the child together with its mother in family care.

A rescue home for children is properly an asylum whose aim is to undertake the upbringing of neglected children. These homes are really a by-product of reformatory schools. In fact, the only difference between a rescue home for children and a reformatory school is that children are sent to the latter by a magistrate's order, but this is not so in the case of a rescue home.

The scattered home system originated in the endeavour to replace the family by the formation of groups. It occupies an intermediate position between institutional care and family care; and it is claimed that it combines some of the advantages of institutional care with the good effects of family life upon the character. The essence of the system is that somewhere in the country, houses are built, or suitable houses rented, in which the children are cared for in small groups. There are from eight to twelve children in one house—that is, such a number as are found in an ordinary large family. Each house is managed by a childless couple of the superior working class, the man being free to go to his work, while the woman devotes her whole time to the children. The children attend the public elementary school, associating freely with the other children; the boys in the home are taught a trade by the man, whilst the girls are taught housework by the woman.

The boarding out of an illegitimate child and its mother is a system also practised in Hungary.

*The Care of Foundlings, Wet-Nursing, and Baby-Farming.*—The care of foundlings is closely connected with baby-farming and putting children out to nurse. Children completely and permanently abandoned by their relatives are in fact boarded

out with nurses or brought up with foster-parents. The principal difference between the Germanic system for the care of foundlings and what is known as baby-farming consists in this, that in the former the children are boarded out by the administrators of the Poor Law, whilst in the latter case it is the relatives of the children who make this arrangement for them. The principal difference between the Latin system for the care of foundlings and baby-farming consists in the fact that in the former case the foundlings are in the first instance received into a foundling hospital, whereas children sent by their relatives to a baby-farm go there direct from their homes.

Speaking generally, children at a baby-farm are younger than those under the care of the Poor Law authorities, for the need of putting the former out to nurse commences with their birth. The mortality of children at a baby-farm is usually greater than that of Poor Law children, supervision in the case of the latter being commonly much more effective. In most countries, State regulation of children under the Poor Law extends only for the first few years of life, and applies only to those boarded out for money; but supervision may extend through the later years of childhood, and even to the attainment of full legal age, and may apply to all the children for whose care the local authority is responsible.

In the countries in which the Latin system for the care of foundlings prevails—in those, that is to say, in which no inquiry into paternity is permitted (for example, in France and Italy)—baby-farming is less prevalent than it is in countries in which inquiry into paternity is permitted. The reason for this is that in these latter countries a much larger proportion of unmarried mothers receive from the natural fathers an allowance for the maintenance of their children, and therefore a much larger proportion of illegitimate children in these countries are farmed out for pay. At the present day, the requirements with which the nurses and foster-parents have to comply in the case of all children (alike those farmed out by their relatives and those boarded out by the local authorities) are much the same in all countries; and there is the same general similarity in the matter of the

principles of supervision and in that of the supervising authority. The tendency of evolution is that all the nurses and all the foster-parents should be supervised by the same authority, and in accordance with identical principles.

*Institutional Care versus Family Care.*—If the child is not cared for in its own home, the question arises, is recourse to be had to institutional care or to family care (close or open care). The following are the objections to institutional care.

(a) It does not readily allow proper attention to be paid to the individuality of each child. The care of the emotional life is a matter of especial difficulty. It is utterly impossible that all the children in an institution should be truly and individually loved. To pay a preference to individual children arouses jealousy. In an institution the children learn nothing about the daily experiences of family life (for example, the difficulties of earning a living, troubles small and great); on the other hand, occurrences which profoundly disturb the life of the family (illness and death, for example) are matters of daily experience in the life of institutions.

(b) In the institution the child never experiences absolute freedom. On the contrary, it feels itself subject to unceasing control.

(c) Epidemic diseases spread very readily.

(d) A few bad children may readily communicate unwholesome ideas and practices to the others.

(e) In institutional life, the children learn nothing of the vital needs of daily life, or of the difficulties of the struggle for existence; and yet it is all the more necessary that they should learn something about these matters, inasmuch as in their subsequent life they will presumably have a hard struggle for their daily bread. Whatever the child really needs, it receives in the institution; thus an idea arises in its mind that there is some higher power which cares for all these things. The child has to make no effort, no sacrifices are exacted from it; in the institution, tests of the child's power of resistance, such as might strengthen it to meet the temptations of the outer world, are few and far between, for from the temptations of the outer world it is sheltered by the walls of the institution.



(*f*) The institution is not adapted to provide for the complete education of a child—for the learning of a trade. It is absolutely necessary that institutional care should be supplemented by work under a master, in a technical school or teaching workshop.

(*g*) Institutional care is costlier than family care.

(*h*) Only family care can replace for a child the loss of its own family. Family care is the only natural method of upbringing, whereas the best possible institutional care is purely mechanical, full of defects, and cannot possibly replace a free life. In a sense, the institution is indeed a large family. But in the free life, outside the particular family to which the child belongs, there are thousands of others, communicating and competing with one another. No such competition exists in the institution; the child's work there is purely mechanical, but as soon as it enters the open world, the child has to seek work, and often fails to find it.

(*i*) The State lays down the principles in accordance with which the foster-parents must bring up the child, and sees that the foster-parents have access to expert advice concerning every department of the hygiene of childhood. The State insists that whenever necessary the foster-children shall have medical aid, that the children shall attend the elementary school, &c. If the foster-parents apply these principles properly in their care of the foster-children, they are likely to take care that their own children are treated at least equally well. And if, in any community, these principles are applied cordially and intelligently by the foster-parents, it is probable that the other parents of the same community will follow this good example.

(*k*) Statistical data show, moreover, that family care gives better results than institutional care, alike physically, mentally, and morally.

(*l*) With regard to the alleged defects of family care (such as that foster-children are less well treated than the foster-parents' own children, that they are exploited by the foster-parents, that suitable foster-parents are hard to find), these can readily be overcome.

From these considerations it would appear that only in

special circumstances is institutional care necessary or desirable. In the case, for instance, of children physically or mentally ill, we cannot dispense with institutional care. Moreover, institutions are necessary as a supplement to the system of family care—institutions having the characteristics of a depot and an asylum. Such depots are indispensable, if only for the reason that orphans immediately after the loss of their parents are in a condition of mingled depression and excitement, and must, therefore, before being boarded with a family, be calmed and strengthened for a time by a sojourn in an institution.

As a result of all these considerations, the tendency of evolution is to replace institutional care by a form of family care in which the foster-parents are supervised from a central depot, which serves also for the temporary institutional care of children needing such care. Whereas formerly institutional upbringing was the dominant method, to-day family upbringing has become of much greater importance.

*Supervision of Family Care.*—The modern State no longer regards the family care of children by others than their own parents as a purely private matter. A few decades ago, to receive children in this way for pay was an open profession, but it is so no longer. The local authorities regulate the matter in detail, defining very precisely the standard of life of the boarded-out child and the methods of supervision; and, as a result of this intervention, the scandalous mortality attendant upon the old-time baby-farming is now largely a thing of the past. Where children are received in family care for pay, the intention is that these children should have all the advantages of the natural care they would have obtained in their own families. Thus, as far as possible, the child should remain permanently with the same family. In actual fact, a proportion of the children committed to family care do permanently remain with their foster-parents—a proportion are indeed adopted. Since the children are as a rule the offspring of poor parents, and inasmuch as well-to-do people rarely trouble themselves to undertake the upbringing of other people's children, the foster-parents will themselves usually be poor. But they must not be extremely poor, for if this were so, even though the remuneration were ample,

the greater part of the money would be used by them for their own purposes, to the consequent detriment of the child. But the foster-parents usually want to make some profit. In many countries they have to demonstrate that there is no absolute financial necessity for them to receive a boarded-out child. It is as well, in any case, that the social position of the foster-parents should be at least a trifle higher than that of the real parents of the child. Persons in receipt of public assistance are not suitable as foster-parents.

The foster-mother must not have too much to do, apart from her work for the child; and, above all, she should not be employed away from the house. It is necessary that the foster-parents should lead an orderly, decent life, that they should be really fond of children, that they should have a proper knowledge of how to bring up children, and that they should live in a suitable house. The remuneration must be reasonably high. If it is too low, the child will not be properly cared for, will not get enough to eat, will very probably be ill-treated and exploited. It has been statistically demonstrated that the death-rate of boarded-out children is inversely proportional to the amount paid for their care. The foster-parents are supervised by the local authority. Medical practitioners are the chief executive instruments of this supervision. Supervision by members of the laity is inadequate, for these do not pay sufficient attention to hygienic considerations. Voluntary honorary workers are also unsuitable, for the reason that years of experience are requisite to a proper knowledge of the conditions we are considering, and voluntary officers will not face the unpleasantnesses incident to efficient inspection.

It is a very important question whether the family care of children can better be carried out in country districts or in towns. Children who are no longer quite young cannot in any case be sent to the country, for they will already have acquired the usual preference of their class for town life. The following reasons are adduced for preferring family care in the country:—(a) In large towns, or in the neighbourhood of such towns, owing to the high rents, the foster-parents will not have a suitable dwelling. (b) The children must be kept at a distance from the dangerous influences of town life, and, it

may be, also from the influence of undesirable relatives living in the town. (c) We ought to counteract the drift of population into the town, and we can do this by sending these children back to the country. (d) In the interest of the agricultural districts, which suffer from insufficient labour, it is desirable that these children should become agricultural labourers.

In answer to these arguments, the following points have to be considered:—(a) When the children grow up, they will be influenced by the general drift from the country towards the towns, and whereas they will probably have learned no skilled trade in the country, the great majority of them will fall into the ranks of the unskilled labourers. (b) From the hygienic standpoint, it is important to remember that the town population is more intelligent, and that in towns medical aid is more readily available. Unquestionably, in the country, the only foster-parents available would be agricultural labourers and other manual labourers. In any case, this question cannot be decided on general principles, but only on a consideration of the needs of the individual case, with especial reference to the question whether the child shows an inclination towards agricultural work or manufacturing industry.

*Subsidiary Aims of the Care of Foundlings.*—The care of foundlings is utilised by the civil order for the attainment of its ends. This system renders possible the upbringing of submissive proletarians, immunised against socialist ideas, who can be enlisted in the reserve army of labour. From the very earliest times the existence of foundling hospitals has been justified on the ground that through their instrumentality persons were brought up who could devote their time, their working powers, and their life wholly to the State. In the beginning of the nineteenth century, children under the care of the English Poor Law were hired out to the factory owners. In Germany, among the arguments for the introduction of coercive reformatory education, it was pointed out that by this means cheaper labour could be provided for those agricultural districts in which labour was scarce. In Hungary, where a few years ago modern laws for child-protection were

passed, it is constantly pointed out as the task of child-protection to bring up the children as "good patriots." For this reason children are boarded out with "patriotic" foster-parents only, and in districts where a strong Hungarian nationalist feeling prevails, boarded-out children are hardly ever to be found. In the history of this institution, we encounter again and again the idea that foundlings should be brought up as soldiers, sailors, or colonial pioneers. Napoleon the First wished to make use of foundlings for recruiting the army, and especially for the marines. He did much to secure that in every *arrondissement* in France, foundling hospitals with turn-tables should be instituted; and he even arranged for the foundation of such institutions in the various countries he conquered. Quite recently the idea has once more recurred to utilise foundling hospitals and orphan asylums as recruiting grounds for the army and the navy, and with this end in view to combine these institutions with military and naval training schools.

For the attainment of these ends, the civil order has laid down the principle that from the first the children shall be brought up with an eye to the conditions awaiting them in the future—hard work, deprivation, and poverty. But this principle is only partially sound. Undoubtedly the child must be habituated to regular work, for only in this way will work be other than distasteful. But the child should be taught in such a way as to safeguard it from the lot of the great mass of unskilled labourers. The standard of life of boarded-out children should be a good one; for only if the child has been accustomed to such a standard, will it be spurred, after it had become independent, to secure the same standard by its own exertions. In the case of boarded-out children who have already begun to work for wages, the attempt on the part of employers to pay them at a specially low rate must be strenuously resisted. The reason given in such cases by the employers, that these children need much more attention than other young workpeople, is invalid. The wage in such cases should be the standard wage of the district for other workers doing the same class of work, as otherwise the young people feel exploited and oppressed. The rightful aim

is thus to lift foundlings out of the lower strata into the higher strata of wage-labour.

*The Tendency of Evolution.*—(a) Baby-farming is distinguished from the care of foundlings only by the fact that in the former the children are entrusted to foster-parents by their relatives instead of by the local authorities. (b) The various systems for the care of foundlings tend to become continually more similar. The general tendency in every case is to have recourse to a system of family care supervised by the same administrative authority. (c) There is a tendency to assimilate the upbringing of neglected and of criminal children, and to adopt for both the same methods of family care and the same kind of supervision. (d) The same remarks apply in the case of children who have become legally liable to a coercive reformatory education. (e) In course of time the supervision of the foster-parents—indifferently whether the children committed to their care are materially or morally neglected or criminal children, and whether they are boarded out by the children's relatives or by the local authorities—comes to be exercised by the same administrative authority and in accordance with the same principles.

To-day, baby-farming represents the first stage of evolution, the Latin system for the care of foundlings the second, the Germanic system the third, coercive reformatory education the fourth, the education of criminal children the fifth. In a comparatively short time all the different branches of child-protection will come to stand at the same level, and in so far as they relate to children neglected by their relatives, in whatever manner, they will all take the same form of family care, under a unified centralised control, and supervised locally by the same administrative authority.

## CHAPTER IV

### WOMEN'S LABOUR AND CHILD-LABOUR

*History of Child-Labour.*—During the Middle Ages child-labour seems not to have been very general. At the time of the guilds, improper utilisation of the working powers of children and young persons was hardly possible. Night work was unknown, and the working conditions were strictly regulated by the guilds. In the statutes of the guilds, there is no reference to child-labour; whereas, had such labour been at all common, its regulation would have been inevitable. We find, for example, in the statutes precise rules as to production, as to the sale of the finished products, as to the hours of work, as to the number of craftsmen to be employed by the individual masters, &c. As the guilds became mean-spirited, the condition of the apprentices became worse.

With the development of manufacturing industry and the growth of machine production, handicraftmanship lost its dominant position. In consequence of the industrial revolution, the guilds perished, the principle of freedom of contract was established, and in accordance with this principle the working powers of the cheapest of all objects of exploitation, children, were utilised. But the first phase of the development of capitalism was the most dangerous one, not only for youthful, but also for adult workers. In England, for example, it was towards the end of the eighteenth century that the conditions as regards child-labour were at their worst. The factory owners hired children from the workhouses and orphan asylums. These latter institutions were far from the factories, and for this reason no official supervision of the children was possible, and their care was left entirely in the hands of the factory owners. The condition of these orphan children, similarly with that of the other youthful workers,

mocks every attempt at description. The most heartrending tortures were customary. They were tormented with the utmost refinement of cruelty; chained, flogged, starved to emaciation, and driven to suicide. All this is easily comprehensible. The aim of the factory owner was to utilise as rapidly as possible the opportunity resulting from the replacement of hand-labour by machine-labour, to utilise it to gain wealth for himself before machine-labour became general; he therefore procured his labour at the cheapest possible price, and exploited the working powers of his employees to the utmost limits. Before the days of capitalism, night work was unknown, and, moreover, was quite unnecessary. But with the growth of capitalist production, there came into existence a number of industries which were carried on continuously night and day, if only for the reason that any interruption of the process of production would cause a great curtailment of profit. Night work is extremely injurious in its effects, it undermines the health (sleep during the day does not adequately compensate for loss of sleep during the night), morality, and the family life of the worker (who has no time to occupy himself with his family). All these dangers are even more serious in the case of women and children.

As regards the diffusion of child-labour, those branches of manufacture which take the form of home-industry are by far the worst. The manual workers fight the machine-workers with the same weapons that these latter themselves employ. These weapons flay the hand-workers even more than the machine-workers, because the attempt is made to compete with the machine-labour by human over-exertion. This phenomenon becomes apparent in every branch of industry directly the use of machines begins. In agriculture, child-labour becomes a serious matter only when manufacturing industry comes to draw labour more and more from the country into the towns, so that a scarcity of labour begins to prevail in the country districts. Child-labour in agriculture is a necessary accompaniment of the small-holding system, because the small-holder is able transitorily to maintain his independence only through the use of cheap labour in the form of the utilisation of the working powers of all the members of his family. The



widely celebrated patriarchal conditions which were reputed to exist in agriculture have completely passed away. When the condition of the labour market renders it possible, certain factory owners, even to-day, discharge men to replace them by the cheaper labour of women and children.

*Diffusion of Child-Labour.*—In most countries the children, alike in the villages and in the towns, are employed in agricultural production, in trade, and in manufacturing industry. They herd geese, cows, sheep, and swine; work in the fields and in the mines; beg, sell matches, flowers, laces, newspapers; perform in the street, at the theatre, the circus, and the music-hall; work at home with their parents in inns and drinking saloons, and work in factories and workshops. In Germany, about two and a half million children are engaged in wage-labour, and of these more than 600,000 are of school age. Of these latter children of school age, nearly 60 per cent. are engaged in manufacturing industry. The number of children employed on Sunday is certainly not less than 100,000. In the years 1890–1894, the number of children returned as working in factories underwent a decline, for the law of 1891 and the need for notifying the employment of children drove a portion of the children previously employed in factories into unregulated domestic industry. In Switzerland, 50 per cent. of the children of school age are engaged in wage-labour; in Austria, only about 30 per cent.

The child at work in the open air enjoys a healthy freedom of movement. For this reason, under certain conditions (which, however, to-day can hardly be said to obtain) agricultural labour is healthier than any other. It is seasonal work—that is, it is in abeyance in certain seasons of the year, but in other seasons is pursued with the greatest diligence and the greatest possible intensity, so that the children engaged in it must work very hard from early in the morning till late in the evening. No one who knows the wretched condition of the country schools will speak favourably of the school training of those children engaged in agricultural work. Child-labour in agriculture does not replace the labour of adults. Notwithstanding the increase in agricultural child-labour, the complaints of lack of labour-power in the country districts

are unceasing. The increased working contributions of the children are more than counterbalanced by the withdrawal of adult labour. This is all the more important, because, owing to the multiple character of agricultural activities and the lesser extent of the division of labour, agriculture demands more independence and ability from the worker than manufacturing industry.

Domestic work is an interesting field of child-labour. Working-class parents are out at work all day, and have but little time to give to housework. It is the children who attend to this. They clean out the house, and wash and dress and take care of the little ones; that is to say, such children do nearly as much work as those employed in factories or workshops. In addition, the girls have to knit, sew, mend, and cook.

Wage-earning work for children of school age is another interesting question. The number of children of school age engaged in such work is very great, and most of them are engaged in domestic industry. For a proportion of school children, the holidays mean simply harder work than ever, because, when school attendance ceases for a time, there is no hindrance to their exploitation.

*The Causes of Child-Labour.*—Capitalism, notwithstanding the ever-increasing utilisation of machines, still needs a larger and larger supply of human labour-power. Competition becomes increasingly fierce, and therefore the capitalists are driven to seek cheaper and ever cheaper human labour-power. The material needs of children are much smaller than those of adults. In Austria, the earnings of children engaged in domestic industry for eight hours a day, in addition to their school work, amount to from 6 to 20 keller (6d. to 2d.) daily. In Germany, the wages of children per hour seldom exceed 7 or 8 pfennig (about one penny). The development of technical science leads to a simplification of the process of manufacture by means of a continually-increasing division of labour. This renders it possible to employ in the work of production persons who have no technical training whatever, and whose bodily powers are very small. In the case of children, technical training and bodily strength are less than

in the case of adults. The employers gladly make use of the working powers of children for the following reasons: the children are inexperienced, they are less inclined to combine with their fellow-workers, they can more readily be forced to accept unfavourable conditions of work, and in the struggle with his adult employees the possibility of replacing their labour by that of children can be used by the employer as a trump card. Through the employment of the labour of children, the total quantity of labour available for employment is increased. It is owing to this fact, and to the greater cheapness of their labour, that the employment of children in wage-labour helps to force down the wages of adults. It is through poverty as a rule that children are forced to adopt wage-labour. The earnings of the parents and of other adult members of the family are so small that the earnings of the children are absolutely indispensable, and constitute no inconsiderable addition to the family income. The parents, who, according to the existing laws, for the most part have full control over the earnings of children under age, have a direct interest in sending the child to work. Many parents even believe that they have unrestricted rights over their children, and that there is no reason why they should not send the latter to the hardest possible work in the earliest years of childhood. Many parents think that it is good alike for them and for their children that the latter should work for wages. They are too ignorant to understand that this expectation will prove illusive, and that the actual result will be the precise opposite of what they suppose. Many children are themselves pleased to go out to work, which saves them from having to spend every day and all day in their dull and gloomy parental home, saves them from spending all their time under the eyes of their parents, and secures for them freedom and independence, and opportunity for all kinds of lawful and unlawful pleasures.

*Women's Labour.*—The parts played by the two sexes in production and consumption differ in consequence of sexual differences. It is for this reason that in earlier times women's labour was concerned to a small extent only with production, and was mainly employed in the regulation of consumption

within the household. With the development of commerce, manufacturing industry, and town life, as a sequel of the modern economico-technical changes resulting from the evolution of capitalism, which rendered home industry more difficult, women's work entered upon a new phase. Women gradually adopted work for wages, completely divorced from the home and its labours. Whereas formerly women's work was performed on behalf of certain specific persons, under conditions largely of the women's own choice, women's work had now to be conducted in accordance with a prescribed code of rules, and the products were for consumption by unknown persons. It is widely maintained that this change was referable to the development of the movement for women's emancipation, to the desire of women for independence, but this view is erroneous. The change just mentioned, far from contributing to the emancipation of women, has tended rather to fix the yoke more firmly on their shoulders. The character of women's work naturally experienced these changes in the towns earlier than in the country, in manufacturing districts earlier than in agricultural. Such wage-labour as women to-day carry on in their own homes is urban, not rural, in character. Of late, therefore, ever more and more women leave the domestic hearth to sell their labour in the industrial market. Wage-labour employs an ever-increasing number of women. The census returns of all civilised countries show that in the last decade, notwithstanding special legislation for the regulation of the work of female wage-earners, there has been a marked increase in women's work, and that this increase is proportionally greater than that of the wage-labour of men. In countries in which capitalist production is fully established, wage-earning men constitute about 60 per cent. of the total adult male population, whereas 25 to 30 per cent. of the adult female population are wage-earning women. In the factories of Germany, more than 1,000,000 women are employed, of whom more than 30,000 are married.

The labour-force of women is utilised by capitalism on much the same grounds as that of children. Female labour is cheap, the customary wage for women being one-half to one-third of that for men. The reasons for this are as follows.

On the average women are more subject than men to bodily disorders whereby their ability to work is interrupted. In many women, wage-labour is merely a subsidiary occupation. Such women are willing to accept lower pay, and thus depress the wages of other women doing the same classes of work. Moreover, they are unorganised, for the obvious reason that in the case of women much less often than in the case of men does wage-labour constitute their permanent life-work, and the centre of their life's interest is to be found in their actual or expected family life. Women are dexterous and quiet workers, conscientious, punctual, change their dwelling-place less readily than men, and are willing to undertake the most disagreeable and difficult kinds of work (married women do this for the sake of their families). Many girls are compelled to work for absolute vital necessities. In the case of a married couple, the husband's earnings may be so small that vital necessities can be supplied only when the wife also goes out to work. The most tragic feature of such cases is that the woman is usually forced to go out to work precisely at the time when, in consequence of illness, the large size of the family, &c., she is especially needed at home.

