II. GERMANY

Area in sq. miles . . . 182,200
Population . . . 63,000,000
Capital . . . Berlin
Population of Capital . . 4,000,000

Germany has eighteen States. Each State has a probation law based on the Imperial Juvenile Court Law of 16th February 1923. The States prior to that had the power under which the postponement of punishment as an act of grace by the Ministry of Justice was in operation. The former is applicable to minors fourteen to eighteen years, the latter to adults and minors. Parole is also used. The criminal responsibility of children under fourteen years is nil, fourteen to eighteen years partial. (See Appendix.)

Probation officers are partly trained. They are welfare workers at the juvenile court, officers from the O.F.Y.P. and volunteers. In Hamburg women probation officers have two years' training. Probation officers may be State-paid, paid by municipality, district, or commune. Many are unpaid officers. There are professional associations of social workers in one or more of the States and probation officers are members of such associations.

Juvenile Court Law is an Imperial Law. It is dated 16th February 1923 and was subsequently adopted by every State at varying dates and with regulations drawn up by each State for its own service. It deals with offenders, neglected and abandoned children, adoption, etc. There are clinics and observation homes in one or more of the various States.

The Office for Youthful Persons (O.F.Y.P.) has been established to co-operate with the juvenile courts in every State, and in all except one the application has been confided to the communes, the State making a grant for the purpose.

The information concerning Germany was forwarded through diplomatic channels, together with a considerable volume of valuable literature bearing on the subject of probation. The Ministry of Justice at Berlin had been kind enough to collect replies from the various States and to forward them through the Embassy in London. The States sending replies were: Baden, Bavaria, Hamburg, Prussia, Saxony, Thuringia, Württemberg. The replies from each State were in German, of which the translation is given below. These returns came to hand in March.
1926. I would here express my grateful thanks for the courtesies received.

BADEN

(Note.—O.F.Y.P. = Office for Youthful Persons)

1. Par. 23 of the Imperial Penal Code allows that a person sentenced to a term of imprisonment, when three-quarters of the sentence has run, but at least for a period of one year, and provided that the person has behaved himself well during the said time, can be, if he so wishes, provisionally released. The provisional release can, in case of the bad behaviour of the released person, or if he acts not in accordance with the obligation laid on him at the time of release, be withdrawn in such a manner that the period of the conditional release up to the time of the re-arrest is not counted in the period of the punishment fixed in the first instance. In case the fixed period of punishment has terminated without the provisional release permission having been withdrawn, the imprisonment is considered to have been suffered.

2. According to par. 5 of the pardoning order of the Baden State Ministry of the 17th December 1919 ("Law and Regulation Gazette," p. 559, copied as supplement XXIII of the Service and Executive Orders for the Baden Penal Institutions), the Ministry of Justice is entitled in the case of a punishment sentenced by the courts to grant postponement of the punishment and reduction of punishment by fixing a period of probation, to withdraw the same during the probation period in case of bad conduct, and in the case of good conduct to remit the punishment at the end of the probation period. According to par. 6 a.a.O., the Ministry of Justice can transfer this right to the courts. According to par. 14 of the Executive Regulations of the Ministry of Justice of the 23rd April 1924 ("Baden Ministerial Justice Gazette," 1924, p. 71, Regulations regarding Pardon), use has been made of this provision.

According to par. 15 of the Executive Orders mentioned above, probationary postponement shall only be granted in cases where the circumstances of the crime and the personal circumstances of the person seem to justify it, and it is to be expected that the person will keep in right paths without the whole or partial execution of the punishment. In
taking the decision it is to be borne in mind what were the motives of the deed and how the criminal has borne himself since its execution, especially whether he has shown repentance and done his best to make good the damage. Moreover, it has to be taken into consideration whether or not the act of grace is contrary to public interest.

In the case of "Zuchthaus" punishment (in English: corresponding approximately to imprisonment with hard labour, or perhaps penal servitude), it is not allowed to grant postponement of punishment but only conditional release in the case of good conduct. Moreover, the same applies as a general rule if the condemned person has already been sentenced to a punishment of a term of imprisonment exceeding three months, unless a period of ten years has elapsed since the punishment has been suffered or remitted.