*The Consequences of Child-Labour.*—A moderate amount of occupation for children accustoms them to bodily and mental activity, cultivates in them a sense of diligence and economy, and safeguards them against idleness and other evil courses. Work affords an important educational influence, and one whose value must not be underestimated. A moderate amount of bodily work in addition to the mental work of school is not merely harmless, but is in most cases desirable. It is not wage-labour in and by itself which is harmful, but the conditions under which that labour is usually carried out. (This applies equally to the labour of women and of children.) The greed of employers, the deficient resisting powers of children, and the poverty of the children's relatives, make child-labour dangerous in manifold ways for the bodily, mental, and moral health of the child. (a) Character: the work is monotonous, difficult, carried on in dusty, evil-smelling, damp places, very early in the morning or late at night. (b) Duration: many children work five to six or even eight to ten

hours, in addition to their school work. (c) Age: even to-day, hundreds of children of six, seven, or eight go out to work for wages; in home-industries, children even of four or five are employed. (d) Other conditions: the tragical revelations of official inquiries display very clearly certain other disastrous results of child-labour.

Let us consider, for example, the case of the apprentices. Although children of fourteen to sixteen years of age are not so strong as the adult workers, they have to rise at an earlier hour to put the workshop in order; for the same reason they leave later than the adult workers. They have to serve the master, his family, and his assistants, and, in addition, to attend school. Thus most apprentices have to work very hard from early in the morning till late at night, and this not only in the workshops, but also at domestic work. At the same time they are often very badly treated. Many employers engage many more apprentices than are really needed, simply in order to be able to dispense with the services of assistants and servants, whose duties are performed by the apprentices. In course of time this ill-treatment of apprentices becomes more widely diffused. The misery of the apprentices is greater in proportion to the poverty of the factory or workshop in which they are employed. No one need be surprised that there is universal complaint of the lack of apprentices. They are so badly treated that no parents want their own child to become an apprentice. Moreover, many families are so poor that their children must earn money as soon as possible, and therefore cannot be apprenticed. The relationship between apprentice and master involves a contract on the one side to give care, protection, and instruction, and on the other to do work. Thus the relationship of the apprentice to the master is a twofold one, the apprentice being a pupil, but also a workman. It is the duty of the master to instruct the apprentice. For this purpose the apprentice is wholly entrusted to the master's care, and must carry out the duties ordered by the master. The master is the stronger party economically, and possesses a kind of parental authority over the apprentice, so that the former's rights and duties in respect of the contract of service cannot be very precisely defined. Such protective rules as

exist for apprentices practically ignore the smaller industries and home-work, for in these the difficulties of proper supervision appear almost insuperable. What has been said will have shown that there are sufficient causes for the miseries of apprentices.

Thus it appears that factory work is not the worst of all for children. The influence of factory work appears in such a bad light simply because, owing to its being more readily supervised, and owing to the facility for statistical statement of its results, the data are in this case more readily obtainable.

The lives of children employed in circuses and similar spectacular public entertainments are always in danger. Any work which is disproportionate to the powers of the weak and undeveloped body of the child is injurious to the latter's health. Arduous work interferes with proper growth, and the effects of such work may be especially disastrous in the female sex, giving rise to pelvic contraction, &c. By interfering with the proper development of individual organs, different forms of child-labour give rise to characteristic deformities. It is a well-known fact that the disease-rate and the death-rate are higher in youthful wage-workers and in apprentices than in other children. In this connection it suffices to refer to the so-called "diseases of occupation." It is a matter of general knowledge that in those districts in which children engage in very arduous wage-labour, the percentage of adults found to be fit for military service is exceptionally small. The best example of this is found in those districts of Sicily in which children work in the sulphur mines. In the year 1827, King William III of Prussia ordered measures to be taken against excessive child-labour, in consequence of reports made to him to the effect that a large proportion of child-workers subsequently proved unfit for military service.

When a child begins in early youth to work for wages, his school attendance is interfered with. If the child-worker does attend school, it is so tired that it cannot follow the teacher with sufficient attention. In districts in which a large percentage of the children are at work, the educational development of the whole population suffers, and not merely that of those who work for a living. Children whose occupation involves a

very restricted use of their faculties become unfitted for other occupations, and, indeed, lose almost entirely the faculty of adaptation. In the streets of great manufacturing towns, large seaports, and like places, we find numbers of children engaged in the sale of matches, flowers, newspapers, &c., and they hawk such wares also in public-houses, coffee taverns, and the like. Most of them use this traffic merely as an excuse for vagabondage, begging, criminal practices, or the offer of their persons for use by sexual perverts. They frequent the streets by night as well as by day, and make no secret of the fact that their aim is to beg rather than to sell their wares. It will readily be understood that in the streets and other places in which they hawk their wares, such children get into very bad company, and are likely to become completely depraved. Those children who work in factories or workshops, and those who are employed in agriculture, are in continuous contact with adult workers, by night as well as by day, listen to their obscene conversation, and watch their improper acts. Some youthful workers are quite independent and free from all supervision. Such workers often earn comparatively good wages, and this early command of money is in such circumstances apt to be fruitful of evil in various ways.

Excessive work awakens in the child an aversion, and even a hatred, to work. Such a child works only from compulsion and under the influence of fear. The hatred of work thus engendered becomes a cause of truancy and idleness. Vagabondage and begging are easier and more lucrative than incessant toil. When the child perceives that its lot is one of arduous toil, whilst others live, not comfortably merely, but in luxury, anti-social sentiments are aroused. When such a child grows up, we have an adult disinclined for exertion and taking pleasure in nothing. Owing to the monotony of his occupation and the neglect of his education, his intelligence is dull and stupid. He sees that his parents force him to work and otherwise neglect him, and this destroys his affection for his relatives. The foundation of the authority of family life, namely, the economic dependence of the other members of the family upon its head, is undermined by child-labour. Some wage-earning children are entirely dependent upon their



work, and, if unemployed, as often happens, they lose their only legitimate means of support, and are forced into vicious modes of livelihood. It is proved by statistical data that a larger percentage of youthful wage-earners than of other children become criminals; and, further, that in those districts in which child-labour especially prevails, criminality is more extensive than in others.

*The Consequences of Women's Labour.*—Many girls begin to work for wages before their physical development is completed, and when their sexual life is just beginning to awaken. The injurious effects of work upon the health are much greater in women not yet fully developed than in older women. By hard work the subsequent development of the blossoming girl is disturbed. By wage-labour girls are deprived of the opportunity of becoming acquainted with the details of household management; their mode of life is free and unsupervised, so that they are apt at an early age to enter into illegitimate sexual relationships. It will be readily understood that, in different classes of workwomen, the unfavourable influence of these factors will exert itself in different ways. It will suffice to refer to the different working conditions of female factory hands and of female domestic servants.

There are many branches of manufacturing industry in which women ought not to be employed at all, because the work these branches involve is injurious to women's health, and, in especial, to the functions of their sexual life; there are many other branches of industry in which women should only be employed if certain specific precautions have been taken, and if certain regulations are rigidly enforced. But at present economic pressure forces women into these occupations also, and the necessary precautions and regulations are too often ignored. Many women are engaged in the most exhausting and offensive occupations, and have to continue at work even in the later stages of pregnancy. It may even happen that the capitalist pays a pregnant woman a smaller wage than his other women workers, notwithstanding the fact that her needs are greater. It will readily be understood how disastrous may be the influence of this upon the unborn child. The children of women who continue at work during

pregnancy are born earlier and are weaker than the children of other women. Occupations especially dangerous for the unborn child are those in which the mother has to sit for long hours at a time in a bent posture; those in which she has to stand continuously; those in which she works in contact with mercury, phosphorus, aniline, iodine, lead, or nicotine. In women who continue to work during pregnancy, miscarriage, premature labour, and still-births are commoner than in other women. With regard to the question of the prohibition of women's work during pregnancy and lactation, another point has to be considered. If the woman remains away from work throughout the whole period of pregnancy and lactation, not only does she lose her place with her employer, but also she loses to a large extent her previously acquired skill and aptitude for work. It results from this that the woman is no longer able to work when work again becomes possible to her. If the mother of a young infant is forced to engage in wage-labour, the consequences are extremely disastrous to the child, for its care is inevitably neglected. The proletarian mother neglects her child in many instances not, as is so often believed, because of the lack of maternal affection, but simply because she is forced to go out to work.

Obviously it makes a great difference whether the mother's wage-earning work is carried on at home or elsewhere. In the latter case the mother can do less for her child, but home-work has the great and obvious disadvantage, that it transforms the dwelling into a workshop, and thereby accentuates the already-existing hygienic defects of the proletarian home. Moreover, in domestic industry the protective regulation of women's labour is far less complete, and the wages are also lower. If the wife goes to work instead of the husband, matters are not quite so bad as they otherwise might be, for the husband in such cases to some extent takes his wife's place in the household. The conditions are far worse when both husband and wife go out to work. If both the parents go to work in a factory, the interests of the entire family suffer; the children receive no proper upbringing, and the whole family life is ruined. In districts in which the married

women go out to work in factories, the percentage of miscarriages and of still-births, and the death-rate and the criminality-rate among the children, are all greater than in regions in which factory work for married women does not prevail. In manufacturing regions, in times during which female unemployment is widely prevalent, there is a decline in infant mortality, in spite of the increasing poverty resulting from the lack of employment. The death-rate of the children, and more especially the death-rate of the infants, in any area, is found to increase in a direct ratio with an increase in the number of hours that the mothers work away from their homes, and to vary inversely with the amount of the daily earnings. The chief cause of high infant mortality is artificial feeding, or rather the diseases engendered by artificial feeding. Among the Jews, the infantile death-rate is lower than among those of other creeds. The chief cause of this difference is that so small a percentage of the Jewish married women work for wages. But in the Jewish proletariat the conditions as regards infantile mortality are identical with those that obtain among the Christian proletariat.

The result of the wife's absence from home in order to work for wages is that she is unable to attend to the work of the household; for this reason, the housekeeping of her home is at once costly and bad; commodities and services which in working-class homes are usually provided by the labour of the housewife have to be obtained or provided elsewhere for money—washing and mending, for instance. Owing to the prevailing disorder of the household, many articles have to be bought anew, when the old ones would have done very well for a long time if carefully mended or patched. Various housekeeping accessories are required; a servant may have to be employed. The dirt and disorder of the dwelling, the bad feeding, and the irregular family life, often drive the husband to drink; and this further increases the family expenses.

*Regulation of Child-Labour.*—Of all working conditions, those affecting child-labour are perhaps most unrighteously regulated. The relationship between the protection of child-labour and the protection of other kinds of labour is analogous

to the relationship between the sections of criminal law dealing with youthful offenders and those dealing with adult criminals. It is an actual fact that legislation for the protection of adult workmen originated in the protection of child-labour. It was in England, the true fatherland of the factory system, that the regulation of child-labour first made its appearance. The first English law for this purpose was passed in the year 1802. Even as early as this it was necessary to intervene for the protection of child-labour, for at that time the conditions were perhaps the worst in the whole history of child-labour. The individualist state, being already to some degree permeated by socialist ideas, protects women's labour and child-labour. But this protection, like that of labour in general, was not in any way based upon ethical considerations; it arose simply from the need to protect the working capacity of the labourers considered as profit-making tools. Moreover, in many countries, the regulations for the protection of labour are for the most part evaded or ignored by the employers.

In the more advanced countries, but only in these, we find the following legislative provisions for the regulation of child-labour. Child-labour and compulsory school attendance are contradictories. If merely in the interest of the protection of child-labour, the State must ordain that every child shall attend school from the age of six to the age of twelve, and must employ every means in its power to see that the duty of school attendance is never evaded. Regulations are made for the prevention of mendicancy by children. In addition, the State prescribes the conditions under which children may perform in public (in the theatre, the concert-room, the music-hall, the circus, &c.). The general groundwork of these regulations is that children under fifteen shall not appear in public for money at all, and those over fifteen only by special permission of the local authorities. Apprenticeship is also subject to State regulation. Before the indentures are signed, it is necessary to obtain the consent of the local authority, and there must be a written contract between the child's legal representative and the master. The master must employ the child only upon suitable work, and must provide proper housing, food, and education for the apprentice; the appren-

tice must live in a place altogether apart from the workshop, and must attend an apprentices' or continuation school; the master has no right to inflict corporal punishment. What has been said about apprentices applies in some degree also to juvenile domestic servants. The State regulates child-labour in the larger workshops and in factories. The employment for wages of children below a certain age is completely forbidden. When this age is surpassed, a child may be employed only when permission has been obtained from the local authority. Night work by children is absolutely prohibited; a maximum number of hours is prescribed for daily work (five to eight), and for weekly work (thirty to forty-eight), adapted to the child's age and physical constitution; the intervals (daily and weekly) for rest and the intervals for meals, and also the minimum wage, are likewise prescribed. The State, of course, arranges that breach of these regulations should be visited with punishment, with withdrawal of the authority of the parent or guardian, and with prohibition of the employment of children by the employer concerned.

*Regulation of Women's Labour.*—Night labour for women is in some cases forbidden, in others allowed under certain restrictions. The employment of women in mines and in certain other extremely dangerous occupations is forbidden. The employment of women for a certain number of weeks after childbirth is also forbidden. From various sides we hear a proposal that women should be permitted to work as half-timers—that is, for half the working day. It is suggested, to secure continuity of work, that the women should work (during the daytime only) in two shifts, half the women employees during the morning, the other half during the afternoon. The advocates of this proposal suggest that the women on the morning shift could attend to their domestic duties in the afternoon, and, conversely, that those on the afternoon shift could attend to their domestic duties in the morning, and that the supervision and care of the children could be mutually arranged by the members of the two shifts. Most of the advocates of this system propose merely its introduction as an optional measure—that is to say, that women who wish to work the whole day should not be forbidden to do so; and

they also propose that it should be applicable in the case of married women only. In any case, we cannot expect great things from any such system.

*Reform of Apprenticeship.*—To-day much thought is given to the question of the reform of apprenticeship, which indeed stands greatly in need of reform. The technical education of the present day is extremely defective. The smaller employers are unable to give proper instruction, because they lack both time and capacity. The training of the apprentices in the larger factories is also scrappy, because the division of labour is of such a kind that none of the employees have time to give to the instruction of apprentices, and these latter therefore receive no more than a partial technical education. Moreover, the owners of the larger factories are unwilling to receive apprentices, because, if they do this, their factories are subjected to a number of additional inconvenient regulations. The apprentice no longer belongs, as in former times, to the master's family, and no longer receives his education there; indeed, many masters do not even provide board and lodging for their apprentices, and in that case the latter are apt to be greatly neglected. It is obvious that great stress must be laid upon the technical education of apprentices. But no importance can be attached to the argument that through a proper education of the apprentices an improvement would be effected in the conditions of the lesser industries. What is necessary is that the State should provide technical schools, and itself undertake in these the education of apprentices. In some countries quite a number of such technical schools have been founded, but, owing to the great cost of these schools, the complete abolition of the system of the nominal instruction of apprentices at the hands of their masters is not at present to be expected. Homes of technical instruction for girls are also greatly needed, and do already exist in many places. But such homes must on no account be under the management of the Church, nor must they be dominated in any degree by the so-called religious spirit. Their sole object is to provide for these learners board and lodging on the same scale as they would have if they were in service, and to provide them with opportunities of seeking employment during their free time. A further crying need is

the organisation, not of apprentices only, but of the younger workmen and workwomen generally. The organisation of the workers is the most effective means for the prevention of their ill-treatment at the hands of their employers.

The general attitude of socialists and trade-unionists towards apprenticeship is the following: Many trade-unions insist that in collective bargains between workpeople and their employers there should be stipulations as to the maximum number of apprentices to be employed by each individual master; before the contracts of apprenticeship are signed, the unions call the attention of the relatives of the proposed apprentice to the unfavourable position occupied by the apprentices in certain branches of industry, and warn the relatives against certain employers who are well known to treat their apprentices badly; some unions found their own technical schools. No attention whatever need be paid to the objection that such activities on the part of trade-unions tend towards the revival of the old guild system.

*Enforcement of such Regulations.*—To secure a really effective protection for women's labour and child-labour, it is necessary that women and children should be protected in all branches of labour, including agriculture and domestic service. If the protection and regulation are limited to certain branches of labour, the inevitable result is that women and children are driven out of the protected and regulated, into the unprotected and unregulated trades. (This was the experience in Germany, for example, as a sequel of the law passed in the year 1891.) It is, above all, necessary that home industry should be regulated, as, in default of this, no satisfactory results can be expected. It is further essential that all children should be protected, regardless of the relationship they may bear to the employer. Employers related to the children they employ must be subject to regulation just as much as others, for it is well known that relatives who have once begun to exploit their own children tend to become the most inconsiderate of all those who overdrive youthful workers.

In the larger workshops, and in factories, the requisite strict and continuous regulation of all the circumstances which might affect children unfavourably is rendered fairly

easy, owing to the fact that the number of such large establishments is comparatively small. But the stringency and reality of the supervision still leave much to be desired, owing to the great influence possessed by wealthy property owners. In almost every country, year after year, the factory inspectors report that the regulations for the protection of children working in factories are evaded, and yet the local authorities are powerless to remedy these abuses. Where children work in their own families, or in small workshops, the conditions are always less favourable, owing to the close and intimate relationship that obtains in these cases between child and employer. Inasmuch as the number of families engaged in home industries and employed at small workshops runs into millions, and in view of the circumstance previously mentioned, that the protection of child home-workers involves an interference with parental authority, regulation is here a much more difficult matter.

The executive authorities to which is entrusted the enforcement of these protective regulations are: medical practitioners, factory inspectors, local governing bodies, police, and school teachers. It is essential that the part played by the medical practitioner should be largely extended. Permission for a child to undertake wage-labour should depend absolutely upon the permission of a certifying physician; the doctors should examine all the workplaces with an eye to their hygienic requirements; and from time to time they should examine the female and youthful employees, to make sure that their work is not injurious to their health. But we are still far from the adoption of these simple and yet essential measures. The rôle of the factory inspectors is especially important, because the enforcement of regulations for the protection of labour is one of their principal and specific duties. In many of the States of the American Union, in France, in England, and in many of the federated States of the German Empire, there already exist female factory inspectors. The school teachers play an important part in regulation. They are constantly in contact with the children, know their special circumstances, are in a position to note abnormalities as they appear, and readily ascertain the causes of such abnormalities. Above all,



is their rôle an important one in relation to the control of domestic industry.

*Objections to the Protective Regulation of the Labour of Women and Children.*—Many objections have been advanced, chiefly by the employers of labour, against the protective regulations we have been considering. Most of these objections were first heard in England more than a century ago, at the time of the first legislation for the protection of child-workers; but they are continually and loudly reiterated to-day. They are the following: (a) Arduous physical toil, the work of the proletarians, women's labour, are merely parts of the struggle for existence with which we have no business to interfere. (b) The work of women and children is indispensable to modern industry, for certain of its processes can be carried out only by women, or by children, as the case may be. (c) The work is not injurious to the health either of women or of children; on the contrary, it does them good. (d) The children ought to be at work, otherwise they are either loafing about the streets or making themselves a nuisance to their parents at home. (e) To abolish women's labour and child-labour would simply be to deprive them of their means of livelihood. (f) The suppression of women's labour and child-labour renders it more difficult for national industry to compete with foreign industry; indeed, it threatens the very existence of the national industry. (g) Many advocates of the emancipation of women oppose the protection of women's labour on the ground that such protection limits women's right to sell their labour. (h) In regions inhabited by two or more nationalities regarded as being of unequal value, it is thought to be permissible to exploit the labour of the women and children of the reputedly inferior race. (In the United States of America, for example, we are told that the question is not one concerning American children, but one concerning Slavonic and Italian children, which, however hard they may have to work, are yet better off than they would have been in their own fatherland. It is worthy of remark that in the United States of America, especially in the Southern and the Western States, the conditions in the matter of child-labour are much the same as those that obtained in England at the beginning of the nineteenth century.)

*These Objections Answered.*—(a) The answer to this and to similar arguments was given in our discussion of Darwinism in relation to child-protection. (b) There are no processes for whose performance women and children are indispensable. When, for certain stages of manufacture, women and children are unobtainable, these stages are very well performed by men or by machinery. (c) This is true only when the conditions of work are properly regulated. (d) It is true that certain work may exercise an educative influence; but wage-labour is entirely devoid of moralising and educative influences. When we are told that by putting the child to work it learns to love work, that it becomes thrifty and diligent, that it is restrained from vagabondage, we may answer, that under present conditions wage-labour for children has the very opposite effects. If child-labour in factories and workshops really exerted such an educative influence as the employers pretend, why do they not send their own children to work in the factories, and why do they reserve these advantages for the children of the proletariat? (f) Wherever, in certain branches of industry, woman's labour and child-labour have been forbidden, as, for example, in England, the following results have been noted. An improvement in working conditions is invariably followed by an increase in the intensity of the work performed, and also by an improvement in its quality. Manufacturing industry does not come to a standstill because, in consequence of regulation, certain processes previously performed by women and children have now to be carried out by machines or by men; on the contrary, as a result of this, the industry becomes more vigorous and more efficient. It does so, first of all, because the latest improvements in technique are perforce adopted when cheap labour can no longer be exploited; in the second place, because the health of the workers, upon which above all the efficiency of the industry depends, is increased. Regulation therefore actually increases the power of a national industry to make headway against foreign competition. We have also to remember that the same objections that we are now considering have been advanced against the protection of adult male labour, and have been shown by experience to be invalid

in this case also. This objection commonly makes its appearance in the following form : in many branches of industry the protection of the workers increases the cost of production and lowers the quality of the goods produced ; this resulted, for example, when the use in certain processes of lead, mercury, phosphorus, and arsenic was forbidden, and the sequel was that the commodities in question were imported from countries in which such protection of labour did not exist. But this argument is in fact an argument for the internationalisation of the legislative protection of labour. For it involves an admission that the disadvantages of such regulation cease to exist when in a number of competing countries like measures of protection prevail, so that no one of the countries enjoys in this respect any commercial advantage over the others. It is an actual fact that in very recent years the international regulation of women's labour and child-labour on uniform lines has made enormous advances. The very fact that the protection of women's labour and child-labour tends to lead ultimately to the adoption of a uniform international code, is an extremely favourable phenomenon, in harmony with the general tendency of evolution. (*g*) The argument from the side of the advocates for the emancipation of women is fundamentally false. It does not tend towards women's emancipation to leave women free to seek their own destruction. If the protection of women's labour leads to injurious results, the only conclusion we can properly draw from this fact is that our regulation must be effected in some other manner, so that these injurious results may no longer occur. (*h*) The argument about the inferior races is a very dangerous one. The rights of women and children are identical, to whatever nationality they may happen to belong. We might just as well maintain that the exploitation of the labour power of the proletariat is quite justifiable on the ground that the proletariat is of inferior quality to the other classes of society. And if we are told that women and children are better off in the factories and workshops than they are in their own homes, the obvious answer to this is that, in that case, it is absolutely essential that the conditions of their domestic life should be improved.

*Radical Solution of the Problem.*—A radical solution of this problem is to be expected only from an increase in the wages of the adult male workers. Not until the earnings of the father of the family suffice to provide adequately for all the needs of the family, will it become unnecessary for mother and children to work for wages. It is a fact of general experience that those workmen who earn adequate wages do not let their wives and children go out to work; and also that in the case of men occupied in the so-called seasonal trades, it is only during the husbands' slack season that the wives and children contribute by their earnings to the family income (for instance, the wives and children of bricklayers go out to work during the winter only). If women and children did not undertake wage-labour, the supply of labour in general would be much smaller, and as a result of this the wages of the adult male workers would necessarily rise. It is most probable that in course of time the adult male workers will succeed in obtaining considerably higher wages than they receive on the average to-day. Wage-labour on the part of women and children will then for the most part cease, and this will result in yet further increase in the wages of the men. The adult male workers should not lose sight of the fact that by allowing their wives and children to work for wages they merely succeed in making their own condition worse. For a short time after the wives and children first begin to work there may, indeed, be an increase in the family income; but the ultimate result is to make life harder, not merely for themselves, but for other workmen in general. If, on the other hand, they do not allow their wives and children to engage in wage-labour, they may sometimes suffer for the moment, by a temporary diminution in income; but they enter upon a path which cannot fail ultimately to lead to benefit both for their own family and for the other workers.

*The Tendency of Evolution.*—The tendency of evolution is towards the disappearance of child-labour. It is statistically proved that that the larger any industrial undertaking, the smaller proportionately is the number of children employed in that undertaking. But the tendency of evolution is un-

questionably in the direction of the development of gigantic commercial enterprises through the absorption or competitive destruction of a much larger number of comparatively small enterprises. In the future we shall attain a condition in which no one will be allowed to undertake work of any kind which is injurious either to himself or to his offspring in any way whatever. Much of the work of women and children for wages such as goes on to-day will unquestionably be prohibited. No doubt, wage work for women will exist in the future, and some of it perhaps will be more intensive even than to-day; but, unquestionably, whatever wage work women do will be in a form which can do no harm to the present or to future generations. Children will be properly educated, and until the years of their education are finished will engage in such work only as is educative in its influence and character. Technical manual instruction will be one of the principal methods of education. As co-operative housekeeping spreads, women will have much less domestic work to do than at present. In this department of work also, the principle of the division of labour will be applied, and the individual details of the domestic economy of to-day will then be entrusted to the hands of professional specialists. Adult women will engage in much the same sort of work as men, with the exception of those occupations which experience shows to be injurious, for sexual reasons, either to themselves or to their offspring. In the regulation of women's work, consideration will of course have to be paid to the physiological disturbances which periodically recur in women.

## CHAPTER V

### THE PROTECTION OF CHILDREN AGAINST DISEASE

*Introductory.*—The objects of this department of child-protection are, first, to prevent the child becoming ill; secondly, if it has become ill, to cure it. The hygiene of childhood deals with the former question, and pediatrics with the latter. In this chapter we shall consider those problems only which concern the health of children of the poorer classes.

*The Health of Proletarian Children.*—Owing to the lesser resisting power of children, the factors of ill-health operate much more powerfully in the case of youthful than in the case of adult proletarians. But other factors are in operation in addition to this inferior power of resistance. Unfavourable conditions act upon proletarian women during pregnancy, and affect proletarian children at the time of birth. The circumstance which more than all others is injurious to the health of these children, and which contributes to produce the result that a larger percentage of working-class than of upper-class children are feeble-minded, is quantitative and qualitative insufficiency of nutriment. Studies of the relationship between the prices of food-stuffs and the average working-class income have shown that the majority of working men have an income too small to provide for themselves and their children the minimum quantity of nutritive materials (of the proper quality) which physiological science has proved to be indispensable to the daily renewal of the bodily forces. Statistical data prove beyond question that the height and the body-weight of proletarian children are less than those of children of the well-to-do. Rickets is principally a disease of children of the poorer classes. Among upper-class children the severer forms of this disease is hardly ever seen. Rickets arises

chiefly as a sequel of digestive disturbances; and these, in their turn, are referable to the deficiencies of artificial feeding. Among the poor we find many more blind children and many more deaf mutes than among the rich, the reason being that among the poor, in so many instances, when the defect is first noticed, no attempt is made to seek medical advice. According to trustworthy statistical data, 95 per cent. of the occupants of blind asylums belong to the poorer classes.

*Causes of the Movement for the Protection of Proletarian Children.*—To-day great stress is laid upon attention to the health not only of the general population, but in especial to the health of children. During the nineteenth century the view became general that in the interests of the health of the children, society ought to be prepared to make any sacrifices. In the domain of social hygiene—that is, of the science which occupies the borderland between the science of public health and the science of sociology—neither the men of theory nor the men of practice can venture to adopt a one-sided class outlook. During recent years, upon the groundwork of these sound conceptions, a number of new institutions have been founded, by means of which the general condition of public health and the hygiene of childhood (including that of proletarian childhood) have been considerably improved. In many directions the advances in medical science tend to counteract with success the disorders consequent upon the development of capitalism. The technique of artificial feeding has been greatly improved, and this has led to a reduction in infantile mortality; ophthalmia of the new-born can now be efficiently prevented, and this has led to a decrease in the number of blind persons.

To the upper classes of society the health of the lower classes is of importance for two reasons—(a) the former have need of the working powers of the latter, and in bad hygienic conditions these working powers are impaired; (b) if the health of the lower classes is neglected, it is not these classes alone which suffer, but the rich suffer as well. For example, the well-to-do are endangered when nothing is done to check the spread of infectious diseases among the poor, and when poor persons attacked by these diseases are left without proper

treatment. If the health of poor children be neglected, the results are extremely serious, not for these children alone, but for the children of the well-to-do and for adults.

*Institutions.*—Institutions are of great importance. A larger proportion of the children of the poor than of the children of the well-to-do are dealt with in institutions, for well-to-do parents live in commodious houses, in which their children can be properly cared for, they are able to summon the doctor whenever necessary, and so on. The most important institutions in this connection are hospitals for infants and young children. Children's hospitals are not as yet very numerous; hospitals for infants are still fewer. The majority of these institutions are maintained, not by the State or by the local authority, but by the community at large. It is owing to the fact that children's and infants' hospitals are so few in number that medical practitioners are so inadequately trained in respect of the hygiene of childhood and pediatrics, and in especial in the hygiene and therapy of infant life. The need for such hospitals is not satisfied by the foundation of children's clinics. A combination of hospitals for infants with lying-in hospitals or foundling hospitals is unquestionably along the proper course of development.

If we wish to ascertain the value of institutions for children who are blind, deaf-mute, crippled, or feeble-minded—if we wish to learn whether it is socially worth while to take special pains for the care of such children, or whether they can be adequately cared for in general institutions, and what would be the cost of these respective methods—we must study statistics bearing on these questions. But, unfortunately, these statistics are defective and extremely untrustworthy. They are defective, because they fail to give us precise information concerning personal data and concerning the percentage of such children who are or may become fit to earn their own living. They do not classify properly according to age, and they do not state accurately how many of the children have inherited and how many have acquired the defect from which they suffer. (The youngest children will usually be found to suffer from an inherited defect, since they will hardly have had time to acquire it. Among those suffering from such



defects, the young present a larger proportion of sufferers than we find among the general population, because the mortality of the children thus affected is higher than the mortality of healthy children.) The statistics are untrustworthy, because the existence of deaf-mutism is often overlooked until childhood is comparatively advanced, and feeble-mindedness may not be recognised at all. In the twentieth century, in the civilised countries of Europe, we find, per 100,000 of the population, from 50 to 130 blind persons, from 60 to 250 deaf persons, 70 to 450 feeble-minded and insane (minimal and maximal figures), and about 120 cripples. According to certain statistical data, one-fourth of the blind and two-thirds of the deaf-mutes are competent to earn their living, and 90 per cent. of the cripples are endowed with perfectly normal mental powers. It is even maintained that from such children, if they are otherwise healthy, we can, with comparatively trifling effort, obtain useful members of society.

There is no doubt that when once such children have been born, we must do the best we can for them and with them. They must either be destroyed, or, in default of this, must be developed and educated to the fullest extent of their powers; unless this is done, great evil ensues, for the children become permanently dependent upon public assistance; or else (and this applies especially to the feeble-minded) become confirmed criminals. When the defect is a serious one, such children should on no account be brought up in the family circle, or educated in ordinary schools; it is absolutely necessary to provide special schools and institutions for each class of such defectives—blind schools, deaf-mute schools, cripple schools, &c. Feeble-minded children, however, whose mental level is only a very little below the average, or who are merely backward from a temporary retardation of development, may be educated in the ordinary schools, or in special classes of these schools. Children with defective hearing should not attend the public elementary school. Even if such a child is exceptionally talented, and if it receives the greatest possible amount of help at home, these circumstances will not make up for the educational defects inevitably attendant upon its deafness. As soon as examination by the school doctor shows

that serious defect of hearing exists, or if such defect is obvious even before medical examination has been made, the child should be transferred to a special class or to a special school for the deaf. As far as I am aware, such institutions exist as yet only in Berlin.

In the treatment of defective children, the school teachers as well as the doctors have a very important part to play. It is best that those who teach such children should themselves have received specialised medical and educational training. It was not until the beginning of the latter half of the eighteenth century that any serious effort was made to grapple with the problem of the education of the blind and the deaf-mutes; it was more than a hundred years later before the problems of the education of feeble-minded and of crippled children respectively began to receive serious attention.

*Country Holiday Funds and Open-air Schools.*—The health of town children sometimes needs a thorough restoration, in default of which the child would become seriously ill in the dusty and contaminated air of our large towns. But in children of school age such restoration is possible only during the summer holidays. This is where the country holiday funds can play a very useful part. These began to come into existence in Switzerland about thirty years ago, and have now obtained a wide diffusion in all civilised countries, and especially in manufacturing countries. As with every new branch of public care for the needs of the poor, and especially with the institutions considered in this chapter, the first steps in this matter were taken by the community at large—that is to say, by private associations. It will be a task of the near future to organise and unify these associations. Such country holidays are an important feature of the campaign against tuberculosis. They have the further advantage, that they provide the child with manifold new experiences. The societies take poor and weakly, but not actually diseased children, and send them to the country for the summer holidays, in some cases boarding them with families, in other cases sending them to special institutions. The advantages of the family system are those of family life in general, and in addition that in such a family the town child will learn much more about the

details of country life. Of late some of these societies have gone on to the foundation of permanent holiday homes for the relays of children they send to the country. Inasmuch as the good effect of the summer visit to the country tends soon to pass off, the after-care of the children during the winter is very useful. In the case of children who for one reason or another (for example, because they lack suitable clothing, or because the society does not possess adequate funds) cannot be sent to the country for a sufficiently long time, semi-urban colonies and milk-stations are not without their value. The children during the holiday season are taken by the teacher in large groups (forty to sixty) into the open, are well fed, and, if opportunity offers, given baths, and in the evening taken home to their parents. Of late years has originated the idea of the open-air school, which occupies an intermediate place between the school and the sanatorium for children. During the holiday season the children stay in the forest, and receive every day a few hours' instruction in the open air. Holiday playgrounds provide opportunities for town children to play, under the guidance of suitable persons, in school-yards and in parks. In this connection may also be mentioned arrangements for the exchange of children during the holiday season between town and country families. Certain weakly and sickly children should during the summer be sent to a spa or a sanatorium. There already exist special spas, Kurorts, and sanatoria for children. There are, for example, special seaside resorts for rickety and tubercular children. [*e.g.* in England, for tubercular children, Margate.]

*Proposed Reforms.*—It is the duty of the poor-law boards to devote great attention to the health, not merely of those children for whose care they are directly responsible, but also for poor children in general. The law should provide a right of interference on the part of the local authority in the case of children whose health is endangered by prolonged confinement to the house—for example, where there is grave danger from exposure to infection—and this in cases in which it is not possible to speak of “neglect” in the narrower sense of the term. But if powers are given, in such cases, to

remove a child for institutional care, it should only be till such a time as is requisite for the domestic conditions to be transformed, so that the child may return home without danger to its health. In respect of the hospitals under the direct control of the local authorities, it is necessary that the latter should have the right of removal of children needing hospital treatment whose parents do not send them to hospital on their own initiative. This last idea is already partially realised, inasmuch as certain modern foundling hospitals receive for treatment sick children who have not entered the hospital as foundlings.

*Need for Enlightenment.*—It is really astounding how little the laity know about the elementary principles of the hygiene of child life, and more especially of infant life. In respect of the management of infants, the most absurd practices prevail, some of which are largely responsible for the extent of infant mortality. It is therefore of enormous importance that the population in general, and especially the lower classes, should be properly instructed in these matters. But even medical practitioners lack sufficient instruction in respect of the hygiene and therapy of childhood, and even more in respect of the hygiene and therapy of infancy. This is due to the fact that there is no proper teaching of these specialties at most universities. Quite recently, however, there has been some improvement in these respects.

*The Tendency of Evolution.*—The importance of such institutions as those we have been discussing will become ever greater. Indeed, the great majority of sick persons will ultimately receive institutional care. The functions we have been considering, at present administered by the community at large and by the local authority, will eventually be taken over by the State.

## CHAPTER VI

### THE PUBLIC ELEMENTARY SCHOOL

*Importance of the Public Elementary School.*—Of the various schools, it is only the public elementary school with which we need concern ourselves in this book. The State compels no one to attend the higher school or the university. The children of the lower classes of the population, whose relatives are not in a position to provide instruction for them in their own homes, are all sent to the public elementary school. Now, since in a manufacturing town nearly three-fourths of all the children belong to the lower classes, since for this reason, of the children attending the public elementary schools, the enormous majority belong to the proletariat, since, finally, only a minimal proportion of proletarian children attend any other kind of school, it follows that the public elementary school is primarily intended for the children of the proletariat, and that practically the only school available for these children is the public elementary school. To-day, the children of the lower classes are educated almost exclusively in the public elementary school, those of the middle classes chiefly in the public elementary school, while those of the upper classes are educated almost without exception in their own homes by tutors and governesses. [Obviously the writer refers here to the conditions obtaining in his own country.]

*Methods of Instruction.*—Children at the present day can be educated by any of the following methods: (*a*) The parents themselves instruct their children; (*b*) they have their children taught by a tutor or a governess in their own homes; (*c*) they combine to carry on special schools for their own children (family schools); (*d*) they send their children either to a governmental or to a private school. In former days there

existed no public schools. Parents either educated their own children, or had them educated by a tutor or governess. As time goes on the number of parents increases who are competent to teach their children all that they learn at the public elementary school; but most parents have neither leisure nor desire to undertake this. Consider, for example, the case of the father of a family whose whole day is spent at work. Most fathers of families make a better use of their time by devoting all their energies to their trade or profession, instead of themselves attempting the education of their children. Thus here also the principle of the division of labour comes more and more fully into application. The parent gives his whole time to his work for a livelihood, and the profession of teacher becomes more and more exclusively that of a specialist. The children of the proletariat are in need of education, and in their case, apart from the question of leisure or desire, the parents lack the necessary aptitude to instruct their own children. The public elementary schools of to-day have come into existence for the children of these lower strata of the population, and the curriculum of such schools has been determined mainly by the decision of the upper classes as to what it is expedient that the lower classes should be taught.

Education at home by a tutor or governess is in certain respects superior, and in other respects inferior, to that obtainable at the public elementary school. The advantages of home instruction are, first, that it has a more individual character, since the tutor or governess is more intimately acquainted with the child, and each individual child receives a comparatively larger share of the teacher's attention; secondly, in the case of a large family, we have the best possible type of co-education; thirdly, the unhygienic influences of the public elementary school can be avoided. The disadvantages are: a really good tutor or governess is by no means easy to find, and in the absence of such a one, the education is most inefficient; the domestic instructor is but a single person, whereas in the public elementary school there are a number of teachers, and the defects of one will be compensated by the good qualities of another; we may even say that the defects of the teachers are more than compensated

by the other influences of the public elementary school. Education by a domestic instructor can never make good for the child the lack of the multiform life of the school, which affords so admirable a preparation for later life. In the school there are many children who compete with one another, but also form friendships with one another. However questionable it may be, on grounds of principle, whether for the purposes of instruction and education it is proper to appeal to the ambition, competitive zeal, and envy of children, yet we have to admit that so long as the present order of society continues, based upon individualism and free competition, it is absolutely essential that children should be prepared for individualism and free competition. If the domestic instructor gets on friendly terms with the child, his authority is apt thereby to be undermined; but if he remains on purely formal terms, he risks the repression of the child's individuality. Friction between parents and domestic instructors is almost inevitable. Education in the public elementary school costs far less per child than domestic instruction, and this saving is advantageous, not to the individual only, but from the standpoint of public economy. It is altogether opposed to the interest of public economy that each child should have a separate teacher; that certain work, which can be properly performed by a certain number of teachers, should be done in such a way as to need ten times that number of teachers. To do this is to waste time and energy which in the interest of public economy might be much better employed. When some children are educated at home and others in the public elementary school, the two classes of children have entirely a different education, and this can only tend to accentuate class contrasts, which are already excessive.

*The General Obligation of School Attendance.*—The economic order of to-day, based as it is upon free competition, should impose like conditions upon all the competitors in the economic struggle. We cannot speak of free competition unless all the competitors start from scratch; in a system of free competition all should start with the same educational opportunities. As time goes on the desire becomes ever more general that every member of the community should secure a certain minimum

of education; and it is felt that the State is not merely justified but obliged to secure this minimum for all. Thus it becomes continually more important that every adult should have this elementary minimum of education. The existing economic order is based upon a general knowledge of writing and reading. One unable to read or write is hardly in a position to safeguard his most elementary interests. He should also know the first principles of arithmetic, inasmuch as to-day the value of all commodities is expressed in multiples of the monetary unit. The State is well aware that compulsory education involves a limitation of personal freedom and an interference with family life; but none the less the modern State finds it necessary to insist that every child shall receive a minimum of education.

The State imposes the duty upon those responsible for the care of the child, of sending this child to the public elementary school from the age of six to the age of fifteen, or, in default of this, of giving the child an equivalent education at home. On the one hand, the State itself institutes public elementary schools; and, on the other hand, the State gives to the various religious organisations, to the local authorities, and to private individuals, the right to found and carry on elementary schools, with the proviso that in these schools children shall receive the same education (neither more nor less) as in the State schools. Thus, the State has no concern as to what education the child's relatives may think desirable, but exercises compulsion to secure the adoption of its own educational standard, either by inflicting penalties if the child does not attend school, or even by removal of the child for compulsory education away from home.

But the so-called general obligation of school attendance is not really general, and applies exclusively, or almost exclusively, to the lower classes of the population. The other classes can evade the obligation of school attendance by having their children educated at home. The proletarian parents are well aware that the elementary school teaches neither in matter nor in manner in accordance with proletarian conceptions; but at present they have to submit. The duty of universal school attendance is not very strictly enforced.



Even in the most highly civilised countries, a certain proportion of children of school age receive no elementary education. In many countries the universal obligation of school attendance exists only on paper. The conditions in this respect are especially bad, on the one hand, in the country districts (where, therefore, the proportion of illiterates is much greater than in the towns), and, secondly, in districts where there is a great demand for labour. The principle of universal compulsory school attendance is not accepted without opposition. It is resisted by many proletarian parents who wish their children to engage in wage-labour at an early age, and it is resisted also by many capitalists who think they could make larger profits with cheaper labour.

*The Purpose of the Elementary School.*—To enable us to answer the question, what is the purpose of the public elementary school, it is necessary that we should first be able to decide what is the purpose of education. This question is not educational merely, but also social and political. The purpose of the public elementary school is dependent at any particular period upon the general characteristics of that period; for, first, one learns, not at school, but in life; secondly, the dominant authority in the State in any epoch wishes to instil in the minds of the young whatever “virtues” are considered essential to the maintenance of the power of the dominant caste. All political parties consider the public elementary school to be extremely important, and each one of them wishes to use this institution for its own purposes. They all recognise that the future belongs to the young, that the public elementary school plays the leading part in the education of the young; and each party sees that its special aims can be attained only by the education of individuals to consider that these aims are sacred and desirable. The adherents of a particular political tendency therefore oppose the inculcation in the public elementary schools of any tendency adverse to their own, but they regard it as self-evident that their own views ought to be inculcated in the elementary school.

*Instruction versus Education.*—Many persons contend that the aim of the school is not so much education as instruction.

They consider that the main factor in education is not the school, but the family. But this is certain, that even in the school which thinks only of instructing its pupils, education in the wider sense is effected. In school life, in school friendships, in the sense of solidarity, in the friendly competition between schoolfellows, in the necessity to learn, are embodied powerful educative influences. It is, in fact, essential that the school should educate as well as instruct. The public elementary school of to-day makes therefore a very great mistake if it insists on intellectual rather than on moral education, and upon instruction rather than upon education.

*Moral Instruction.*—According to the views of educationists, it is the aim of the public elementary school to educate children to be, (a) religious, (b) patriotic, (c) obedient, (d) humble, (e) subordinate citizens. The elementary school of to-day does in fact mainly subserve these ends.

(a) Religious instruction and the inculcation of the fear of God are no proper part of the work of the public elementary school. Among all the factors of education, it is certainly not the public elementary school which should undertake this branch of instruction.

(b) The public elementary school has to teach children to love their country; but this should on no account be done in such a way as to inspire hatred for other countries.

(c) The old elementary schools taught obedience and subordination. But to-day, when the conditions are quite different from those of the Middle Ages, the public elementary school should do nothing of the kind, but should rather teach independent judgment, promptness of action, and soundness of decision. The public elementary school is a public institution like the (State) railway and the post office, and compulsory school attendance is a civic duty analogous to the duty of military service. But it is necessary to protest most energetically against the inference sometimes drawn from the analogy between the two last-named duties, that the elementary school should be the preparatory school to the barrack, and the barrack a sort of continuation school to the elementary school—against the doctrine that children should be disciplined to a blind obedience. We must carefully avoid overestimating

the importance of discipline. The school must and does use compulsion. Discipline is an important means of elementary school education, and such education is unthinkable without discipline. But children are sufficiently disciplined by mere attendance at school for a certain time.

(d) The following idea is very generally diffused, that it is the aim of the school to prepare children for the life they will have to lead when they are grown up. Most of the children attending the public elementary schools will become proletarians, wage-workers. Since the proletarian must be diligent, thrifty, humble, disciplined, it is regarded as the duty of the elementary school to inculcate these virtues. But these so-called virtues are not virtues at all. The greatest obstacle to any improvement in the lot of the average wage-earner is that he should be content with things as they are. The labourers' wage represents the minimum that he finds requisite to the satisfaction of his needs; when his needs increase, his wages rise. Every friend of social progress should endeavour to secure that the elementary school should arouse in the children certain needs and desires.

(e) Many persons wish to utilise the public elementary school to turn children away from socialist ideas. This is to be done by making the children acquainted with the dangers which the realisation of socialist theories would involve, and in addition by inculcating in the children the afore-mentioned virtues. But the attainment of this end is less easy than such persons imagine. The public elementary school exercises a certain influence. The workman who has received at school education and instruction of the suggested type will doubtless less readily become an enthusiastic adherent of the socialist party than the workman who has never attended an elementary school, and who was an illiterate until he first came under the influence of his trade union. But the notions inculcated in the public elementary school in respect of obedience, humility, and the like are readily eradicated by a short experience of socialist comradeship, and replaced by social-democratic ideas.

*General Culture.*—It is by no means one of the aims of the public elementary school to provide general culture. Even less is this the aim of education than it is the aim of the

public elementary school—and the provision of general culture by the latter would appear to be entirely out of the question. During the few years a child spends at the public elementary school, it is impossible to attempt to impart all that is included in the wide field of general culture.

*Individuality.*—A large proportion of those pupils with a well-marked individuality can develop their personality even in the school. The tendency of the school is in many cases to rub off the edges and corners of individuality. But it is impossible to approve of the extent to which, in the public elementary school of to-day, the children's individuality is repressed. Our present elementary schools do not individualise enough. Their principal aim is, not so much to provide a sound education, as to force all the pupils through the same rigid curriculum, without making any allowance for their various special aptitudes. (For what good end is it that the modern educational authority should regulate every detail of school-life, down to the quality and price of the articles used in class, and even to the colour of the manuscript books and the precise number of pages they are to contain?) In the elementary school of to-day, owing to the large size of the classes and the small number and defective training of the teachers, individualisation is impossible.