Reduction of punishment as an act of grace can only take place in the case of punishments of more than four months, and as a rule only after three-quarters of the punishment has been suffered. Even if provisional discharge is possible (compare No. 1), it must be considered whether provisional vacation (exemption) during good behaviour should not be preferably granted, especially in such cases where the remaining period of punishment appears to be too short to render a serious test to be made regarding the good behaviour of the delinquent. Prisoners who have to undergo their punishment in different grades (see par. 176 ff. of the Service and Executive Orders of the Baden Penal Institutions) have as a rule only a chance of vacation (exemption) during good behaviour, when they have given satisfaction in Grade III. Whether a prisoner who is treated on the grade system other than under particular orders, can be given vacation as an act of grace must be carefully considered in each individual case.

The length of the probation period is according to the circumstances, and according to the severity of the punishment which has been sentenced. Speaking generally, it should be less than the period remitted, and in the case of two years' remission of punishment, the probation period should be one and a half years; in case of five years' remission, three years; and in the case of longer remission, it should be at least six years. As a rule the condemned person should not be supervised during the whole of the probation period. According to his whole conduct during
this period it depends whether in the case of good conduct the punishment shall be remitted, or in the case of bad behaviour the conditional postponement of punishment shall be recalled. According to par. 10 of the Juvenile Court Law of 16th February 1923 ("Imperial Law Gazette," 1, pp. 135, 252), the juvenile court can in the case of juveniles—minors between the ages of fourteen and eighteen years—postpone the execution of a punishment of imprisonment in order that the condemned, by a probation period of good conduct, may gain remission of the sentence.

The probation period must be at least two, and at most, five years. If it is less than five years, it can later on be extended to five years.

Special duties can be assigned to him during the probation period, and he can also be placed under protective supervision. For the execution of the protective supervision pars. 55-61 of the Imperial Youthful Law, 9th July 1922, are applicable ("Imperial Law Gazette," Part 1, p. 633).

During the probation time the term of punishment is not considered to be running, but only in abeyance. If the sentenced person's conduct is bad during the probation period, the execution of the sentence can be ordered. After the probation period the punishment is remitted if the sentenced person has behaved himself. If his conduct has been bad, the execution of the punishment is ordered.

The regulations mentioned in the answer to question No. 2 under fig. 3 apply only to minors between fourteen and eighteen years of age, the regulations under Nos. 1 and 2 to adults over eighteen years of age, and to minors from fourteen to eighteen years of age.

4. The protective supervision is, as a rule, carried out by a District Society for the Protection of Youth and Prisoners' Aid, or some other private society which makes it a duty to promote the interests of juveniles or discharged prisoners. Special welfare officials are to be found with the individual larger juvenile courts, and at the penal institutes. The O.F.Y.P. also have special welfare workers (male and female), who, however, only exercise supervision in the case of juveniles.

5. (a) Probation officers are partly trained.
   (b) The welfare workers at the juvenile courts and at the penal institutes receive their salaries from the State.
(c) Those of the Municipal O.F.Y.P. (in towns of more than 10,000 inhabitants) are paid by the town, those of the District O.F.Y.P. either from the District welfare offices or from the district authorities.

(d) Whether private societies also have paid welfare officers is up to the present unknown.

(e) Salaries are not provided in any other ways.

(f) In addition to the officials of the State, Town and District welfare officials and others paid by the District authorities, there is a large number of honorary workers in welfare work.

6. Examination of adults is carried out when there is cause to doubt the mental condition. Juveniles are regularly examined as to their mental condition. Examination of condemned persons in regard to their physical condition is carried out before the punishment is put into execution.

7. The examination is carried out regularly by the court doctors or penal institute doctors, who, with a few exceptions, are the district doctors. The district doctors are under the control of the Ministry of the Interior. The chief doctors in penal institutes are under the control of the Ministry of Justice.

8. The examination as to mental condition takes place regularly during the course of the juridical examination, before the chief trial. If there are any reasons for doubting the mental condition after the sentence has been passed, the examination takes place later. The physical examination is to determine the capability of the offender to carry out the punishment and always takes place after the sentence.

9. A special scheme for testing intelligence is not in use. It is left to the examining doctor to decide which scheme is scientifically the most reliable.

10. The observation of the mental condition in the case of adults is carried out in the psychiatric clinics of the Universities of Heidelberg and Freiburg, or in a hospital, and in the case of juveniles in one of the observation stations in the welfare training institutions at Flehington, Bretten, and Rastatt.

11. Special instruction for probation officers is not provided by the State. The Charity Union of the Archdeaconry of Freiburg has arranged such courses at its
central office in Freiburg for the Catholic welfare workers (male and female) belonging to the charitable Union. Similar courses are being planned for other welfare workers.

12. Offenders are referred to the clinics by the judge.

13. There is a union of welfare workers (female). It consists of such officials whose task it is in the first place to look after children in arms and little children, and who carry out protective supervision as a side-line. There are no other organisations.