*Beauty.*—The school must not indeed attempt to make all the children into artists; but the children must most certainly be taught to understand and appreciate beauty—that is, the arts. Our present public elementary schools are extremely defective from this point of view.

*Knowledge.*—Knowledge gives the individual power, and provides him with a powerful weapon in the struggle for existence. The dominant classes, for the protection of their own egoistic interests, keep knowledge for themselves, and refuse to provide the lower classes with the means and weapons for their liberation. The State insists upon a minimal quantity of knowledge for every one of its members, because this is to the interest of the community and of the upper classes. But since to impart to the common people anything beyond this minimum of knowledge would threaten the dominance of the upper classes, or would at any rate involve

pecuniary sacrifices on the part of the latter, and since it might even lead to the liberation of the lower classes, the functional activity of the public elementary schools is kept at as low a level as possible, and is limited as much as possible both intrinsically and extrinsically. The State and the upper classes devote to popular education only such an amount as is found to be absolutely essential. They are well aware that much more could be done than is done in the way of popular education; but since they know also that this would redound chiefly to the advantage of the lower classes, they propose no advance upon the present system. This affords a satisfactory explanation of the fact that the modern State spends so much less upon elementary schools than upon middle or high schools—that is, upon institutions for the upper classes, and why the State spends so much less upon education in general than upon other things. The budget of any modern State would exemplify the fact that the individualist State spends at least five times as much for military purposes as upon elementary education. The more complete the division of labour, the more do employers tend to utilise the services of unskilled labourers—that is, the services of those whose work is of such a character that all they need know to enable them to perform it is at most a little reading, writing, and arithmetic. The capitalists have no use for workmen with more knowledge than this, for the unskilled workers are cheaper. The owning class are not inclined to make sacrifices to enable the children of workpeople to learn more in the elementary school. They know very well that to do this would merely be to do themselves harm, for the more the workman knows the more readily does he think independently, the more critical is he, and the more readily does he recognise the defects of the existing social order.

*Science.*—The modern public elementary school professes to teach children science. But they must first of all give their pupils desire and capacity for the acquirement of science. It should not be their aim to impart to the child the elements of any particular science, but rather to develop a capacity for a speedy acquisition of the knowledge it will find necessary in the course of its life. The procedure of the older elementary

school which laid stress only upon memory is almost completely a thing of the past. But even to-day the elementary schools of Europe lay most emphasis upon the exhibition by their pupils of extensive knowledge, and this involves an overtaxing of the memory at the expense of the powers of thought. The elementary schools of the United States of America, on the other hand, do not so much endeavour to secure that a certain quantity of knowledge should be imparted, they do not so much insist upon thorough instruction, and strict concentration in the narrower sense of the term, as endeavour to effect a stimulated interest and a certain degree of orientation in all departments of knowledge. The latter system is the sounder. But a certain foundation of positive knowledge is absolutely essential, for upon this foundation is based the acquirement of all the knowledge subsequently gained, and necessary for the purposes of life. The modern elementary school teaches much and many things, including much that is altogether superfluous, but what the children will really need in life is either not taught at all, or taught defectively and inefficiently. Great emphasis is laid upon religion, grammar, and history; modern science is comparatively ignored; technical instruction, drawing, natural history, the principles of morals, political economy, and legislation, are neglected. (It is through the neglect of the last-mentioned that it results that man is perhaps able to understand his responsibilities towards his Heavenly Judge, but certainly not towards any earthly one.) When we examine the teaching of history in the modern elementary school, we find that the pupils, instead of acquiring some general ideas upon universal history, and the history of civilisation, have their minds crammed with a jingo record of wars and dynasties, a mass of dates of battles and other trivial incidents, patriotic anniversaries, and a biassed selection of anecdotes—all this having no other object than to bring the children up as jingoes and anti-socialists.

*Home Work.*—The idea that children must have no home work to do, and that they should do all their work at school, is an exaggerated one. But the fact remains that the tendency of the modern elementary school is to overburden children

with home work. This is all the worse because the work at school is often too much for the pupils, and to add home work is then sheer cruelty. The domestic arrangements in the majority of proletarian homes are so exiguous, that it is impossible for children to find the necessary conveniences and the necessary order and quiet for any considerable amount of home work.

*The Exclusion of Certain Children.*—In the public elementary schools we find many children who ought not to be there—children, for example, with arrested development, abnormal, neglected, &c. If in any class there are many children suffering from arrest of mental development, one of two things may happen—the teacher may devote special attention to them, or he may not. In the former case, the progress of the whole class is hindered; in the latter case, the unfortunate backward children fall yet farther behind. Morally neglected children, and children with criminal tendencies, should be removed from the school, or they will corrupt the other children. But if they are excluded, we have to fear that we are depriving them of their last chance of improvement, and that they will become more neglected than ever. To-day we find that there is a most deplorable increase, above all in the large towns and manufacturing centres, in the number of children who habitually evade school attendance or play truant from school, idle about through the days, and then, after school hours, and in fear of punishment, keep also away from home. It has been proved that the great majority of these habitual truants are feeble-minded to a degree, and for this reason tend to adopt a vagabond life. If such a child is excluded from school, it legally attains the condition of liberation from the obligation of school attendance which it had previously attained illegally though in actual fact. Chiefly in consequence of the inadequate psychological training of the teachers, feeble-mindedness and other mental and moral abnormalities in children are apt to be overlooked. It is desirable that all teachers should receive a far more thorough training in the psychology of education than has hitherto been customary. It is necessary that for weak-minded children, or for those who are in other respects backward or

abnormal, special schools, or in great educational institutions, special classes (disciplinary classes), should be founded. Of late years a start has been made in this direction.

*Rewards and Punishments.*—In the public elementary school of to-day, sound methods and principles in the matter of rewards and punishments find but little application. Corporal punishment is freely used, and in many cases the children are grossly ill-treated. In the United States of America, the general experience has been that in schools in which corporal punishment is unknown, better results are obtained and a higher general level is reached than in schools in which corporal punishment is customary. The mere knowledge that they are liable to such degrading punishment suffices to lower the children's morale, whereas, when they feel themselves absolutely secure from the risk of such punishment, they feel themselves from the first to be honoured and respected. In the better elementary schools of the United States corporal punishment is in fact unknown.

*The Constitutional Element.*—In the order of the modern school no constitutional element is recognised; the teacher is an absolute ruler, and the pupils are subjects without rights. But this system is not one fitted to prepare the children for democratic social and political life. In the United States of America some of the elementary schools have a method of government which is quasi-parliamentary in character. It is desirable to introduce this system into Europe, although certain modifications may be necessary. The relationship between teacher and pupil should be as follows. The teacher does not work solely by authority. He explains in all cases the reasons for his commands and prohibitions; he recognises and admits his own mistakes, treats his pupils as equals, and makes common cause with the well-behaved children to keep the ill-behaved in order; just as in the education of the individual we counteract the morbid elements in the disposition by cultivating the healthy elements, so in his school the teacher uses the good elements to counteract the bad ones. By making common cause with the well-behaved children against the ill-behaved, he induces the former to become unconsciously the instructors and educators of the



latter. He endeavours to effect the growth among the children of a public opinion, which shall warn transgressors and prescribe their punishment. He must also utilise free discussion among his pupils as a means of stimulation and instruction. (Parents should employ much the same methods in the upbringing of their own children.)

*Parents and the School.*—The view that the teacher need concern himself about the child only so long as the latter is within the four walls of the school, and that he is justified in completely ignoring all that happens to the child outside the school, is utterly false, and must be abandoned. To-day a question which attracts much attention is how parents may be induced to support the teacher. In this respect the conditions in Europe are worse than those in the United States of America. In Europe parents commonly rejoice when the school takes the burden of children off their hands. Many teachers, on the other hand, are instinctive bureaucrats, who regard it as wrong for the parents to exert any influence whatever upon the teacher's relationship to his pupils. Quite recently the following view has begun to prevail—that it is the duty of the parents to send their children to the lowest class of the elementary school with such a grounding that the teacher may readily proceed to build thereon; the parents should remain throughout in contact with the teachers. This contact may be of a manifold kind: the teachers keep the parents acquainted with all the important details of the course of instruction, and at voluntary evening reunions explain to the parents the concrete problems of education. We can approve the conduct neither of those parents who always uphold the teacher against their children, nor of those, on the other hand, who always abuse the teacher to the child. The former procedure brings the children up as slaves, the latter undermines the foundations of the respect which every teacher should inspire in his pupils.

*Sexual Education.*—A thorough reform of sexual education is absolutely essential. 1. The question of co-education does not properly belong to this work, and can be touched on merely in passing. In the public elementary schools almost all over the world co-education is the rule; elemen-

tary schools for one sex only are exceptional.<sup>1</sup> 2. The Church regards the sexual life as something essentially immoral, of which the child is to know nothing whatever. Its motto is: Silence. The earlier elementary schools, owing to their intimate dependence on the Church, shared this view. The sexual enlightenment of children is recommended especially by the advocates of the emancipation of women. The question is even more important to women than it is to men, since the right solution of the sexual problem will entail for women greater advantages than for men.

The sexual enlightenment of children is absolutely necessary for the following reasons. (a) The sexual life conceals many dangers for the child, and the latter will better be able to guard against those dangers if he is aware of their existence. No one has the right to put a sharp knife in a child's hand without pointing out the dangers of the weapon. But the forces of the sexual life, when ill-understood and ill-controlled, are far more powerful and far more dangerous than the sharpest knife. He who will learn to walk and to run must risk stumbling and falling, and no one can learn to swim without swallowing a little water. (b) That which is half-concealed is far more stimulating than that which is revealed. If children are not properly enlightened concerning the sexual life, they become accustomed to regard matters of sex solely from the standpoint of personal desire and personal enjoyment, and to regard the sexual life and the other sex as something hateful and despicable. (c) If the child receives no enlightenment concerning the sexual life, its confidence in its teacher and its relatives is necessarily undermined. How shall a child retain confidence in those who give it no advice in a matter in which the need of advice is so urgently felt? Can the child be expected to follow their advice in other departments of life, when in this department it receives bad advice or none at all? Can a child give confidence to its elders in other matters, when in this matter it is fobbed off with lies and fables?

The following arguments are adduced against the sexual

<sup>1</sup> England lags behind the rest of the world in this matter.—TRANSLATOR.

enlightenment of children. (a) It is better, supposing that the sexual impulse has not yet awakened in a child, that nothing should be done to direct its attention to the sexual life. (b) The enlightenment of children is a very difficult matter, and is, in fact, hardly practicable.

The former of these arguments is not altogether groundless. But in present conditions silence is impossible, and it is better that the child should obtain its information from a pure and trustworthy source. With regard to the alleged difficulty of effecting the sexual enlightenment, recent experience shows that the requisite instruction can be suitably and inconspicuously introduced into the natural history lessons, and adapted to the age and intelligence of the child, without any excessive detail being attempted. The stress has to be laid, not upon enlightenment as to the processes of sexual conjugation, nor upon detailed instruction as to the development of the human embryo, but rather upon a mainly hygienic enlightenment concerning the dangers attendant upon sexual intercourse.

Should the sexual enlightenment of children be the work of the school, or should it be, as many insist, the duty either of the parents or the medical adviser? The co-operation of parents and medical adviser is certainly indispensable, but the principal part in the work of enlightenment belongs to the school. One of the main difficulties in sexual enlightenment by the parents depends upon the fact that the majority of parents lack the requisite ability and the requisite biological knowledge. Of late the schools have actually begun to undertake this work of the sexual enlightenment of children. It is unquestionably the tendency of evolution that the sexual enlightenment of children up to a certain point should be effected in the school.

*Religious and Moral Instruction.*—It remains undecided whether the public elementary school of to-day was of ecclesiastical origin. But it is an unquestionable fact that from the first the Church exercised a great influence upon the public elementary school, and that the Church continues to struggle for the spread of its own ideas through the intermediation of the schools. The influence of the Church secures, not merely that religion shall be taught in the

schools, but, in addition, that in the teaching of other matters, the ecclesiastical spirit shall have free play. This explains the fact that the teaching of natural science has been neglected in the schools, on the ground that it is antagonistic to religion. The alleged necessity of religious teaching is based upon the assertion that by such teaching children are guided in the paths of morality. But as religious instruction as at present administered, it is by no means adapted to produce this effect. To teach children difficult ethical concepts in an abstract form, and to make them commit these abstract formulations to memory, is a mode of ill-usage. We cannot teach a child to be moral by preaching to it a great deal, and by telling it many moral and religious stories and drawing for it many moral and religious conclusions, unless we take pains at the same time to find associations within the child's own circle of interests for the ideas we are endeavouring to impart. It is impossible to induce in a child the habit of moral conduct by purely intellectual demonstrations, in connection with which the child's interest in the processes and situations of the relation is perhaps wilfully mistaken for a desire to imitate the actions that are described. Moreover, in the religions that are taught in the modern public elementary schools, we find reflected the moral conceptions of days long past—conceptions whose interest is now historical merely. These religions deal only with the morals of adult persons—their examples relate only to adults; whereas the sound moral instruction of young people must pay attention above all to the numerous little needs and passions of the child. Religion and morality are two altogether different things. A knowledge of Bible history and of religious dogmas cannot make anyone more moral. There are many countries in which we find that the extent of immorality is directly proportional to the extent to which, in the various areas, a religious spirit prevails. Our general conclusion, therefore, is that the public elementary school should not be founded upon a religious basis, and that it should not undertake to give religious instruction. The standpoint of France, formerly so religious a country, is thoroughly sound. The principle of religious liberty allows

everyone to profess whatever religion he pleases. It is a logical corollary of this principle that the public elementary school, which is open to all, should be neither religious nor anti-religious; that is to say, that it should be a secular, lay, neutral school, and that religious instruction should be left to the parents.

But, in view of these considerations, it is all the more necessary to provide for special moral instruction in the public elementary school. It is not a valid objection to say that ethics are too difficult for children; in this matter everything depends upon how they are taught. Evidently moral teaching will be effective only if the right educational methods are employed, and it cannot be said that this has hitherto been the case to any considerable extent. Moral instruction must not consist in mere repetition of ethical principles, but must be a lesson of a very practical order; it must not be a dry enumeration of duties, but an introduction to the realities of social life, the aim of moral instruction being to teach the pupil sound views of life, and to lead him to regulate all his thoughts and all his activities with reference to their "social reaction." The introduction of ethical problems and moral outlooks into the instruction given in other branches of study is also necessary, and may indeed begin at once, for this offers no difficulties. But it is also absolutely essential that moral questions should receive a comprehensive and connected consideration in a special course of lessons. For more than a quarter of a century moral instruction has been given in the elementary schools of the United States and of France. In France this course of lessons is used, not merely as an instrument in the campaign against clericalism and monarchism, but also, quite wrongly, as a means for the cultivation of jingoism.

*Physical Education.*—The modern public elementary school, in pursuit of mental education, neglects not moral education only, but physical education also, by condemning the child to prolonged physical inactivity. As soon as a child is barely six years of age, it is forced to sit, day by day for many hours, stiff and quiet, on the narrow benches in the class-rooms, although such repression of the childish instinct towards

incessant activity is injurious to the health. The child is overburdened mentally, the school curriculum being overloaded with subjects, and a bad system of instruction being employed. The gymnastic lesson of to-day consists mainly of the comparatively useless exercises of the parade-ground type, and in the country schools even these are neglected. Well-grounded complaints about all these defects are incessantly heard. The results are disastrous. Imbecility and mental hebetude may ensue; there even exist special diseases of school life, such as nervous debility, headache, lateral curvature of the spine, short-sightedness, jaundice, &c. Bad air, dust in the classrooms, interference with free breathing consequent upon long-continued sitting, and catching cold on the way home from school, favour the acquisition of tuberculosis.

Of late satisfactory efforts for the reform of school hygiene have been initiated. On the one hand, the attempt is made to secure that school life should not entail any dangers to the child's health; on the other hand, efforts are made to provide proper treatment for the various disorders that prevail among the children, and especially among the younger ones; the physical energies and adroitness of the children are stimulated by technical instruction, gymnastics, and free movement in the open air. It is recognised that the education of children should take place mainly in the open; that not natural history only, but most other subjects, should be taught in connection with open-air walks and excursions. More and more stress is laid upon the provision of playgrounds, school gardens, and the like. School gardens are already to be found in many towns, where the children can do bodily work in the fresh air—dig, for instance, tend flowers, &c., occupations which have an excellent influence upon their health. Quite recently baths have been provided in many schools, and sometimes even the use of these baths is compulsory. This is especially valuable where the school children are very poor, for in the case of the very poor, as is well known, not much attention is paid to cleanliness in the children's homes.

In every progressive State, school doctors have now been appointed. It is a sound principle that the school doctor should not be engaged in private practice, but that he should

also be physician to the poor-law authority. The institution of the school physician is, however, of value only if a skilled and detailed examination of the individual children is undertaken, and if steps are taken to secure that the medical advice given in individual cases is actually carried out. In many German schools provision is made that sick children without means shall be sent by the school authorities directly to the town physicians for treatment. In some of these schools, school nurses have been appointed, who supervise the carrying out of medical instructions, and, when necessary, accompany the children in their visits to the doctor. The tendency of evolution is that necessary treatment should be carried out by the school doctor. For some years past, in many towns in Germany, dental clinics have been instituted in connection with the schools. They are necessary in view of the fact that a very large proportion of children attending the public elementary schools have diseased teeth; those whose parents are poor would otherwise receive no dental treatment, and the proper treatment of these disorders of the teeth constitutes an important adjuvant in the campaign against the infectious diseases and in the prevention of tuberculosis. Very recently the question has been discussed whether tubercular children ought not to be excluded from the schools.

Among more recent movements tending towards the destruction of the hegemony of the towns, we find an attempt to remove the schools from the towns, and to give them the form of boarding-schools, with an attempt to provide a sort of family life, much stress being laid upon the physical education of the children. Such schools are to be found in England and in the United States of America and here and there in Germany. They are more costly than the others, and the attempt to reproduce in them a kind of family life is apt to be a failure. For children suffering from physical debility they are extremely useful, and they offer a valuable field of experiment for teachers who wish to apply exceptional educational ideas. Of late, also, the attempt has been made to utilise the school in the campaign against tuberculosis, alcoholism, and the venereal diseases. It is declared to be absolutely necessary that the children should receive far more hygienic instruction

than has hitherto been customary—of course, merely as an adjunct to the other branches of education.

*Manual Training.*—Loud complaints are heard to the effect that the elementary school fails to secure a general and harmonious development of the bodily and mental capacities of the child—that it merely crams the child with certain information, without endeavouring to secure that it shall acquire knowledge by its own experience. It is recognised that that knowledge only is permanent and possesses serious moral influence which constitutes an indispensable constituent of general culture; and it is understood that the recognised defects of our school children cannot be avoided unless we include as a part of the school curriculum a sufficiency of manual training. At first sight it may seem quite impossible for the educationalist, by training the child to perform certain suitable bodily movements, constituting the elements of some particular handicraft, to influence that child's mental or moral development; it seems impossible, that is to say, that to teach the child a handicraft can subserve a profoundly important educational end.

The impulse to physical activity is deep-seated in human nature, and is irresistible. It is present in every healthy child. It is an aim of education to cultivate the proper manifestations of this impulse; otherwise it is very apt to take the form of some bad habit, of passionate outbursts, or of destructiveness. In earliest childhood the impulse to activity finds complete satisfaction in the games of which young children are so fond. The irregular and mutable activity of games must gradually, and without obvious compulsion, be transformed into a regular and orderly activity. (Many physicians insist that children should not begin to learn to read and write until they are nine or ten years old, and that below this age their only instruction should be manual. The reason they give for this demand is that it is during the first seven years of life that the human brain grows most rapidly, that this organ should receive very gentle treatment during this period of life, and that all risk of its overstrain by one-sided stimulation of the intelligence must be carefully avoided.)

Manual work invariably represents an attempt to gain



some particular end. Every such end is made up of various components; we see this composite character most clearly when the aim of the work is to achieve some definite physical result, such as the putting together of some complex body made up of numerous parts. Such work as this, children usually undertake with pleasure. Since the final aim and the constituent aims are all obvious, the child sees at once that it is continually approaching more nearly to the attainment of the ultimate aim, and notes with delight the progressive steps achieved towards this end. (Self-esteem is essentially nothing more than the consciousness on the part of the individual of his capacity for producing some tangible result.) Manual work is interesting even to the naughtiest and most impatient of children. It arouses and increases will power and desire for work; satisfies the impulse to activity; forces the child to think independently, to use its perceptive faculties, to be practical. It is for this reason that manual work plays so great a part in the education of intellectually backward and neglected children. Manual training gives the child opportunity for productive work, and thus prepares it for its subsequent life. Manual training develops in the child precisely those faculties which it will most need in later life, namely, conscientiousness, precision, pleasure in its work, enterprise. It develops the hand and the eye, the two most important organs of the human body, to a fuller degree than can be effected by writing, drawing, or gymnastics; and in this way it provides the child with something which will be found valuable whatever trade or profession may ultimately be adopted. It thus gives the child the necessary preparatory training for every subsequent occupation. The idea that the growth of machine industry has rendered manual training superfluous is utterly erroneous. Manual training is good for the health and the physical strength of the child. At the period of the puberal development, manual training is of especial importance to children. It has a quieting influence upon the brain and the senses, and distracts the child from morbid and sensual impulses. Through bringing into play the physiological influence of fatigue, it hinders and delays the awakening of the sexual impulse, and

does nothing to direct the child's attention towards the sexual life.

To-day much stress is laid upon training the perceptive faculties by means of object-lessons. Manual training affords the best training of the perceptive faculties, being even more valuable in this respect than the actual object-lesson. We learn to know an object fully not merely by looking at it, not even, in addition, by handling it, smelling it, tasting it, and listening to it. If we wish to know an object through and through, we must work upon it.

The child is always glad to engage in physical work. Both child and teacher soon learn to recognise for what the child has inclination and talent. The child will then choose for its life's occupation that which it has already learned to understand, and which best corresponds to its own inclinations. In this way the mistakes, which are so common to-day, in the choice of an occupation will be avoided, and the almost morbid desire of children for a clerical or professional career will be mitigated. Opportunity is given for the recognition and cultivation of any special artistic faculty the child may possess. The aim of education, namely, to awaken and cultivate the child's natural capacities and inclinations, can only be attained when the teacher recognises their existence, and is able to form a correct picture of the child's mental life. But the teacher will not be able to do this unless he sees his pupil engaged in physical work as well as in mental. If at school young people are exclusively occupied in mental work, they acquire an antipathy to physical work. Manual training, on the other hand, teaches children to esteem physical labour and the proletariat. Any one who has received a thorough manual training necessarily possesses mechanical knowledge and skill. Since such knowledge and skill are the first requisites of so many skilled handicrafts, one who possesses them is unlikely to become an unskilled labourer.

Whereas in former times various kinds of productive work formed part of the economy of domestic life, so that the child had opportunities for seeing and learning such occupations in its own home, to-day we find that not even

children's toys are made at home, but are bought ready-made. Manual training is also advocated, on the ground that it is necessary to ensure that there shall be an adequate supply of skilled manual workers. This, we are told, may contribute to keep alive the lesser industries which tend to disappear before the great manufacturing industry. But the replacement of handwork by the work of machines is a tendency of evolution which no one has the power to arrest. It is not truly the aim of manual instruction to produce skilled adult manual workers; we advocate it simply as a means of education which has nothing whatever to do with technical education.

Manual training must be carefully adapted to the child's age, and in the case of very little children must take the form rather of a game. Its character may be very various: the preparation of drawings and models, experimentation with tools, the construction of tools or other useful objects out of wood, clay, dough, iron, &c., garden work, and the like.