14. There are four chief welfare officials in the employment of the State. The number of persons employed by the districts and the district welfare unions is not known.

Bavaria

1 and 2. In regard to Bavaria the following comes into consideration:

(a) The 3rd section of the Order regarding pardon, suspension of punishment, changing the place of punishment, eliminating information out of the punishment register and expunging of remarks in regard to punishment of the 5th March 1922 (J.M.B.I., p. 67), similarly in the Order of the 14th June 1924 (J.M.B.I., p. 89).

(b) The Order of 7th May 1923 enacting the enforcement of the Imperial Juvenile Court Law of the 16th February 1923 (J.M.B.I., p. 21).

3. The regulations in the Order of 7th May 1923 (J.M.B.I., p. 21) only refer to persons as understood by the Juvenile Court Law (persons between the ages of fourteen and eighteen years). The regulations of the Order of 5th March 1922, similarly that of 14th June 1924, apply both to adults and youthful persons in as far as the special regulations do not make exceptions for youthful persons.

4. There are no special regulations in regard to the housing of condemned persons in case of release on probation or a conditional postponement of the sentence. In the case of youthful persons the training regulations can be ordered in accordance with par. 7 J.G.G. The cases in which such training should be ordered, and how the same is to be carried out, are set out in the proclamation of 21st July 1915 (G.V.B.I., p. 595). After the 1st January 1926 the
Imperial Law for Youthful Welfare will be in force, together with the Bavarian Regulations as to its execution. 5, 11, 13, and 14. In so far as the condemned person is supervised during the probation period, this is carried out by charitable societies and unions and the staff of the same, who for the most part do not receive any payment for their services, and for whom no special training is prescribed. They do not belong to any professional organisation.

6–10, and 12. There are no special regulations in Bavaria regarding the medical, mental, etc., examination of accused persons. The regulations of the Imperial Order regarding Criminal Law Procedure are in force. As lunatic asylums, as understood in par 81, St.P.O., the asylums under control of the District Councils come into consideration. The examination of arrested accused persons can also be carried out in the psychiatric department of the criminal prison in Munich or in that of the prison in Nuremberg for prisoners whose trials are pending.

HAMBURG
(Both a State and Municipality)

1 and 2. There is a probation law, viz. the Juvenile Court Law of 16th February 1923, in force since the 1st July 1923. 3. This law applies to:
(a) Minors of from fourteen to eighteen years of age.
(b) It does not apply to adults.

The Hamburg Senate as an act of grace after the sentence has been passed can grant a postponement of the punishment by fixing a probation period. In the case of small punishments (up to six months' imprisonment) the courts by an order of the Senate of the 24th November 1924 are empowered in suitable cases to exercise this right in the name of the Senate. A special supervision by officials is not general in such cases. In special cases adults can be placed under so-called protective supervision, which is usually carried out by the prison welfare officials.

4. (a) Such offenders are placed on probation under an official of the O.F.Y.P.
(b) Offenders are not put on probation under a society,
GERMANY

(c) but under honorary persons appointed by the O.F.Y.P., as well as under suitable private persons who are directly responsible to the court.

5. (a) The women probation officers have had two years’ training, the men none.
(c) Their salaries are paid by the Municipality.
(e) The honorary staff of the O.F.Y.P. is not salaried, the others are paid.

6. Offenders are examined to ascertain their mental, physical, etc., conditions, in accordance with the report of the probation officer, or by the order of the judge.

7. (a) Clinics are not attached to the court but (b) to the Education Department and (c) to no other authority.
8. The examination takes place before the trial.
9. No special scheme of intelligence tests is prescribed; each expert sets together his own questionnaire.

10. There are observation homes. The criminals are removed to a hospital, or to the juvenile ward of a lunatic asylum. At the same time they are, for the time being, given training.

11. There is no special training for probation officers.
12. The ordering of a clinical examination is carried out by the O.F.Y.P., under the controlling authority of the probation officer or the judge.

13. There is no association of probation officers, but the women welfare officers, from among whose ranks the probation officers are drawn, are organised.
14. There are nineteen men and fifteen women, but the duties of probation officer only form a part of their activities, which are social welfare in its entirety.