Although the results of manual training are so remarkably good, it is only quite recently that it has been utilised as a means of education. The explanation perhaps is that manual work being all done by slaves, serfs, body-servants, and wage-labourers, was despised by the upper classes, and for this reason its great educational value was so long overlooked. Ethical and educative influences are so completely lacking to wage-labour, that the child should not be occupied in wage-labour, but only in manual work of an educative influence and tendency. Instruction in productive work, involving an explanation of the fundamental methods of the production of commodities and habituation to the use of the simpler tools must form a part of education. The attempt to extend manual training expresses the general tendency of evolution. The elementary schools of most civilised countries show that manual training can be readily introduced into the elementary school curriculum. Indeed, in the public elementary schools of many countries, manual training is now compulsory, especially as regards instruction in feminine manual occupations. But manual training cannot

be developed to the fullest extent, nor can this method be expected to furnish the best possible results, until capitalist production for profit has been replaced by social production for use.

*Preparatory Schools.*—What we said about crèches applies, though with some differences, to preparatory schools. Children go to the modern elementary school at a comparatively early age, and are subjected to the discipline of school without any preparatory initiation. Institutions whose aim it is to prepare children for the life of the public elementary schools are known as preparatory schools. The idea that before the age of school-attendance the child should be methodically employed for some hours daily, that the occupation should be physical, and that the work should be so arranged as to appear to the child as a kind of play, is not a new one. Alike on educational and on social grounds it is certainly desirable that the period of public education should begin earlier than the present age of compulsory school-attendance. Such is indeed the tendency of evolution, and in Hungary we have already advanced far in this direction.

*Supervised Playgrounds for Children (Kinderhorte).*—With the growth of capitalism there have come into existence (though somewhat later than the preparatory schools) supervised playgrounds for children (*Kinderhorte*) to provide care and training out of school hours for the school children whose parents work away from home. These institutions may be associated with the schools, or may exist independently; there may be separate playgrounds for boys and for girls, or the two sexes may play together. In the United States of America there exist "Children's Clubs" for school-children, which differ from preparatory schools, inasmuch as their main purpose is to provide entertainment.

*Increasing Importance of the Public Elementary School.*—The family circle in which the proletarian child lives tends, as a rule, to counteract the beneficial effects of school life. Nor are the other elements in the environment of the proletarian child such as tend to exercise a good educational influence. For this reason quite recently the question has been mooted how the school may best counteract the evil influences of the

family and the environment. As time goes on the public elementary school becomes ever more important, its circle of duties becomes more comprehensive, and it undertakes many elements of education which formerly appertained to the parental home and the environment. The public elementary school and the associated institutions begin to exercise functions outside the domain of education in the narrower sense, and to absorb some of those formerly exercised by the poor-law authorities, inasmuch as the schools are coming to satisfy other needs of the proletarian child in addition to the need for education. Consider, for example, the association with the public elementary school of preparatory schools, supervised playgrounds, baths, gardens, workshops, savings-banks, &c.

*Feeding of School Children.*—The children of the lower classes are to-day quite unable to pay for their schooling. If every pupil had to pay school fees, a strict enforcement of compulsory school attendance would involve gross injustice to the poorer classes. If the State makes school attendance compulsory, the State must make it possible for every child to attend school. Many children fail to attend school because they lack proper clothing, and especially boots and shoes. Is it not the duty of the education authorities to provide for poor children of school age the clothing they need to make it possible for them to attend school? This is not as yet recognised as a public duty, but we see an unmistakable movement in its direction. In most countries public elementary education is already free, in some cases for all the children, in others only for the poorest; school materials and books are as yet supplied gratuitously only in France, Switzerland, and the United States of America.

Is it a part of the work of the public elementary school to provide food for the pupils? (Should it provide a dwelling? Even those whose demands are most extensive ask merely that the elementary schools should provide a home for the child during the day time, on the one hand during school hours, on the other during the intervals.) The question of the feeding of school children was first mooted by the teachers about thirty years ago. It was evident that a smaller

or larger proportion of the children attending urban schools (in wealthier towns from 3 to 10 per cent., in the suburbs of large towns even as many as 90 per cent.) were unable to derive adequate benefit from their teaching because they were underfed. The proletarian mother lacks sufficient time to prepare food for her children, especially the midday meal. Few workmen earn enough to provide a dietary in conformity with hygienic demands. The school is often far from the home, and the children have neither time nor desire to return home to dinner. The need is especially striking during the winter months, inasmuch as at this time there is more unemployment, whilst it is precisely at this season of the year that hot meals are most necessary. Moreover, whilst it is simply cruel to force half-fed children to learn, they hinder the progress of the others. It is objected that the feeding of school children conflicts with the principle of parental responsibility, and that it impairs the intimacy of family life, which demands, as all will admit, that the members of the family shall meet one another at least at meals. Our aim, we are told, should therefore be to do away with the poverty which is the cause of so many children coming to school underfed. But school feeding may be so arranged that the parents are charged for the meals at cost. Moreover, it is proposed to supply only breakfast and dinner—meals which many proletarian parents are in any case unable to take at home.

School feeding can be combined with instruction for the girls in cooking and domestic economy. The meals may be given in the school, which is the best plan, or in special institutions. The feeding of school children must be kept entirely in the hands of the education authorities; it has nothing to do with the poor-law, and it is absolutely necessary that it should be kept completely distinct from poor-law administration. (Who is to determine the children's need—the poor-law authorities or the school? The latter, in my opinion; but this cannot always be done off-hand—in doubtful cases a house-to-house visitation will be necessary.)

Quite recently it has been claimed that the feeding of children in the public elementary schools should be entirely gratuitous—that is to say, that food should be provided for

well-to-do as well as for necessitous children. This claim is supported by the following arguments: (a) It is a logical consequence of universal free education; (b) if school meals are provided for necessitous children only, as if in relief of destitution, then, however tactfully this may be done, parents and children alike feel ashamed and suffer from a loss of self-respect. The following objections are made to these views: (a) Feeding satisfies a natural need, education a need peculiar to civilised man; (b) it is possible to provide a suitable diet in the family circle, but not to provide there a satisfactory education; (c) provided the feeding of the children is general, no one need be ashamed, if those parents able to pay have to pay, whilst the others are fed gratuitously. But these objections are not worth further consideration.

There is not as yet any uniform and generally accepted system for the feeding of school children; we find such feeding only in isolated schools, and meals are provided for necessitous children only. The actual results of the institution have been admirable. In England, a law providing for the feeding of school children was passed in the year 1906. But this did not introduce a general national system of school feeding; the law was permissive merely, empowering the poor-law authorities and education authorities to organise private benevolence for this purpose, and, in the event of this latter proving insufficient, allowing a limited expenditure of public funds. The tendency of evolution is unquestionably in the direction of the introduction of gratuitous and general school feeding. But in the future, when the upbringing of children will be altogether better than it is to-day, this institution will be unknown,

*Care of Young Persons after they leave School.*—The necessity and importance of supervising young persons after they leave school are obvious from the fact that the period of the puberal development, the period immediately after leaving the public elementary school, and after passing from the family life to a life of freedom, is the most dangerous of all periods in the life of children of the poorer classes. The means to be employed for this purpose are the following:—

(a) The institution of special homes for young persons,

where those with no regular homes of their own can board and lodge. Connected with these it is well that there should be employment bureaux and lists of recommended dwellings.

(b) The institution of places for the occupation and amusement of apprentices and young workpeople of both sexes during their hours of freedom.

(c) The arrangement of occupation for Sundays, amusing as well as instructive.

(d) The organisation of the young. There are associations for young people connected with the various religious bodies, also political associations, and others without either religious or political tendency; in addition, there are apprentices' clubs. Within the ranks of the socialists we find two opposing tendencies. Some wish to found special socialist organisations for young people; others contend that better work can be done within the limits of existing organisations. The attempt is made to associate these movements with the continuation schools; that is, an attempt is made to secure that every large continuation school should have attached to it a young persons' home or institute.

(e) Advice as to the choice of a profession, in newspapers, pamphlets, and books.

(f) The conduct of a campaign against harmful books and pictures. This campaign has of late years aroused interest and obtained support in wide circles. Of especial importance is the campaign against filthy and obscene literature, for such literature has of late years gained an extraordinarily wide diffusion, and effects the deliberate corruption of children. It stimulates their imagination unnaturally and leads it into false paths; it destroys their sense of truth and reality. The children's taste is perverted; they no longer find pleasure in good literature, become inattentive in class, and out of school hours rough and brutal. In so far as children buy obscene books and pictures they waste their money. The most important measures in the conduct of this campaign are: 1. Criminal prosecutions; 2. The diffusion of really good books for young people; 3. The enlightenment of children and their parents concerning the worthless and injurious character of the bad literature; 4. The reasonable



regulation of the pupils' activity out of schools hours, whereby the youthful impulse to adventure may be directed in the right channels.

(g) The most important of all means of caring for young persons after they leave school, and one which supports and reinforces all the others we have enumerated, is the continuation school. 1. Owing to the defective character of public elementary education, it is necessary that it should be supplemented by continuing the child's education when it has passed the age of obligatory school attendance. 2. Before the child enters a free life, what it has learned at school, much of which will already have been forgotten, requires to be retaught; and this is all the more necessary in view of the fact that at the elementary school, where the child was still very young and lacked the faculty of full comprehension of many ideas, it could not receive true instruction and enlightenment. 3. The period of the passage from the family life and from the elementary school into a life of freedom must not come too early, and requires to be a period of transition, or the child is very apt to fall into poverty or crime. 4. Since apprenticeship is tending to pass away, it is necessary that children should be taught the elements of a handicraft at school. Wage-earning women have, as a rule, had neither apprenticeship nor technical training, so that they become unskilled workers, and receive even smaller wages than unskilled male labourers. 5. The training of working-class girls in domestic economy is extremely defective. Since these girls have to work for wages while still very young, they have neither time nor desire, nor even opportunity, to study cooking and housekeeping; in a working-class family possibilities for the study of domestic economy are of necessity extremely limited, because so much of what is bought is already prepared, and what is done at home is of an extremely simple character. The working-class mother, engaged throughout the day in arduous wage-labour, has neither time nor capacity for the instruction of her daughter, so that the girl becomes habituated to idleness. A special training both for wage-labour and for domestic economy is requisite for girls, and especially for those of the proletariat.

All these arguments combine to reinforce the need for the institution of continuation schools. It is not the aim of these schools to prepare their pupils for work in special branches of industry, but their spirit is a much more practical one than that of the elementary schools. Almost without exception, they are purely secular, and give no religious instruction. They must lay great emphasis upon the need that the children should be habituated to care regularly for their bodies and their health. In addition to the general continuation schools, there exist industrial continuation schools or schools of apprenticeship. The former are mostly in the hands of the education authorities, whilst the latter are controlled by the boards supervising commerce and industry (*Gewerbebehörden*). In agricultural districts, schools of this latter order take the form of schools of agriculture.

The advocates of the emancipation of women demand the institution of continuation schools for girls in especial. Such schools must naturally give the first place to the teaching of domestic economy; but many consider that they should also give instruction in the main principles of education, and especially regarding the care of infants. (Special schools of domestic economy and of cooking already, of course, exist.) Many demand that these subjects should receive special attention in the public elementary schools; but it should suffice here if in the teaching of other subjects the bearing of these upon domestic economy and the conduct of life is explained, in so far as this comports with the main object of the course of instruction. Objections have been raised by many to the effect that the girls are too young to be taught domestic economy to any good purpose. But experience teaches the contrary. The results of teaching domestic economy have been so satisfactory that it is proposed to make it an essential part of the curriculum.

Continuation schools are not regarded with universal favour. In fact, their existence offers a certain hindrance to the exploitation of the working powers of the young, and this is disagreeable, not only to factory owners and manual workers, but for the time being is distasteful to many proletarian parents. These schools turn out workers who can

compete successfully with the older generation of unskilled labourers. In spite of these objections, continuation schools become ever more important and more widely diffused, tending more and more to become an invariable supplement to the public elementary school. Of late years, in many countries, attendance at continuation schools has been made compulsory, especially attendance at schools of apprenticeship in the case of children who fail to attend the middle schools. To make attendance at a continuation school obligatory is an unmistakable tendency of evolution.

*The Tendency of Evolution.*—The public elementary school becomes continually more uniform in character; it tends, that is to say, to become the common school for all children of a certain age, irrespective of the wealth or position of their parents, and to lay the foundation upon which will build all middle and higher educational institutions. Schools of this character are already to be found in Denmark and in the United States of America. The public elementary school need not necessarily give religious instruction. Since the schools administered by the religious organisations are of comparatively little value, it is necessary that the public elementary school should be open to all children, irrespective of their creed. A further step in development is for the public elementary school to abandon its inappropriate efforts to give religious instruction.

Private schools are only for the children of the well-to-do. In the majority of *Gemeindeschulen* a conservative and narrowly orthodox religious spirit prevails. A proportion of the local authorities are unwilling or unable to make the material sacrifices requisite for the proper carrying on of the elementary schools, and for this reason these schools vary greatly in efficiency. To prove this, it suffices, in various countries, to compare the State schools with the *Gemeindeschulen*, and the town schools with the village schools.

It is absolutely essential that it should be established on principle that every child, not excepting the children of the well-to-do, must attend a public elementary school, and that neither attendance at a private school nor private domestic instruction can be accepted in lieu of such attendance—if

only for the reason that not until this obligation is universally enforced will the richer classes acquire a genuine interest in the public elementary schools. To this it is objected that the elementary schools are already overcrowded, that their hygienic conditions are unsatisfactory, and that the society of the poorer children would not be good for the richer ones. But if all this is true, the only reasonable conclusion we can draw is, that it is time that these defects in the public elementary school were abolished. If, for the reasons given, the elementary school is unsuitable for the children of the well-to-do, it is no less unsuitable for the children of the poor. For the rest, each child is influenced by all the others. The rich child may learn much that is beautiful and good from the poor one, the latter often learns much that is evil and hateful from the former. The children of the well-to-do must learn in their earliest youth to know the people, for it is their mission to lead and they must accustom themselves to intercourse with the people.

The national system for elementary education must be extended so as to become as comprehensive and as actual as possible. The tendency of evolution is towards the institution of a public elementary school truly general, truly national, secular, and uniform in character. Such a school is the school of the future.

## C.—DEPARTMENT OF CRIMINAL LAW

### CHAPTER I

#### CRIMINALITY IN YOUTH

*Introductory.*—The foundations of the classical criminal law have been shattered. New ideas begin to prevail, new institutions appear and develop. The old criminal law will soon altogether disappear. In harmony with the general tendency of evolution, whereby our whole legal system tends to become an affair of local administration, criminal law tends to be transformed even more rapidly than other branches of law into a department of local administrative activity. We are to-day in the period of transition, in which this transformation is being effected. The aim of medical science is not merely to cure individual cases of disease, but to prevent the origination, recurrence, and diffusion of disease. Criminal law has similar aims, its highest aim of all being, not to punish, but to prevent crime. It regards as of primary importance, not individual liberty, but the interest of society, and it considers, not the crime, but the criminal. The transformation that is going on is further advanced in some portions of criminal law than it is in others. The most advanced portion of all is the one which concerns youthful criminals.

*The Causes of Criminality in Youth.*—The three causes of criminal offences are: (a) inherited predisposition; (b) bad educational influences; (c) poverty. (The climatic and physiological causes of criminality are of little importance, and are, essentially, social causes.)

(a) According to the theory of the "born criminal,"<sup>1</sup> most youthful criminals are born criminals. The view is correct

<sup>1</sup> This theory of the "born criminal" is associated chiefly with the name of Lombroso. See my translation of Kurella's memoir, "Lombroso, his Life and Work," London, 1911. Rebman.—TRANSLATOR'S NOTE.

to this extent only, in so far as a certain proportion—by no means a large one—of youthful criminals are born criminals; but many youthful criminals, although they have come into the world physically, mentally and morally degenerate, are not for this reason necessarily to be regarded as born criminals. To-day more degenerate individuals are born than formerly. It is more probable that the children of persons suffering from syphilis, tuberculosis, and alcoholism, and the children of prostitutes and criminals, will become criminals, than the children of sound individuals. We find, in fact, that a notably large proportion of all criminals are the offspring of persons of the former classes.

(*b and c*) The children of the proletariat tend to be much rougher, and are much more inclined to become criminals than the children of the well-to-do. Among young proletarians, we find more criminals than among adults. The towns are the true breeding-grounds of youthful criminals. To-day vagrant children in the streets are as constant a feature of town life as the street-lamps. The conditions of proletarian life make the proper upbringing of children impossible at the best of times. All the more is it impossible when the conditions are bad, as when crime, prostitution, and alcoholism prevail in the family circle. The principal cause of youthful criminality is to be found in the very character of proletarian family life, which makes education impossible, and often forces the child into a career of crime. It is well known that a considerable proportion of proletarian children receive no schooling at all—that is, they grow up unable to read and write, and a large number of criminals and prostitutes are made up of such illiterates. A notable proportion of youthful criminals are recruited from the class of wage-earning children, and these latter are almost all proletarians, and most of them have been forced to adopt wage-labour in very early youth. A foul dwelling-place contaminates the mind as well as the body; an enormous preponderance of proletarian children live in such contaminating surroundings. A principal cause of youthful criminality is to be found in the direct influence of poverty, *i.e.* poverty operating otherwise than through the education and environment. However well educated a child

may have been, it must steal when starving and freezing. Poverty forces children to adopt a course of action which may enable them to satisfy their immediate and most pressing needs. About half of the girls who go wrong become prostitutes; about half of the boys in similar case become thieves.

The study of the child-psyche throws light upon the age at which children are especially liable to commit punishable offences, and upon the character of these. The character of the punishable offences committed by children is a natural consequence of the child-nature, whose especial characteristics are impulsiveness and acquisitiveness. It is chiefly on this account that among the punishable offences committed by children, theft is the most frequent, and next to this comes bodily injury. Punishable offences requiring strength, adroitness, or deliberation can hardly be undertaken by children. Sexual offences are committed by those children only in whom the sexual life is already awakening. Grievous bodily harm is effected only by those whose bodily strength is fully developed. Complicated criminal offences can be undertaken by children only when they possess special experience and training. Younger children commit fewer punishable offences than older ones, and different offences, their capacity being less, and their opportunities more limited. The suggestive influence of the adult criminal is very great; he exploits the youthful criminal, and by threats and chastisement forces him into criminal courses. During the nineteenth century, the number of criminals, of recidivists, of punishable offences, and the gravity of these latter, has increased to a greater extent than the population. The number of offences against public order, and of crimes against the person, has indeed diminished, but the number of crimes against property, and of offences against morality, has disproportionately increased. The number of the most serious crimes is smaller, but the number of relapses into crime has greatly increased.

During the nineteenth century, the number of juvenile criminals has also increased. The glitter of the industrial development of the nineteenth century has to be paid for in large part by the gigantic increase in juvenile criminality. In all the civilised countries of Europe, with the exception of

England, there has been an extraordinary increase in the number of youthful criminals, and in the number of punishable offences committed by them, this increase being greater than the increase in the number of criminals and of criminal offences in general. In the case of juvenile criminals, there has also been an increase in the number of habitual offenders, as well as in the gravity of the punishable offences. Perhaps the most important difference between the older criminality and the newer, is that to-day the juvenile criminal and the habitual offender are more in evidence. Unquestionably these two phenomena are closely associated, for the great majority of professional criminals are persons whose first criminal offence was committed during childhood or youth. At the present day, in all the civilised countries of Europe, about 25 per cent. of all punishable offences are committed by young persons.

The following are some of the causes of the increase in juvenile criminality. The character of many of the offences customary in former days—for instance, robbery in the streets and highways by footpads and highwaymen—was such as to render it impossible for children to undertake them. Great towns, in whose streets and suburbs children could wander about, and in which it is comparatively easy for them to commit punishable offences, did not exist. Moreover, children begin to work for a living at an earlier age than in former times. The application of draconian laws, under which even little children suffered corporal and capital punishment, exercised a deterrent influence. Since the end of the eighteenth century punishments have become much milder. A large proportion of criminal offences are to-day more lucrative, easier to carry out, and less risky than in former times. Youthful criminality is probably far more extensive than the official records show, for these latter take no account of petty offences. Many punishable offences never become known outside the limits of the family. In view of the offenders' youth, reports are often suppressed.

*The Classical Criminal Law.*—It is characteristic of the classical criminal law that criminal offences committed by children were either left unpunished, or, if punished, were punished



less severely than the offences of adults. In the classical criminal law several age-classes were distinguished among juvenile criminals. (a) Children too young to understand that an offence is punishable, and for this reason liable neither to prosecution nor to punishment. In existing legislative systems, the age at which criminal responsibility is supposed to begin varies greatly; it may be as low as seven, and as high as fifteen years. (b) The second class consists of those children of an age at which criminal responsibility is supposed to have begun. If such a child commits a punishable offence, it is examined as to whether it possesses the necessary understanding of the punishable nature of the offence. If it is considered not to possess this understanding, no punishment is inflicted. The punishment is, in any case, less severe than that which would be inflicted upon an adult. To this class belong children at ages from seven to eighteen years. (c) The third age-class consists of offenders over eighteen years of age, who are regarded as necessarily possessed of an understanding of the punishable character of their offence, but in whom also the punishment is less severe than it would be if they were of full age.

*Gradual Transformation of the Classical Criminal Law.*—In the nineteenth century the provisions of the classical criminal law no longer meet the case of juvenile criminality. Their inefficiency is demonstrated by the enormous proportion of recidivists among juvenile offenders. The number of recidivists continually increases, and criminality tends more and more to be the work of habitual offenders. Indeed, the criminal, in most cases, continues to repeat the very offence for which he was first punished. This is especially true of offences against property. The oftener anyone has been punished, the greater is the probability that he will commit another offence, and the sooner is this likely to take place. In reality the frequency of recidivism is even greater than appears from the official statistics. These relate to those persons only who are regarded as recidivists by the existing laws. They take no account of how many individuals leave the country after their first conviction for a criminal offence.

An examination of these facts, and the study of the child-

mind, have led to the conclusion that criminality in youth is the main source of the general stream of criminality, and that we cannot depend upon our present methods of dealing with crime and criminals to dry up this source. Hence even the dogmatists are coming more and more to admit the failures of the classical criminal law, and to recommend that mere punitive methods should give place to the educative treatment of criminal offenders, punishment being used, if at all, only as an educative influence. Even in those countries which lag behind the rest in development, this conception begins to influence legislation. This conviction that youthful offenders require not punishment, but education, was acquired by mankind many decades before it was generally realised that it is equally true of adult criminals—that they should not be punished, but improved, or, if unimprovable, rendered harmless. It is understood that those punishments only can be justified which exercise a lasting educative influence, by removing the child from its former environment into a better and healthier one. It is recognised that the difference between punishment and education is not absolute, but relative merely, inasmuch as education cannot dispense entirely with punitive methods, and punishment, properly utilised, exercises an educative influence. It is also now understood that by the proper legal treatment of youthful criminal offenders, many thousands of children can be saved every year from the permanent adoption of a career of crime, and their working powers thus preserved for the community. This was seen first of all, where it more especially applies, in the case of manufacturing towns. For the reformation of criminal and neglected youth by educational methods, the first steps were taken, and taken most effectively, by the country in which the modern manufacturing system first made its appearance—England, to wit. At the present day it is the great manufacturing countries, England, Belgium, France, and the United States of America, in which most is done in this regard.

*Special Legislation Dealing with Youthful Criminals.*—It is to that portion of the newer criminal law which concerns youthful criminals that the dogmatists object most strongly. They complain that it endangers very seriously personal liberty

and parental authority. There are many who argue to-day against coercive reformatory education, on the ground that personal freedom and parental authority should be inviolable. We even find some who attack modern ideas from the standpoint of various legal theories. Such persons tell us that coercive reformatory education interferes more than punishment with the child's individual liberty, and that it absolutely ignores parental authority. The criminal authorities have absolutely no right, in their view, to supervise a child's education, but merely to punish it or to set it at liberty. But this portion of modern criminal jurisprudence does not aim merely at the suppression of juvenile criminality. It is likewise an experimental laboratory, as it were, for the testing of new institutions, the success or failure of which is eagerly awaited by criminal jurists. If any institution thus tested proves successful, its application is immediately extended to other portions of the criminal law. In the United States of America, for example, the method which has been found successful in the case of juvenile offenders is now being applied in the case also of young adult criminals.

*Proposals Bearing on the Question of Criminal Responsibility at Different Ages.*—(a) A radical proposal for reform is that the distinction between juvenile and adult criminals should be abolished, and that, instead, criminals should be classified simply as educable or non-educable. This proposal is impracticable. In consequence of the application of the principles of individualisation and classification, the distinctions between the various age-classes of criminals become, indeed, of less and less importance. There may even be a little truth in the assertion that in a large country, owing to racial and climatic differences, no uniform classification of offenders according to ages can be adopted. And yet the definition of age-limits in the case of criminal offenders is indispensable. In a few cases such distinction may render the appropriate treatment of offenders more difficult, but in the great majority of instances they facilitate the work of judges and magistrates, and afford a means of individualisation.

(b) Liability to punishment is almost universally regarded as beginning, at the earliest, at the age of fourteen. This is

the period of the commencement of the puberal development, of the cessation of school attendance, when the child passes from the life of the family and the school to a life in the open, and becomes competent to work for a living.

(c) Many writers demand that the period of nonage, as far as criminal responsibility is concerned, should be extended. They do so on these grounds. The physical development of the individual is not completed till the age of twenty-three or thereabouts. It is inconsistent that one who is still a minor from the point of view of civil law should be regarded as of full age from the point of view of criminal law. Civil law is an affair merely for the owning and well-to-do classes; criminal law arises mainly in consequence of poverty. Hence we may say that in general civil law is created for the former class, and criminal law for the latter. There is certainly at any rate an appearance of class-justice in the assertion that those belonging to the poorer classes at eighteen are mature enough to be sent to jail, whilst those belonging to the well-to-do classes are incompetent to make a binding legal engagement to pay half-a-sovereign until they are twenty-one or twenty-four years of age. But the proposal is impracticable. Its adoption would undoubtedly involve grave dangers to public order, since the age-class of persons from eighteen to twenty-one is characterised by a high and a serious criminality-rate. The result of educative measures in the case of young criminals of such an age is not a very great one, for the formation of the character is by this time far advanced. To extend the age for a coercive reformatory education to include the last years of civil minority would be devoid of any justification upon accepted legal principles. There is no reason why the period of criminal nonage should coincide with the civil. In the first place, a much higher degree of intellectual capacity is requisite to the understanding of a transaction in civil law than to the understanding of the punishable character of an offence. In the second place, a punishable offence is also an offence against public order, but matters of civil law usually concern individuals only. In the third place, as regards the capacity also for infringements of the civil law, narrower limits are imposed than in the case of the capacity to enter into a bargain.

*The Defects of our Present Penal Methods.*—The punishments imposed by our present penal system are quite unmeaning. Not only do they exercise no educative influence, but they even hinder education. In the case of children they are not deterrent, first, because children act on impulse, and, secondly, because they have no accurate conception of the nature of these punishments. To many children imprisonment seems the same sort of thing as being “kept in” at school, and they quite fail to recognise its seriousness. Punishment by fine is supposed to make the offender suffer in proportion to the suffering he has inflicted by his offence. But how can the judge or magistrate, above all where children are concerned, accurately estimate the fine necessary to achieve this result? The difficulties of rightly apportioning the punishment are equally formidable in the matter of imprisonment as in the matter of fine.

(a) In the punishment of juvenile offenders, in modern times, the fine is really altogether inapplicable. Ninety per cent. of juvenile offenders are altogether without means. What does a fine matter to one for whom it is paid by another? Young people, as a rule, do not yet understand the value of money. If the offender is a person of property, then he has no occasion to dread a fine; or even if the fine were proportionate to his means, the juvenile offender would not understand its significance until after he had attained his majority. But we cannot depend upon the efficacy of a punishment which does not become effective as punishment until after the lapse of years. If the juvenile offender has to pay the fine out of his wages, he loses all desire for work. The majority of youthful offenders belong to the poorer classes, and are not in a position to pay the fine themselves. The parents will give their child a lecture if they have to pay the fine, but this will by no means attain the object of the punishment. Moreover, if the relatives pay the fine, they are unjustly punished, and may revenge themselves on the child.

(b) Punishment by imprisonment costs the State millions of money every year, and yet does no good. It is not possible, everywhere and always, to separate the young prisoners

from the adults, although it is absolutely essential that this should be done. A society, such as that of the prison, in which the worst are the most respected, and in which the innocent are despised and corrupted, is not suitable for young persons. If the juvenile offender is kept in isolation, his mental health will suffer; moreover, his loneliness impels him to seek the society of the other prisoners, and the greatest possible care will not succeed in preventing such association. It is maintained by some that imprisonment exercises a deterrent influence upon children, and that a coercive reformatory education does not. But the reverse of this is true. Not even the longest term of imprisonment which can be inflicted for juvenile crime will be found to exercise a deterrent influence; and it is the custom of the courts, in the case of juvenile offenders, to inflict, not the maximum, but the minimum sentence permissible by the law. The child is not afraid of the prison, because it is better treated there than outside; in prison it receives shelter, food, clothing, and warmth without having to pay anything, without having to work hard, and without being ill-treated. But the child is afraid of a coercive reformatory education: in prison the child is apathetic, its life being meaningless and without aim; but the working discipline associated with a coercive reformatory education is regarded by the child as a much more serious matter, being new and strange, needing continuous attention, constant diligence, and hard work. For many proletarian parents, to commit their child to prison is an alleviation; the parents then have one trouble the less, and the family income goes a little farther. Imprisonment brands a child. When it has served its time, employment is often extremely hard to obtain, for most employers very naturally dread that such a child will commit another criminal offence while in their employ. The child, finding it impossible to earn an honest living, is forced into the paths of habitual crime. Young people, much more readily than adults, accustom themselves to new conditions of life. In view of this fact, there is great danger that the youthful offender will become altogether indifferent to imprisonment; that the punishment will induce a con-

dition of immunity to its effects. A child which has been once in prison is likely to become a recidivist, if only for the reason that it will now have lost the dread of prison which it had in the days before its first offence was committed. We learn from statistics that the majority of youthful offenders are sentenced to short terms of imprisonment. They regard these with the greatest indifference, and are not in the least afraid of them. Such short terms of imprisonment do not protect society; and the possibility of their exercising any educative influence is excluded by the fact that since the term of imprisonment is short, and the cost of transport considerable, the child will be confined in the nearest prison, instead of being sent to some special and suitable place of confinement. Many children are even pleased at being sent to prison, regarding their sentence as a desirable interlude in school work. This difficulty is not met by postponing the term of imprisonment to the holiday season. The child leaves prison to return to school. If it is despised by its schoolmates, it sinks lower; if it is regarded as a hero, the effect is no less corrupting.

Imprisonment for a child must take no other form than that of education under strict discipline. If a short term of imprisonment is ordered, solitary confinement is essential. If a child must be sent to prison, the use of the common prison is inadmissible, and a children's wing in a general prison is hardly better; a special prison for children is essential, if only for the reason that, unless we have a comparatively large number of young persons assembled together, it is more difficult to arrange for the proper distribution of occupations (manual work of various kinds).

From these considerations we may draw the following conclusions: Society stands quietly by, waiting until juvenile criminals grow up and begin to commit serious offences. Our prisons are the true high schools of criminality. The present prison system is the most effective factor in the production of crime; to such an extent is this true, that if we discharge a juvenile offender with a caution, there is less likelihood that he will commit another criminal offence than if we had sent him to prison. The accuracy of these views is now more and

more widely recognised; and in the case of juvenile offenders, imprisonment, formerly the rule, is now quite exceptional.

*The Question of the Capacity for Understanding the Punishable Character of Criminal Offences.*—The notion of the capacity for understanding the punishable character of criminal offences is unworkable in practice. It considers the intellectual element only, whereas in children we have to distinguish between intellectual maturity and moral. Intellectual maturity is commonly attained earlier than moral, and intellectual maturity alone should not render the child liable to punishment. Often a child is mature enough to distinguish what is allowed from what is forbidden, but is not yet strong enough to refrain from the latter course. The most striking example of this is to be found in the case of young proletarians, in whom, in consequence of their premature contact with the manifold factors of life, the mental development is often premature to an astonishing degree, but this intellectual precocity stands contrasted with conspicuous moral immaturity. It is hard to determine what factors have to be taken into consideration in deciding whether a child has attained intellectual and moral maturity. It is essential to examine—(a) whether the child has an accurate conception of the nature of punishment; (b) whether it understands what legal principle is infringed or threatened by its act; (c) whether it possesses such a degree of moral maturity that, through possession of the conception alluded to in section (a), and of the understanding alluded to in section (b), it was competent to refrain from the criminal offence.

In the case of almost all punishable offences another solution of this problem is possible. The more serious the punishable offence, the earlier the age at which a child is competent to understand its character. But, in many cases, it is an obvious inference that a child which from absurd motives has committed so serious an offence cannot possibly possess the requisite moral maturity. Moreover, the three factors we have mentioned cannot be accurately defined. In maturity there are many degrees and stages, passing imperceptibly one into another, and exceedingly difficult to differentiate. The decision of this question will therefore be



the work of experts, who will have to keep the child under observation for months. It follows that a decision as to criminal responsibility based upon an understanding of the punishable nature of an offence is, of necessity, and in every case, uncertain and unequal.

To-day, in legal proceedings where juvenile offenders are concerned, remarkable incidents occur. For example, the judge or magistrate asks the child to repeat the ten commandments and the catechism. If the child can do this, it is supposed to possess the requisite understanding. It is left quite out of consideration that the child has probably learned the commandments by rote, without understanding them in the least. Or, again, the judge makes the child describe the act it has committed, and then asks, "Do you know that such acts are punishable?" But in the proceedings in court the child has been made well aware of the fact that it has committed a punishable offence, and yet it may not have known this at the time the offence was committed. In the case of the offences with which the enormous majority of juvenile offenders are charged, namely, theft, fraud, and bodily injury, a knowledge of the punishable character of these offences is apt habitually to be assumed by the courts. This assumption is justified, but it suffices to show the impracticability of the conception.

*The School.*—The proposal has been made that when petty offences are committed by children of school age, the school should deal with the matter; and that only when a more serious offence has been committed should the case go before the law-courts. In proportion to the seriousness of the case, the punishment should be apportioned by the class-master, by the head-master and class-master together, or by the united teaching faculty. The suggested punishments are—a reprimand, task-work, sitting on the punishment form, being kept in after school hours, corporal punishment, &c. Investigation by other authorities is not to be regarded as superfluous, but in minor cases it will suffice to leave the whole matter in the hands of the school authorities. The following reasons are given for this proposal. In the case of petty offences, the tedious and laborious intervention of

the criminal authority is quite uncalled for. It may even be said that we misuse and make light of the criminal authority, when we invoke the aid of this gigantic apparatus, and as a result of this the child is discharged with a hardly perceptible punishment. If the State undertakes to deal with all petty offences, it is left no time for the proper consideration of the graver and more important ones. The aim in view can be attained by less expensive and less elaborate means.

These considerations notwithstanding, this proposal can be approved only to this extent, that in the case of juvenile offences which do not render necessary a coercive reformatory education, it will suffice that the child should be punished by its parents or by the school authorities.

*The Reprimand.*—Some contend that it is in many cases sufficient for the court to administer a suitable reprimand. But, owing to the peculiarities of the child-psyche, the influence of the reprimand is extremely fugitive. A child so readily forgets. It has not as yet any accurate conception of honour, and completely fails to understand that it is dishonoured by the reprimand. As in the case of any other punishment, the reprimand can as a rule only be administered after the offence has been proved, and the offender sentenced; hence, there is so long an interval between the act and its punishment, that the reprimand becomes quite ineffective, and is in fact no more than an empty formality. Moreover, there are objections on principle against utilising the reprimand as a method of punishment, so that its use is possible only in exceptional cases.

*Flogging.*—Many persons consider that in the case of certain offences, especially such as betray the existence of a rough disposition, a flogging is the best punishment. But the fact that England, which holds the leadership in the movement for child-protection, continues to employ flogging as a punishment, and the fact that Denmark introduced flogging as a punishment only a few years ago (since then, however, abolished), prove nothing. For the reasons given in an earlier chapter, flogging must be regarded as an excessively noxious method of punishment, and must not even

be employed as a disciplinary measure in reformatory schools and prisons.

*The Conditional Sentence.*—The nature of the conditional sentence is that, conviction having been effected, the sentence is passed, but does not take effect, unless the offender commits another punishable offence; should he fail to do this, he is, by many legal codes, still classed as a non-punished person. The conditional sentence is distinguished from a conditional pardon by the fact that in the case of the latter the punishment is disallowed, not by the court, but in virtue of the right of pardon vested in the higher authority of the government. The conditional sentence is of dubious value in the case of juvenile offenders, because young persons very readily forget; and in the event of their committing a second offence, they now incur a double punishment. Considerations of jurisprudence compel us to regard the conditional pardon also as a measure of dubious value.

In the United States of America probation is employed. This is a postponement of the sentence—that is to say, not a conditional sentence, nor a conditional release from punishment, nor even a postponement of punishment. In this way it is hoped that condemnation and punishment of the child will be altogether avoided. The court, at its free discretion, can commit the child to a reformatory without having first passed sentence. If the child does not mend its ways, it is brought up for judgment, and sentence is passed. The system is an unmistakable improvement upon the unconditional sentence. But the conditional sentence can be imposed upon such terms that it is associated with a protective supervision, and that the conditionally-remitted punishment will be re-imposed, not only in the event of the commission of a fresh criminal offence, but also in the event of general misconduct.

The European system of conditional remission of punishment consists in a conditional release of the prisoner after he has served a portion of his sentence. If he makes a good use of his freedom, the remainder of his punishment is entirely remitted, but if he misconducts himself he must return to prison and serve out his term. Release on parole in the United States of America is distinguished from this system

by the fact that in the former case, after its release, the child remains subject to educative supervision; and it is distinguished from probation by the fact that in the case of probation a portion of the punishment, or of the reformatory education, as the case may be, has already been undergone.

Probation and release on parole are preferable to the European system; for from this last, since it is not associated with any serious attempt at educative supervision, no particular good can be expected. It is eminently desirable that the criminal legislation of every civilised State should adopt these systems of probation and parole, with whatever modifications may be found necessary in individual countries; and the tendency of evolution is unmistakably in this direction. In the majority of the States of the American Union, the probationary system is in force, and in many of these States it is applicable even in the case of adults. In most of those States in which it is in force, it is associated with the system of Children's Courts; but in a few these Courts are as yet unknown.

*The Indeterminate Sentence.*—In Europe, in view of the sacred character of individual liberty, it is the general opinion that the law courts should have no power to sentence an offender to imprisonment for anything but a definitely fixed term. But this system is in direct contradiction with the object of the punishment. The criminal is to be regarded as an abnormal, diseased individual, whose punishment must last until he is cured. He must for the most part be treated as we treat one suffering from mental disorder, who is committed to an asylum for an indeterminate period. The work undertaken by the State in respect of the majority of criminals is to effect their physical and moral cure. It is therefore absurd on the face of the matter to specify beforehand a precise period within which the cure must be completed. It is quite impossible for the judge, when passing sentence, to determine how long it will take to attain the desired end. When and if that end is attained can be determined only by those to whom is entrusted the administration of the punishment—persons continuously, and for a long period, associated with the prisoner. The duration of the punishment must depend,

not upon the offender's conduct at the time the offence was committed, but upon his conduct after he has been sentenced. When an offender is serving out a fixed sentence, the only thing that interests him is how much of the period he has got through, and how much still remains before him. But when the sentence is indeterminate, it will be his whole-hearted endeavour to conduct himself in such a way, to effect such an improvement, as to obtain his release.

At the present day, there is no country in which sentences are altogether indeterminate. Even in the United States of America, where the indeterminate sentence prevails, a maximum term is specified for the prisoner's detention. The greater this maximum, the more powerful will be the effect of the indeterminate sentence. The younger the prisoner, the more powerful also will be the effect of the indeterminate sentence, for the younger the prisoner, the more has he to expect from life. In America the experience of the working of the indeterminate sentence has been so satisfactory, that there is a general desire that the specified maximum sentence should be completely abolished. But as yet the efforts in this direction have been unsuccessful.

In the case of juvenile offenders, the arguments in favour of the indeterminate sentence are even more powerful than in the case of adults. The aim of imprisonment is to exercise an educative influence upon the child, and it is impossible to determine beforehand how long a time will be required to complete the necessary education. The indispensable foundation of every sound penal system for juvenile criminals is the institution of the indeterminate sentence. We find, in fact, that in the United States of America the reformatory system is inseparably associated with the indeterminate sentence; and in many European countries, when a child is sent to a reformatory, no definite term is specified beforehand.

*Should Punishment be Rendered more Severe.*—The classical legal system is defective. But to many it appears that its present failures depend upon the excessive mitigation of punishment; such persons contend that we can expect a diminution of crime only if we render punishments more severe. Many even demand the reintroduction of corporal punishment.

More severe sentences are indispensable in the case of the habitual criminal; but in the case of occasional criminals and juvenile criminals, no good results are to be expected from any such measure.

*The Coercive Reformatory Education of Youthful Criminals.*—The coercive reformatory education of youthful criminals has in essentials the same character as the compulsory education enforced by the ordinary processes of the civil law. Its central idea is the following. The child which for one reason or another stands in need of a coercive reformatory education, whether that need is manifested by the commission of some punishable offence or in any other way, and whether the need arises in consequence of neglect on the part of the child's parents or in consequence of that of some other person or persons, must receive the education it needs. The child that requires a coercive reformatory education because it has committed a punishable offence does not differ in any important respects from a child which has not committed any such offence, but is in a state of neglect. The latter child also should be subjected to a coercive reformatory education; on no account should we wait until it has committed a punishable offence, and has in this way manifested its neglected state in a manner that cannot be overlooked. Besides, neglected children and juvenile criminals belong to the same class of society, and in the case of both the need for a coercive reformatory education arises out of like conditions. Thus, the question of the coercive reformatory education of juvenile criminals is not one appertaining merely to the province of criminal law, but, in conjunction with the question of the coercive reformatory education of neglected children, it is also a matter of civil law and local administrative activity. The care of youthful criminals is, in the first place, a matter for the local authorities that are responsible for the care of neglected children—that is to say, for the Boards of Guardianship [see note to page 74], and for the Poor Law Boards. The education of juvenile criminals differs but little from the education of the children cared for by the Poor Law authorities; and thus the question arises whether the care of juvenile criminals necessitates the existence of *ad hoc*

boards to administer this special department of the criminal law.

Since the middle of the seventeenth century, it has been the tendency to send troublesome juveniles to institutions; and at the outset they were sent to poorhouses and workhouses to mingle with adult vagabonds and prostitutes. Not until towards the end of the eighteenth century did people begin to recognise that it was essential to separate heterogeneous elements. But even at the present day, in many countries, reformatories are so far from being worthy of their name that, like prisons, they are schools of corruption. Many reformatories have still the aspect and the organisation of barracks. In such places the children are subjected to a rigid discipline. They are managed very strictly, and yet the children are in some respects better off than free workers of the same age; they are compelled to be diligent, clean, and healthy. But their life is not truly living. The children receive instruction, but no real education. They work, but acquire no love for work. When they are discharged from the reformatory they are even less inclined to work than they were when they entered the institution; they are further corrupted, they renew outside the unwholesome friendships they have contracted within the walls, and commonly carry out, after they leave, the crimes they have learned and planned during their stay at the "reformatory."

In real advances in reformatory methods, England and the United States of America have led the way. But in the case of the former country, true progress in this respect dates only from the latter half of the nineteenth century; and in the case of the latter country, only from the year 1870. In other countries, even to-day, sound ideas have found in this matter but little application. This slow progress probably depends upon the difficulty of getting rid of the influence of the older legal theories, and upon the difficulty of assimilating the idea that a reformatory must be something totally different from a prison.

*Institutional Education versus Family Education.*—Which is preferable, institutional education or family education? There is much to be said on both sides of this question. Unques-

tionably, in the case of juvenile criminals and neglected children the advantages of family care are less conspicuous than they are in the case of abandoned children. The accumulation, under one roof, of children of the former categories involves the close approximation of numerous injurious germs, which would less readily develop if they were dispersed. Moreover, for such children it is even harder to find suitable foster-parents than it is for those who are simply abandoned. Few are willing to undertake the difficult task of bringing up such children, and fewer foster-parents still are in a position to give them a suitable upbringing. The strict handling they require is much easier to enforce in an institution or a colony than in an ordinary family. There is often good reason to be afraid that the juvenile criminal or neglected child, if boarded with a family, will corrupt the younger members of that family.

The problem must therefore be solved on the following lines: In every case there should be a thorough medical examination of the child, and a careful study of its educational acquirements and capacities, and upon the results of this examination should be based the decision whether this particular child can best be dealt with in an institution or in a family. In making our decision we should never lose sight of the principle that, except in the case of the really bad children, the advantages of a family education should as far as possible be given. Only in the case of children with obstinate and unconquerable criminal tendencies is continuous institutional care essential; for abnormal children, prolonged curative educational treatment is requisite, as far as possible, in institutions or colonies founded especially for this purpose. The educational institution should be a place in which the pupils undergo a thorough bodily and mental cleansing process. When this has been effected, as soon as we have a right to assume that the child could be received as an inmate by an ordinary family without endangering the other children, then the sooner the child is removed from the unnatural life of the institution to the natural life of the family, the better will be its chances for the future. A reformatory institution which is to attain its ends must have characteristics resembling



those of a modern foundling hospital. It must be a place at which those children who, for one reason or another, have to leave their foster-parents, can be received and cared for while another suitable home is being found for them; it must be the centre of supervision of the children placed in family care. It is true that at a reformatory a child is deprived of personal liberty and remains in the institution under compulsion, but the aim of the reformatory is very different from that of the prison. The reformatory should resemble, not a barrack, but a family—that is to say, the barrack system (collective system) must find no place in the reformatory. The institutional life must be as free as possible, and the child must be treated as a member of a family.

Individual treatment and classification of the children are of great importance. Special institutions are requisite for older children and younger children, for those who are more and those who are less corrupt, for those who need mild and for those who need strict treatment. In accordance with this classification, the children must be distributed in the various separate institutions. Unimprovable children should not be received at all, for not only can we do them no good, but their presence is harmful to the other children. It is also necessary that there should be special institutions for observation purposes, to enable us to decide which of the other institutions is best adapted for the treatment of individual cases. When they first enter the observational institution, children should be isolated for a while, until they can be sent to an appropriate section. In former times, grave mistakes were made in this matter of individualisation. Routine treatment and equality of punishment for all similar offences were justified with reference to the principle of equality before the law. Even to-day, children still at times are thrust into contact with the most dangerous elements, and even with the refuse of human society, although this happens much less often in reformatory institutions than in police cells, local prisons, or workhouses. But in general, and especially in England, France, and the United States of America, great stress is now laid upon proper individualisation. In England, above all, do we find the attempt made to secure that

all the younger children should be sent to industrial schools, and all the older children to reformatory institutions.

The aim of the reformatory is to improve the child. This is equivalent to an endeavour to produce in the child an independent spirit, and a capacity to provide for itself in a free life. This can be done only by leaving the child a certain amount of freedom, by cultivating its self-respect, and by doing all in our power to put it upon its mettle. He only will be able to make his living who possesses some definite capacity and is willing to work. For this reason, the institution must take every care, not merely to accustom the child to work in general, but also to render it competent in some particular handicraft. Hence the child's occupation in the institution must not be either useless or depressing in character, nor must it be of such a kind as only an adult can do properly; it must be one suited to the powers and capacities of the child. In the older institutions, which were badly conducted, the pupils were engaged in useless and mind-destroying occupations. Owing to the fact that these institutions were inadequately supplied with funds, the work done was chosen, not because it was of any value to the inmates, but simply because it could provide a contribution to the expenses of maintenance. Unfortunately, even at the present day, on the ground that it is within the rights of the State that a part of the expenditure upon the inmates should be provided by the utilisation of their labour-power, far too much stress is laid upon attempts to make such institutions "self-supporting."

The school instruction in reformatories should, in general, resemble that which is given by the State to normal children outside. The main points are, to provide a suitable elementary education, and to devote a great deal of attention to the care of the body. The most difficult class to deal with in reformatories is that of the habitual vagrants.

*Testing Reform.*—How can the improvement we hope to effect in the reformatory best be tested, and how can we best prepare for the transition into a free life? In view of the fact that these problems have been most completely solved in the United States of America, it will suffice here to describe

the systems in vogue in that country. The indispensable preliminary to a successful reformatory education is the indeterminate sentence. The child will not leave the reformatory (presuming that the stipulated maximum term has not been attained) to assume the full responsibilities of freedom, until it has satisfactorily responded to the test of a probationary freedom. When it first enters the reformatory the child is apathetic. But before long it becomes aware of the significance of the indeterminate sentence; it perceives that it will not obtain its discharge until it has improved; and this induces a condition of nervous, yet salutary, tension and disquiet. The indeterminate sentence thus exercises upon the child a powerful influence, laying its fate to some extent in its own hands, making hope in place of fear the most effective element of its thought, and awakening the desire to effect improvement by means of its own efforts.

We must not overlook the possibility that those who may secure their discharge before they have served the maximum term of their sentence may not necessarily be those who have truly and completely reformed, but those who possess the greatest power of adaptation to the conditions necessary to secure their release.

A system which in various forms constitutes an almost universal feature in the conduct of American reformatories is known as the "mark system," or "merit system." The nature of this system is that every inmate is able, by earning a certain number of good marks, allotted on account of general good behaviour, and of progress in the school and the workshop respectively, to earn his release upon probation. The numerical formalism of this system is counteracted by an individual consideration and treatment of the pupils.

In the reformatory, we may endeavour to effect an improvement, and may hope that we have done so; but it is impossible to be certain that this end has been attained. While the child remains in the institution, no one can tell if it has acquired the power of overcoming the difficulties of the life of freedom. It is the period immediately following the discharge from the reformatory which is the most dangerous to the child. It is upon this period, above all, that it depends

whether the child will be successful in gaining a proper place in society. For this reason, it is of fundamental importance to find work for all those who are discharged from a reformatory; indeed, they should only leave the reformatory to enter an assured position. Every care must be taken, in seeking employment for those about to be discharged, that we are not increasing the general difficulty in obtaining work by overstocking the labour market. In the reformatories of the United States, the difficulties of the transition period are met by releasing the inmates on probation only, for a time during which they are not only supported, but carefully supervised. In the criminal law of European countries, the period of punishment is at an end when the specified term of sentence has expired. No such determinate sentence exists in the case of American reformatories, for the maximum term of sentence usually extends far beyond the end of the period of probationary release. What is requisite is, that the definitive discharge from supervision and control should only take place when the conduct during the term of probationary release has been satisfactory, and when the duties imposed have been faithfully performed. The child released on probation must behave well, work diligently, and punctually and at regular intervals report itself at the reformatory. Until the end of the probationary period, it remains under the supervision and care of the institution; the conditional release may at any time be revoked; and the final discharge is not effected until the child has given satisfactory proof of its fitness for a free life. The child released on probation generally behaves very well, for it fully understands that any misconduct would entail serious consequences, that it would lose in a moment all that it has hitherto gained, that it would have to return to the institution, and begin once more at the beginning the struggle to secure its freedom.

Some of the reformatory schools of America are governed as child republics, known as "Junior Republics." In these the children exercise self-government after the example of the Great Republic itself, and the executive of the institution merely exercises a kind of supervision. The greatest possible weight is thus given to the educative influence of personal

responsibility. Above all, the trial and punishment of offences against the discipline of the reformatory, by courts constituted by the inmates, works exceedingly well, because the comrades know one another better than anyone else can. The reformatory system of the United States of America meets with very general approval. In Europe, indeed, it is said that the system is too expensive, and that the inmates are treated too well. The view we shall take upon this matter will depend upon our general opinion as to how a reformatory should be organised and carried on. In the United States of America, intercourse between man and man is free and unrestrained, and the standard of life is higher than in Europe. Only the improvable children are so well treated; the habitual offenders, on the contrary, are subjected to a draconian régime. It is true that in Europe the cost per child is less, but in view of the meagre results obtained on this side of the Atlantic, the saving is apparent merely.

The defects of the American system are the following. As soon as a new political party gains a majority, and a new government therefore comes into power, much of the official staff, including that of the reformatories, is changed. Hence, the greater part of the staff does not consist of persons who have devoted their life to the improvement of children, but is composed mainly of persons without proper professional training. But it is well known that the staff of our European reformatories also lacks proper professional training in respect of the hygiene and psychology of child life.

*The Radical Solution of the Problem.*—We cannot protest with too much energy against the idea that we can deal effectively with juvenile criminality by means of a few new paragraphs in our criminal codes, and of a few new societies with patronage to distribute. We must not regard neglected childhood and juvenile criminality as isolated phenomena, but must consider them in association with the economic, moral, and intellectual neglect of the proletariat, from which juvenile criminality springs. These proletarian conditions form the starting-point for our knowledge of neglect in childhood and of juvenile crime, and hence for our knowledge of the means we should adopt in dealing with these. The evils have to be

averted, not from youth only, but also from the proletariat. Political care, which is directed towards the saving, in the narrower sense, of neglected and criminal youth, is inadequate; what is required is a general scheme of social and political reconstruction whereby the true sources of juvenile criminality will be dried up.

The best policy of criminal reform is the social policy which will provide a sufficiency of the necessaries of life for every one willing to work for them, and which will put an end to the flagrant class contrasts of our time. Such a policy would involve the destruction of capitalism. I repeat that this does not involve any changes in our policy of child-protection in the narrower sense, but simply indicates the general lines on which alone advance can be obtained. The best means for the prevention of crime is not punishment, but removal of the causes of crime. Juvenile criminality will not completely disappear until its causes have been completely removed—that is to say, it will not disappear until capitalism no longer exists, and until there is no longer a proletariat.

## CHAPTER II

### PENAL METHODS

*Conditions of To-day.*—In all departments of modern legal systems the principle gains general acceptance that persons under age require to be treated differently from adults. The actual legal regulations respecting young people are different from those which apply to adults. In civil law, the minor cannot appear independently either as plaintiff or as defendant. But criminal law, on the other hand, notwithstanding the fact that it is far more complex than civil law, and notwithstanding the fact that the interests of minors affected by criminal law are far more important than those affected by civil law, places minors on the same footing, or on a similar footing, with adults. This is extremely disadvantageous to those under age.

In the case of juvenile offenders, imprisonment while awaiting trial involves the greatest dangers, for its effects may be as disastrous as those of imprisonment after sentence. The trial also involves very serious dangers. In the corridors and waiting-rooms of the law-court, the juvenile offender is kept awaiting the hearing of his case. He sees there many things new to him. He hears the conversation of the witnesses and of the other accused. He receives advice as to his bearing in the dock. A public trial is not in the least adapted to induce in the juvenile offender a sense of shame, or to awaken in him the consciousness that he has taken a wrong path. As far as he understands the matter, an imposing apparatus is at work in a fine big room; the officials of the court do their work in a cool and businesslike manner, and with an air of importance. In the court there are a number of persons drawn to the place by curiosity simply, and among these are the old associates of the accused, who watch his behaviour with an eager interest, and regard his youthful misdemeanours

with indifference, or even with admiration. He feels himself to be the hero and the central figure of a drama, and this makes it even more impossible for him to follow the legal proceedings attentively, and to defend himself in a proper manner. When the trial is over, the newspapers are full of his case. If he is set at liberty he immediately becomes the centre of an admiring circle of his former associates, who listen to his words with eager attention, and encourage him to relate again and again, and with many exaggerations, the incidents of his case.

*Proposed Reforms.*—Gradually the idea gains ground that in the case of juvenile offenders the procedure should be totally different from what it is in the case of adults. The principal reforms that are proposed are the following.

(a) In the case of juvenile criminals it is indispensable to do away with personal freedom. The leading principle of our penal procedure, namely, to safeguard individual liberty, is out of place in the case of juvenile offenders.

(b) To-day, owing to defective understanding of the psychology of children, the authorities regard juvenile offences as extremely serious. It is held that every child that is brought before the courts is of necessity corrupt. But it is not by any rigid legal code, but rather by the principles of expediency, that we should be guided in the case of juvenile offenders; that is to say, in the case of petty offences, committed by young persons, the latter should never be brought before the law courts at all. The objection that on general legal principles an even-handed justice is absolutely essential, is so far sound, that there is undoubtedly a danger lest the authorities should refrain from initiating proceedings against the children of persons of influence, whilst letting the law take its course when the offenders' parents are people of no importance. But this objection can also be overcome. The principle of expediency can, in addition, be applied in the following manner: the prosecuting authority allows a period of probation to elapse before proceedings are initiated, and if the youthful offender continues to behave well, the prosecution is altogether dropped. In the case of juvenile offenders, legal prosecution is not of much importance. The judge or



magistrate would need the powers and capabilities of an inquisitor, for if he is to decide rightly, he must be acquainted with every detail regarding the life and the environment of the juvenile offender.

(e) In the preliminary proceedings it is necessary to study very thoroughly the family life and social conditions in which the child has grown up. The most satisfactory way is to seek the necessary information from the parents or other persons in authority, or from other adult associates of the child, as from the guardian, the teacher, the clergyman, or from servants.

(d) A child awaiting trial should on no account be sent to prison. If safe custody of the person is essential, some grown person in whom the court has confidence must be made responsible for the care of the child.

(e) The prosecuting authority should have the right to make any proposal which may further the child's interests, including a proposal to send the accused to a reformatory.

(f) The trial should on no account be a public one. (It is essential, when criminal proceedings are taken against a minor, that no other minors should be admitted to court as idle spectators.) We are concerned, not with the punishment, but with the education of a child, and the matter is not one suitable for the fullest publicity. But for the protection of the child's interests, it is, of course, necessary that the legal representatives of the accused, and the officials of organisations for child-protection, should attend the proceedings.

(g) Juveniles should never be tried by a jury. This proceeding is too solemn and too elaborate. Moreover, it is not within the competence of a jury to determine whether the child possesses the understanding so frequently mentioned as to the punishable character of the offence. The only reason for which trial by jury might be advantageous, is that a jury is more apt than a judge to take a mild view.

(h) In the first instance, even in the case of graver offences, the matter should come before an individual judge. Whenever possible, he should be one experienced in matters of education and psychology, and one whose specialty it is to deal with juvenile offenders. The majority of criminal judges

do not possess to-day the experience and training requisite to the competent handling of juvenile offenders, inasmuch as the majority of criminals brought before them are adults. In every law court there should be one judge whose specialty it is to deal with juvenile offenders; in countries in which the law court is also the Board of Guardianship (see note on p. 74), juvenile offenders should be brought before the Children's Judge (*Pupilarrrichter*), who knows the children better than his professional colleagues. Criminal proceedings against children tend more and more to assume the form simply of the choice of the necessary educational measures. Inasmuch as a coercive reformatory education, when not the outcome of a criminal prosecution, has, in most cases, been prescribed by the Board of Guardianship, it would seem as well that the power to order a coercive reformatory education in the case also of juvenile criminal offenders should be transferred to the law court which works under the authority of the Board of Guardianship.

(i) The prosecuting authority and the law court must keep in close touch with all the associations devoted to the work of child-protection, and with the institutions subserving this purpose, and must avail themselves of the counsel and support of these associations and institutions.

(k) In criminal proceedings against juvenile offenders, defence plays a different part from that which it plays in the criminal prosecution of adults. It should not be the principal aim of the defending counsel to secure an acquittal or a diminution of punishment, but rather to make sure that the juvenile offender shall receive the treatment best adapted to effect his reform.

*Penal Methods in the United States of America.*—It is in the United States of America that penal methods applicable in the case of juvenile offenders have obtained their highest development. Children's Courts now exist in about thirty of the States; the first of these Courts came into existence in the year 1899. The Children's Court is either a special department of an ordinary law court, or else a Children's Court *ad hoc*; in either case it deals with all the punishable offences committed by children, with the exception of very serious

crime. In many of the States of the American Union the Children's Courts deal not only with neglected children and truants from school, but also, and very logically, with certain offences committed by adults; for example, the infliction of excessive punishment upon children, the ill-treatment of children, breaches of the laws regulating child-labour, and the like. In this we see a clear manifestation of the tendency to make the Children's Court responsible for all legal matters wherein juveniles are concerned. The Children's Court lays the greatest possible stress upon giving the accused an opportunity, after he has received appropriate instruction, to effect his own amendment without the further intervention of the Court. But should the offence be repeated, a sentence will have to be passed, and the matter of recidivity will have to be taken into consideration. The powers of the Court are the widest possible. It can reprimand the child, punish it, postpone sentence, send it to a reformatory, determining where and how the coercive reformatory education shall be effected, can summon the child before the Court at any time, &c. In many of the States, individualisation and classification have been carried so far that the Courts hold special sittings to deal with truancy from school, the case of neglected children, criminal offences, &c.

The judge of the Children's Court cannot expect to attain any very valuable results in the absence of a staff of assistants possessing the necessary training. But these assistants are not educationalists, nor doctors, nor child-protectors. The right hand of the Children's Court is the "Probation Officer," who is appointed by the Court—a thoroughly cultivated person, generally one trained originally as a teacher, who has received theoretical and practical training in a "philanthropical school." They have no connection with the police, and yet have some of the powers of police officials. It is their duty to make all the investigations needed by the Court; they compile a record of the personal data of all the children who pass through their hands; they furnish reports to the Courts; help the children and their parents by word and deed, both during and after the legal proceedings, in the manner prescribed by the Courts; if necessary, they find suitable foster-parents, and keep under supervision all the children who are placed on probation.

The introduction into Europe of this American system is, in the first place, a problem of the organisation of the law courts, inasmuch as the Children's Court combines the functions of an ordinary law court with those of a Board of Guardianship. In the second place, the problem is one of the reform of criminal law, since the Children's Courts would be of no value without the power to place children on probation. In such countries as Hungary, in which the authority exercising guardianship is not a law court, but a specialised administrative body, the judge who has to try a child charged with a criminal offence is not empowered to exercise any of the functions of a Board of Guardianship. In those countries in Europe in which it is possible to effect the necessary changes in the organisation of the law courts, and to secure the necessary reforms in criminal law, and where suitable judges for the Children's Courts are available (the personality of these judges is, of course, a matter of fundamental importance), the introduction of Children's Courts is possible. In Europe the American example is more and more appreciated and imitated; of recent years advances in this direction have been made in almost every civilised country, not even excepting England, whose legal development is essentially conservative. In the application of these ideas we find numerous differences; in Germany, for instance, several systems are in vogue. The general introduction of the Children's Courts into Europe is certain to ensue, inasmuch as the conditions which have led to their introduction in America obtain equally in Europe.

## CHAPTER III

### PROSTITUTION

*The Causes of Prostitution.*—As in every commercial transaction, so also in the women-market, two factors are decisive—supply and demand. The demand arises from the fact that to men of the upper classes marriage has become difficult or impossible. Whereas in the case of the lower classes of the population, concubinage offers a substitute for marriage, so that for the men of the lower classes prostitution may be regarded as superfluous, in the case of men of the upper classes prostitution is practically the only available substitute for marriage, so that these men are led to purchase casual and temporary wives from among the women of the lower classes. The supply depends upon poverty, which is the principal cause of prostitution. By this it is not meant to imply that actual destitution is usually the direct and immediate cause of the adoption of a life of prostitution. It is rather that a number of factors, the outcome or the accompaniments of poverty, combine to place girls in a position very favourable to their becoming prostitutes. The environment in which proletarian children live is an unfavourable one in the matter of sexual relationships. It is one which prepares girls for prostitution, and makes them very liable to adopt this mode of life. They are forced to live in a single room with the other members of a large family, with strangers, and even casual night-lodgers—a room in which they all cook, eat, sleep, and practise sexual intercourse. The girls even have to share a common bed. Thus there is no place in their experience for the sentiment of shame. In addition, proletarian children often form evil associations at a very early age, and become acquainted in very early childhood and in the dirtiest possible manner with all the

circumstances of the sexual life—with the most offensive and unclean, the most abnormal and morbid excrescences of the disordered sexual life. Many women would never have sunk into the slough of prostitution had their upbringing been a different one. Often enough the pressure of poverty even leads parents to make money out of the procurement of their own children.

The great majority of prostitutes are recruited from the class of young maid-servants. Maid-servants pass their childhood in country villages. Even to-day, in some countries, most of them can neither read nor write. They are not only unintelligent, but thoroughly simple; naturally they are easily seduced. In the country circles from which the great majority of them come, premarital sexual intercourse is hardly regarded as immoral, and is an almost universal custom. The girls bring these ideas with them to the town, with results that are necessarily disastrous. In most cases they are completely cut off from their parental homes, and lack the firm support given by a well-ordered family life, are sent from the country into a strange and incomprehensible world, and live under one roof with persons belonging to a social class by whose members they are regarded as being of inferior birth. They pass their new lives in a circle in which the demands are far higher than they have been accustomed to; imitatively, they soon come to share these demands, but can satisfy them only by the supplementary earnings of shame. By the men of the household, most often by their employer or his sons, they are seduced, and then left to fend for themselves. They seldom stay long in one situation; and when out of employment, especially if they have formed bad associations, they are exposed to the gravest moral dangers. Their hours of work are unlimited, and for this reason they wish to live as intensely as possible during the few and scanty hours of liberty. Their legal position is a very unfavourable one, and it is practically impossible for them to organise themselves in a trade union. They form a servile class. Their personal desires are continually repressed, and even this is but a preparation for their subsequent profession, in which servility and repression will be their fate.

*Prostitution and Child-Protection.*—Prostitution explains and favours the development of numerous factors which make the work of child-protection an ever-existing need. These factors are: (a) criminal offences against persons under age; (b) venereal diseases; (c) a fall in women's wages, and a consequent fall in men's wages also; (d) corruption of the sexual morals of juveniles; (e) the fact that prostitutes, though somewhat exceptionally, bear children.

(a) The definite purpose of certain criminal offences committed against women under age is simply to supply fresh and new wares for the market of prostitution. For it is not only or mainly women who, in respect of physical beauty, age, or of some other circumstance, are of comparatively little value, that become prostitutes. Among the men who have recourse to prostitutes are some who can pay high fees, and therefore demand an article of high quality. Among these latter, there are, of course, some who actually prefer experienced prostitutes. But most of them demand especially physical beauty, and this is more likely to be possessed by younger women than by older ones. A considerable proportion of prostitutes are under legal age; a large majority of them have entered the career of professional prostitution before coming of age. An adult woman is much less likely than one under age to become a prostitute. Statistical data bearing on this question are, however, lacking. The white-slave traffic has to-day attained gigantic proportions; the sources of this traffic are supplied by professional procurement, a branch of industry in which many thousands are engaged. It is obvious that the young girls who will attract the attention of the professional procurer or procuress will, for the most part, belong to the proletariat.

(b) Prostitution is an unceasing source of the venereal diseases, the character of these in any district being intimately associated with the characteristics of prostitution in that district. The principal seats of prostitution are the true foci of the venereal diseases.

(c) The matter of women's wages has already been discussed.<sup>1</sup>

<sup>1</sup> Consult the chapter on "Women's Labour and Child Labour."

(d) Prostitution leads to the corruption of children's morals and drags them into vicious courses. Prostitutes usually live in those quarters of the town, in those streets, in those houses, in which the population belongs mainly to the proletariat. It is utterly improper that prostitutes should live in the same house with persons who have young children. Indeed, the question arises whether prostitutes should not be absolutely forbidden to live in any house in which there are persons under age.

(e) No official statistics exist to show how many children are born to prostitutes. According to certain private statistical data, collected in large towns, two children are born each year to every hundred prostitutes. Many regard it as inexplicable that prostitutes, who have sexual intercourse so often, should so rarely become pregnant. But it is precisely on account of over-use that the female reproductive organs, in these cases, lose their functional reproductive power. Where everyone walks, the grass never grows. Moreover, there is no necessary association between coitus and conception. In most cases, alike in the prostitute and in the man who has intercourse with her, the idea and the desire of procreation are non-existent. Many make excuses for prostitution on the ground that, since prostitutes seldom have children, we have here a counterpoise to illegitimate births. But it is statistically proved that where prostitution is general—as, for example, in great towns—illegitimate births are commoner than in the country, where prostitution is practically unknown. We need not stop to consider here whether the wider diffusion of prostitution would be more desirable than the occurrence of a greater number of illegitimate births. It is obviously necessary that the children of prostitutes should be removed from the care of their mother and brought up elsewhere.

Those who regard every prostitute as a degenerate being will reject *a priori* any attempt to rescue them. It is a fact of experience that attempts to reform prostitutes are rarely very successful. Experience shows also that the reformatory education of boys is more effectual than the reformatory education of girls, and that such an education gives better results in the case of girls who are merely



neglected than of those who are morally fallen. But this difference is not due to the fact that prostitutes are congenitally degenerate, but simply to the fact that they have become degenerate owing to the conditions of their life. For in women a life of prostitution develops all those qualities—laziness, love of adornment, hypertension of the sexual impulse, &c.—which make it impossible for people to earn their bread by regular work. As soon as the girl is subjected to the supervision of the *police des mœurs*, she is for ever lost. The supervision breaks down completely her power of resistance, exposes her to contempt, and permanently excludes her from what is called respectable society. For these reasons, girls under age should on no account be subjected to the supervision of the *police des mœurs*. Precisely because it is almost impossible to induce a prostitute to adopt any other mode of life, we must, in our campaign against prostitution, devote ourselves above all to those prophylactic measures by which girls may be withheld from the first steps which will lead ultimately to the marketing of their bodies.

## CHAPTER IV

### PUNISHABLE OFFENCES AGAINST CHILDREN

*The Two Groups.*—Previously we have spoken of punishable offences committed by children ; we pass now to consider those committed against children. These latter may be classified in two sub-groups. To the former group belong the punishable offences in which the primary aim is to injure or destroy a child. To the latter group belong offences against children in which the injury to the child is incidental. The precise line of demarcation between these two groups differs in the legal systems of different countries. The most important offences in the former group are : infanticide, the exposing of children, abortion (these three crimes occur chiefly in connection with the birth of illegitimate children), criminal offences against the chastity of women (for example, rape, seduction, procurement). It is only with regard to offences in this first group that statistical data are available. In association with the development of capitalism, there has been a great increase in their number. But, according to official statistics, there is not one of the offences above specified which occurs to the extent of 1 per cent. of all criminal offences ; most of those named are considerably less than 1 per cent. In the case of the other criminal offences, only private statistical data are available.

In respect of the offences comprising the second group, the important questions arise, whether there exist any mitigating or aggravating circumstances, such as that the offence was committed against a child, and not against an adult, or that it was committed, not against a stranger, but against one for whose instruction or upbringing the offender was responsible. Is it not desirable that the circumstance that the criminal offence was committed against a child should be stated in the law expressly as a reason for an increase in the severity of the

punishment, or else that the law should give children, precisely because they are children, a higher degree of protection against certain offences? Owing to the fact that young people, in consequence of their physical weakness, are much less able than adults to resist aggression, there is every reason for the preferential legal protection of children. The protection should, indeed, be more effective the younger the child. For example, a child of ten can call for help, and can run away, but an infant is utterly defenceless. Punishable offences against children need to be severely punished, because they betray the existence of a coarse and rough disposition in the offender. It must be regarded as an aggravating circumstance when the offender is the person responsible for the child's upbringing. And yet the criminal offences of parents, guardians, foster-parents, and teachers, against the children under their care, are often nothing more than a misuse in all good faith of the authority entrusted to them. Simply in the interests of the child, severe punishment is often undesirable, because of the rancour against the child it would tend to arouse. (These questions are of importance only so long as the practice continues of passing determinate sentences. The introduction of the indeterminate sentence, which is in line with the tendency of evolution, would render these questions unimportant.)

If any offender whose conduct against a child has proved him to be incapable of exercising with propriety parental authority, the powers of a guardian, the powers of a foster-parent, the duties of a teacher, it is essential to deprive him of these powers without delay; and this should be done, not only in the interests of the particular child, but in the interests of all children. Anyone who has committed a serious punishable offence against a child is, as a rule, altogether unfitted to exercise authority of any kind over any children. If the offender is punished, and thereafter the child is left in his power, the child will usually become the object upon which he will work off the rancour inspired by the punishment. It is essential that this change in the guardianship of the child should not be postponed until the case is decided and judgment is passed, but that it should be effected immediately it is thought necessary to institute proceedings. The objection

that the right to remove a child from the care of an offender properly belongs, not to the criminal court, but to the Board of Guardianship, is invalid. The procedures rendered necessary in consequence of the initiation of the criminal proceedings cannot, in these cases, be distributed among various different authorities. In most instances it is essential to act at once. Authority over a child, in a modern State, is not essentially different from an official position. Since our criminal courts are empowered to decree any one's unfitness to hold an official position, and to deprive any citizen of his civil rights, why should they not also be empowered to decide that certain persons are unfitted to exercise authority over children? The courts have the power to declare that through the loss of civil rights a man has become unfitted for the position of an official guardian; a teacher in a State school loses his position *ipso facto* if convicted of a criminal offence; why should not the criminal courts have the power to deprive parents, foster-parents, and private teachers of their "office," and to declare them to be unfitted to hold it?

The great majority of punishable offences against children are committed against children of the lower classes.

*Infanticide.*—By infanticide we understand the deliberate killing of an illegitimate child by its mother during or immediately after birth. For the following reasons, it is necessary that this offence should not be punished with extreme severity: (a) in the act of parturition the mother's physical and mental equilibrium is disturbed, so that her condition must be regarded as one of diminished responsibility; (b) in the act of parturition the unmarried mother is influenced by the dread of disgrace, and by fears as to the child's future, in ways from which the married mother is free; (c) neither the secret and indiscriminate reception of illegitimate children into foundling hospitals, nor the most severe punishments, suffice to prevent the commission of this crime. (In France, for example, infanticide is punished with the greatest possible severity, but this does not prevent the commission of the offence. For, in the first place, since in France inquiry into paternity is forbidden, during parturition the fears of the unmarried mother as to the future of the child are exceptionally distressing. In the second place, since the

jury know that the offence will be punished with draconian severity, they prefer to return a verdict of Not Guilty.) We do not find, in every modern State, such an attitude towards infanticide. There are certain countries in which infanticide is even more severely punished than the murder of an adult. In the country, infanticide is comparatively commoner than in towns, this difference being connected with the fact that in the country districts there are no foundling hospitals, and with the fact that in the country criminal abortion is less frequently practised than in the towns.

There are certain children with respect to whom medical science indicates, beyond the possibility of a doubt, that it is impossible for them ever to become useful members of society; indeed, in the case of many of them, it is obvious that their existence is directly harmful to the species—for example, cripples, high-grade cretins, idiots, and children with gross deformities. But at the present day such children are preserved to lead a life of martyrdom. The greatest possible pains and the highest refinements of medical skill are employed to keep them alive. Huge institutions are erected for their care, and there is great rejoicing if, after years of laborious efforts, some of these small unfortunates have been taught to speak or write a few words. This procedure is a grave infringement of the law of parsimony (see the first paragraph of Chapter V. in the General Part), if only for the reason that in other departments of social life, with the same expenditure of effort, far greater and more valuable results could be obtained. When such children, for one reason or another, find their way into the world, they should be quickly and painlessly destroyed. What method should be adopted to attain this end is a minor consideration. The most suitable plan would appear to be that, after a thorough expert medical examination, such children should be killed by a swift and painless narcotic. For the present, we may leave the question open whether the consent of the parents should first be obtained. According to the moral conceptions of to-day, not only do people shrink back when such energetic measures are proposed, but every act by which individuals, however worthless, are sacrificed in the interests of the species, is regarded as immoral, and even as a punish-

able offence. But just as to-day we treat certain individuals whose conduct endangers the present generation in such a way as to deprive them of opportunities for doing further harm, so also should we deal as seems best from the social point of view with those individuals who are useless to society, or may be harmful to future generations. As soon as it is generally understood that the interest of future generations is at least as important as that of the present generation, that the interest of the species is more important than that of a few individuals useless to society, and as soon as the number of cases in which such destruction of children is desirable has been greatly diminished owing to the adoption of appropriate preventive measures, it will be regarded as a necessary and moral act to put an end to these defectives.

*Abortion.*—Abortion is common in every age. In ancient times, amongst the majority of peoples, it was not considered a punishable offence. Even in Christian Europe, down to the eighteenth century, it was not punished when the act was performed within ten weeks of the occurrence of conception. The explanation of this is that during the earlier stages of development the embryo was not supposed to possess a soul. To-day, abortion is a punishable offence, but is none the less extraordinarily common. Official statistics make no approach to completeness, for the great majority of abortions remain secret. An expert to-day, owing to the gigantic advances in surgical technique, can procure abortion without either difficulty or danger. In every large town there are numerous doctors who specialise as abortionists. Even the midwives do not hesitate to undertake such manipulations. In every populous resort will be found large institutions where women are given an opportunity for concealing the consequences of illicit intercourse by the practice of abortion.

Where conception has occurred in a married woman, it may be feared for the future of the child, of a lowering of the standard of life of the family, or of the act of parturition, which leads to the practice of abortion; where the pregnant woman is unmarried, fears as to the future of mother and child may also be operative, but the principal motives are the dread of disgrace and the desire to conceal the fact that

pregnancy has occurred. Among women of the proletariat it will readily be understood that abortion is carried out less skilfully than in the case of women belonging to the well-to-do class, for proletarian women are unable to pay for such highly-skilled assistance. It is for this reason that a much larger proportion of criminal abortions are discovered in the case of proletarian women than in the case of the well-to-do. The number of abortions is comparatively greater in the towns than in the country, and the technique of abortion is a more skilful one in the former districts than in the latter.

It has recently been advocated that abortion should no longer be regarded as a punishable offence. Others are satisfied with the proposal that the mother should be left unpunished. These proposals are supported by the following arguments. The existing law is altogether inefficient, for it attacks not the act in itself, but merely the poverty of the doer and the clumsiness of the act. The punishment of abortion is especially unjust: (a) when the act of intercourse has been effected against the will of the woman who has been impregnated—for example, in case of rape; (b) when abortion is indicated on special grounds of health—for example, when the health or life of the mother is seriously threatened by pregnancy or parturition, and there is no doubt that the life of the mother is more valuable than that of the child; (c) when there is no doubt that the child, if born at full term, would be weakly, diseased, useless, or even injurious to society—for example, when a person suffering from severe insanity or chronic alcoholism impregnates a woman, or when an insane, epileptic, or imbecile woman becomes pregnant. (As to certain other arguments which are put forward, such as that everyone has a perfect right to the disposal of his own body, and that for this reason the prospective mother can deal with the fruit of her womb precisely as she pleases; or that, according to the biogenetic law, the embryo is not a human being, but a lower animal—no importance need be attached to them. They are altogether superfluous.)

As yet there is no country in which these views have been incorporated in legislation, but the time cannot be far distant in which this will take place. Of course, when this happens,

abortion, if effected by a married woman, without sufficient cause, and without the consent of her husband, would have to be regarded as an adequate ground for divorce.

*The Protection of Feminine Chastity.*—The criminal laws of to-day recognise only the more serious offences against the chastity of women, such as rape, seduction, gross instances of procurement, and so on. The aims at reform in this connection are as follows. Feminine chastity, above all as far as young girls are concerned, demands much more effective protection than it receives to-day. The age of consent—that is, the age below which intercourse with a woman is in any case a punishable offence—should be raised at least to eighteen, since protection is needed, not merely for the age of bodily immaturity, but also for the period of the puberal development, the dangerous time during which the sexual impulse is awakening. Not only those should be punished who have effected intercourse with a woman by force or under stress of threats, but also those who have effected intercourse by fraudulent means, by promise of marriage, or by taking advantage of the woman's dependent position (as in the case of employer and female employee or master and maid-servant). Procurement, in the legislation of most countries, receives a ridiculously mild punishment; and in order to restrict the growth of the white-slave traffic, which, as previously pointed out, has now attained colossal dimensions, it is essential that any one who procures a child for sexual purposes should be punished very severely. Those also should be punished who perform improper acts in the presence of an immature person, or who show such a person obscene pictures, or tell obscene stories, or the like. Boys, on account of their sexual inexperience, need the protection of the criminal law no less than girls.

*Maltreatment of Children.*—Maltreatment of children belongs to the second group of punishable offences against children. It is rare for the offender to maltreat the child of a stranger; the offence is usually committed against a child for whose care the offender is responsible. The principal kinds of maltreatment of children are—(a) corporal chastisement; (b) improper behaviour towards children (in this connection the



question arises whether parents can commit an offence against the honour of their own children); (c) working children to excess, either in the form of overwork at school, excessive domestic work, overwork at wage-earning, forcing children to beg, and the like.

Begging is more lucrative in proportion to the degree to which the child's appearance is calculated to arouse compassion—the poorer, the more miserable, the more delicate it looks. In actual fact, a child is often ill-used simply in order to give it an aspect which will arouse more sympathy. Frequently a minimum amount of money is fixed, which, under fear of punishment—usually gross physical ill-treatment—the child has to bring home as a result of its day's begging. In large towns children are hired out to professional beggars; in such towns as Paris and London there is actually a regular market for such children. The child employed for purposes of begging suffers many moral disadvantages; it becomes crafty and obstinate, acquires a dislike for work and a love of enjoyment, &c. The general public, which squanders money freely in almsgiving to child beggars, gives without thought of the consequences. It is less trouble to drop a few coppers into the outstretched hand of a mendicant than to undertake a thorough investigation of the case, and, if necessary, to remove the child from the corrupting influences of its present environment, and to see that it will be properly cared for in future. Mendicancy frequently leads to criminal courses, more especially to offences against property, and in the case of girls to offences against sexual morality.

The immediate causes of the maltreatment of children are the following: (a) Illness or delicacy of the child; (b) illness or nervousness in the parents; (c) interested motives; (d) a rough disposition and incapacity for education on the part of the child; (e) improper views concerning education; (f) alcoholism; (g) exaggerated religious ideas; (h) sexual causes; (i) unhappy conditions of conjugal life.

(a) Parents are much more likely to ill-treat sickly or weakly children than healthy ones, for the former much more readily prove a burden than the latter. Feeble-mindedness, moreover, is difficult to recognise, and is often regarded by

the parents as obstinacy or naughtiness. It is a painful fact that in many cases the parents are themselves responsible for the defective intellectual equipment of their child, and yet it is on account of this very defect that they ill-use the child.

(b) Delicate and nervous parents are much more likely than healthy ones to ill-treat their children. In the case of parents who are mentally unsound, the lust of cruelty may be a direct outcome of their mental state.

(c) In many cases children's lives are insured for a considerable sum, and in this case the death of the child may be desired by the parents for the sake of the insurance money. This happened very often in the manufacturing towns of England, until the matter became the subject of special legislation. Sometimes parents ill-treat children in the hope of inheriting money belonging to these latter.

(e) The view is very general that the corporal punishment of children plays an essential part in the process of education. The child becomes to some extent accustomed to such punishment, whereby the punishment ceases to be effective; as a result of this, yet more severe punishment is inflicted.

(f) Alcoholism is a cause, both direct and indirect, of the maltreatment of children. The father of a family who, in a state of intoxication, will maltreat his family, and who, when sober again, is bitterly ashamed of himself, is a familiar figure.

(g) Maltreatment of children (especially by clergymen, monks, and nuns) often depends on the belief that it is necessary to mortify the flesh in order to save the soul. There is also some connection between exaggerated piety and sexual perversion.

(h) A quite considerable proportion of cases in which children are maltreated are dependent upon sexual motives. But the maltreatment of a child may give rise to sexual excitement, not only in the active agent, but also in the passive. Cases of this nature occur chiefly in the upper classes.

(i) In an unhappy marriage, one of the parents will often maltreat the child simply because the latter loves the other parent.

Ill-usage of children may be the act either of relatives or of strangers. Among the relatives, we have first of all the unmarried mother; secondly, the natural father; thirdly, the stepmother; fourthly, the lawful parents. Among strangers, we have chiefly to consider teachers and foster-parents.

(a) Among children suffering from gross ill-treatment, we find a preponderance, in view of their respective numbers, of illegitimate as compared with legitimate children.

(b) We are always told that an illegitimate child will be horribly ill-treated if its mother marries, not the child's father, but another man. It will be ill-treated by the man because it is a stepchild, and by the woman because it interferes with her relations to her husband, and awakens unpleasant memories. But these views are exaggerated.

(c) The rôle of the stepmother is also commonly exaggerated. It is easier to excuse a stepmother for ill-treating a child than it is to excuse the child's own parents. When all is said and done, it is impossible to expect a stepmother to have the same love for the stepchild as for the children of her own body, and it is only natural that the stepchild which stands between her and her husband should be differently treated from her own children. A stepchild is certainly more likely to be ill-used when the stepmother has children of her own.

(d) A mother is more likely to ill-treat children than a father. The father cannot love children so well as a mother, nor can he hate them to the same extent.

(e) Many teachers maltreat their pupils. They are seldom prosecuted on this account, for many children are unfortunately accustomed to the same sort of ill-treatment at home; moreover, the parents may regard the teacher's treatment as perfectly natural, or may be afraid to institute proceedings against him.

(f) Ill-treatment of children by foster-parents is comparatively common, owing to the fact that in this case the inhibiting influence of the natural love for the offspring is lacking.

The consequences of maltreatment are extremely serious to the health of the child, alike physically, mentally, and morally.

The child becomes naughty, lazy, and untruthful, and this results in yet more maltreatment. The child's affection and confidence are destroyed, not only towards the person who ill-treats it, but towards others as well; feelings of hatred towards the whole of society and desire for revenge may even be aroused. Such a child will in turn maltreat other children; its will-power is defective and its ambition is destroyed. Actual disease, physical or mental, often ensues. Many children run away from home as a result of ill-treatment, become vagabonds, and even commit suicide. The increase recently noted in the number of suicides is probably, in part, dependent upon the more frequent ill-treatment of children during the same period. The usual motive for suicide where children are concerned is seldom anything else than the fear of ill-treatment. (Dread of parents, of school, of punishment at school, of examination, &c.)

Most of the cases of the maltreatment of children take place among the lower classes of the population. This is clearly proved by statistical data, which show that more than 90 per cent. of those convicted of maltreating children belong to the lowest strata of the population.

(a) Among the lower classes, the rôle of the child is a very different one from what it is among the upper classes. It often makes its appearance, not as the greatly-desired heir, the inheritor of an honoured name, or of considerable property, but merely as an additional mouth, whose presence forces the parents to lower yet further their already low standard of life, and entails upon them numerous other inconveniences.

(b) The lower classes are less cultivated, rougher, more passionate, less gentle, than the upper. They work all day, and we need not be surprised if they become rough and disagreeable. The proletarian parent has not received a proper education.

(c) Far more commonly they are slaves to alcohol.

(d) They are subordinated to everyone. The only persons to whom they can display power and superiority are their own immediate dependants.

(e) They come into far more intimate contact with their children, and are not in a position to hand over the upbringing-

ing of their children to salaried persons. In this connection we have to remember that the presence of strangers in the house tends to put a check upon maltreatment.

(f) They find it essential that their children should begin to earn money very early in life.

The circumstances in consequence of which the part played in the maltreatment of children by the lower classes appears to be even greater than it is in actual fact, are as follows.

(a) In the case of the lower classes, maltreatment of children takes the form exclusively or almost exclusively of gross physical misusage. In this form the maltreatment of children is more obviously apparent, and is legally punishable; whereas more subtle but in fact worse modes of ill-usage are less easy to discover, and many of them are not legally punishable. (b) Owing to the housing conditions of the lower classes, the maltreatment of children is in their case far less likely to remain secret. (c) People are readier to lodge an information and to institute criminal proceedings when the offender is poor than when he or she is well-to-do.

Where the effects of capitalism have been most marked—that is to say, in the large towns—the maltreatment of children is commoner, and takes worse forms. The maltreatment of children occurred in very early times, but no particular importance was then attached to the matter, owing to the sacred character in those times of the institution of the family.

Far from being an indispensable part of the education of children, their maltreatment is a direct hindrance to a good education. In the discovery and the prevention of the maltreatment of children, teachers, medical practitioners, and private associations play a very important part. A teacher is able to observe whether a child is ill-used, and is also in a position to obtain information from the brothers and sisters of the child. The useful work the teacher can do in this regard can be powerfully supported by the school physician. Societies for the Prevention of Cruelty to Children are both influential and important, especially in England and the United States of America. To the latter country we owe the institution of Children's Courts. In England, it may be, that so great importance is attached to efforts for preventing

the maltreatment of children, owing to the fact that in that country the position of the illegitimate child is an exceptionally bad one.

The following measures are recommended for the prevention of the maltreatment of children. (a) Cruelty to children on the part of those legally responsible for the care of such children must be the subject of official prosecution. (b) Parents who maltreat their own children must at once be deprived of their parental authority, for unless this is done, after they have been punished, the parents will be likely to maltreat the child more than ever, merely taking more care to avoid discovery. (c) It should be made the legal duty of anyone who becomes aware of a case of cruelty to a child to lodge official information without delay.

Children are not in a position to protect themselves against adults, nor are they able on their own account to initiate proceedings against anyone who has misused them. This difficulty is especially great when the offender is one upon whom the child is legally dependent.

*Suggested Reforms.*—Recently the necessity has been recognised that many offences against children should be punished much more severely than they now are, and that many acts not otherwise punishable should be made punishable if committed against a child.

(a) It is suggested that a new criminal offence should be defined in the following terms:—"A parent, 1, who, although possessed of the requisite means, fails, wilfully or neglectfully, to provide for the child's proper maintenance; 2, who, in consequence of a disorderly life, is rendered unable to provide for the proper support of his child; 3, who neglects his child—shall be punished in the following manner. . . . A guardian or a foster-parent shall have the same liabilities to punishment under this clause as the real parents of a child."

(b) It is suggested that, in the case of offences against the laws regulating child-labour, the criminal legal authorities, and not the local authorities, should have the right of intervention, that in the case of the graver breaches of these laws, the offence should be regarded, not as a petty offence, but as a misdemeanour, or as a crime, and that, for this reason, the

description of these offences should be incorporated in the criminal code.

(c) It is suggested that the employment of children in mendicancy, vagabondage, &c., which is at present treated as a petty offence merely, should be constituted a misdemeanour.

(d) It is proposed to make it a punishable offence to supply, or cause to be supplied, in a public place, to any juvenile, alcoholic drinks whereby that juvenile becomes intoxicated.

(e) As regards the sale of tobacco, similar legal provisions are considered desirable.

(f) It is suggested that parents should be severely punished, when in the case of one of their children being ill they fail to summon medical advice, or when they send the child to school suffering from one of the acute infectious disorders, or from a house in which any such disorder prevails.

With regard to the first recommendation (a), people begin to recognise that a misuse of the rights and powers involved in parental authority must be visited, not by private condemnation only, but by that of the criminal law. It is seen that the standpoint of the existing law, by which only the gravest offences, such as the abduction of a child, or the infliction upon a child of grievous bodily harm, are specified as punishable, is inadequate. Ever more general becomes the demand that parental neglect of the proper maintenance or education of a child should be constituted an offence *per se*, and dealt with as such. It is only in the case specified in (a) 1 that deliberate or gross neglect constitutes the essential quality of the offence. (If all cases of neglect were punishable, the provision (a) 1 would operate chiefly against offenders of the lower classes, since it is in their case that such neglect most commonly occurs.) In (a) 2 deliberate or gross neglect is no essential part of the offence, because the idler, the man led astray by his passions, &c., should not escape punishment. In (a) 3 simple neglect is made punishable, because in such cases the community becomes responsible for the maintenance of the child. Nothing must be done to encourage what is really quite common—that parents should neglect their child, simply in order that it should be taken away from their care, and that in this way they may be freed from the burden of its

maintenance. It is essential that no complaint by the injured party or his representatives should be requisite to the initiation of a prosecution, for in most cases the child is itself unable to complain, and the legal representative is often the prime offender. Moreover, it is not the child alone that is injured, but also the State, which has entrusted the offender with the care of the child.

The objection has been raised that such legal provisions as have been suggested would be directed principally against the lower classes, that they would often lead to the unjust infliction of punishment, that no one can be compelled to love another, and that it would be difficult to determine the precise point at which the proper limits of parental authority had been exceeded. But all these objections are invalid, if only the gross cases that have been mentioned are made punishable, and provided that wherever necessary the child is removed from the care of the offender.

With regard to (*b*), it is altogether disproportionate that the most trifling bodily injury to a child should be legally punishable through the instrumentality of the criminal courts, whilst one who inflicts a far more severe injury upon a child by forcing it to perform excessive and unsuitable work is liable to nothing more effectual than a reprimand on the part of the local authority. The local authority is seldom in an independent position, but is commonly subject to the influence of large employers of labour. The maximum punishment which can be inflicted for a breach of the laws regulating child-labour is so trifling, that the risk of this punishment is far more than counterbalanced by the profits the employer can make by the illegal exploitation of child-labour—especially when the fact is borne in mind that not one instance in ten of a breach of these laws is ever the subject of a prosecution. The gross injustices and miseries which occur daily and everywhere from the improper exploitation of child-labour will not disappear until the punishments inflicted are such as the employers will seriously fear to incur, and which they will be unable to avoid. The employer laughs at a fine, for he pays it out of his surplus profits; but he will think twice before incurring the risk of imprisonment.



With regard to (*d*), since alcohol affects children more powerfully than it affects adults, it is necessary that it should be a legally punishable offence to expose children to the dangerous influences of this intoxicant.

With regard to (*e*), for the young, the use of tobacco is hardly less harmful than the use of alcohol.

With regard to (*f*), it sometimes happens that the parents fail to take the steps absolutely essential to the preservation of the child's health, and in this way the public health may be seriously endangered.

The proposals mentioned under these last three headings, (*d*), (*e*), and (*f*), are as yet hardly realised anywhere; but there are good grounds for hoping that they will soon be adopted in more countries than one.



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