PRUSSIA

1 to 3. In Prussia the Imperial Court Law of the 16th February 1923 applies to minors between the ages of fourteen and eighteen years. This is contained in the "Imperial Law Gazette," Part I, p. 135, and in the case of adults the general enactments of the Minister of Justice of the 19th October 1920, in regard to Probation. See "Gazette of the Ministry of Justice for Prussian Legislation and Administration of Justice," p. 565, altered and supplemented by the General Enactments of the 4th April 1921, J.M.B.I.
4. (a) Adults in the case of conditional release (pardon) are not as a rule subjected to protective supervision; in exceptional cases suitable persons are entrusted with this task in an honorary capacity, in which case use is made of the Communal O.F.Y.P., or private Prisoners' Aid Societies. In the case of persons between eighteen and twenty-one years of age, who from the point of view of the criminal law are considered as adults, but on account of their still being minors are under the authority of said office, they are, through the authority of the said office in the case of probationary release subjected to protective supervision, especially if such minors have been punished for being tramps, begging, prostitution, or similar offences.

(b) The co-operation of the O.F.Y.P. in regard to the carrying out of protective supervision in the case of minors is entrusted to the Communal Offices for Youthful Persons by par. 3, sect. 4, of the Imperial Law relating to youthful welfare (R.J.W.G.) of the 9th July 1922. In practice it is carried out in the following manner:

1. By communal officers (men and women).
2. By societies, either on behalf of the Office for Youthful Persons, or directly on behalf of the court (par. 60, R.J.W.G.).
3. By individual persons—
   (a) On behalf of the Office for Youthful Persons.
   (b) On behalf of societies.
   (c) Directly on behalf of the Court (par. 60, R.J.W.G.).

5. (a) Compare No. 11 (below) as to the training of probation officers.
(b) No, their salaries are not paid by the State.
(c) Yes, in so far as it refers to communal officers, the Municipality pays.
(d) Yes, in so far as the society works with salaried staff.
GERMANY

(e) It is not known whether or not salaries are paid in any other way.

(f) The protective supervision is in many cases carried out by honorary staff.

6. In suitable cases a medical examination of the accused youthful person is carried out (par. 3, sect. 1 of the Juvenile Court Law of the 16th February 1923).

7. The examination is carried out by physicians or in the ordinary hospitals or clinics, frequently without charge, otherwise the costs are borne by the Court or the responsible Commune. Special establishments or doctors for such examinations are not provided.

8. The examinations of offenders take place as a rule prior to the trial (par. 31, J.G.G.).

9. The Binet-Simon system of intelligence tests is used.

10. The accused youthful persons can be sent for observation to the institutions mentioned in No. 7 (above).

11. The persons entrusted with protective supervision by the O.F.Y.P. are as a rule specially educated experts (men and women). The training is carried out either in Women’s Schools for social work, or in special courses, e.g. in the so-called Social Academies. The voluntary helpers are frequently trained in courses which are arranged by the private societies for the promotion of youthful welfare. There are no special courses at the universities for people intending to take up protective inspection work.

12. The handing over of cases for examination is either carried out by the court, or by the O.F.Y.P., or by the societies or their assistants, according to the circumstances of the cases.

13. A special union of persons who exercise protective inspection does not exist; there are, however, a number of unions of professional social workers.

14. This cannot be stated, more especially because the majority of salaried social workers (men and women) only practise inspection as a part of their duties.

SAXONY

1. Yes, there is a probation law for Saxony, viz.

2. the Juvenile Court Law of the 16th February 1923.

3. (a) The Juvenile Court Law applies, generally speak-
ing, only to persons who at the time of the offence were youthful, i.e. over fourteen, but who have not attained the age of eighteen years.

(b) The granting of release on probation in the case of adults is exercised as an act of grace (in Saxony since 1895). The exercise of these acts of grace is vested within limitations in the courts (in Saxony since the 1st January 1924).

4. Protective supervision during the probation period is not obligatory, but it can be ordered in individual cases, and in such cases is carried out by:

(a) Either an individual person, or
(b) a private society, or
(c) the Office for Youthful Persons.

5. (a) The protective supervision officers are not in their entirety specially trained for their work.

(b) Generally their salaries are not paid by the State. The supervision can, however, be carried out by the prison supervision officers, who in Saxony are State officials and salaried.

(c) Their salaries are paid partly by communal or district authorities, and

(d) Partly by private societies.

(e) They are not paid in any other way.

(f) Protective supervision is also carried out by persons acting in an honorary capacity.

6. According to the Juvenile Court Law a medical examination shall take place when desirable. Generally speaking, such examinations are not undertaken except when it seems desirable.

7. (a)—(c) Special institutions fitted up as clinics for offenders do not exist. The examination, when such is carried out, is entrusted to an official doctor, more seldom to a private doctor or to a hospital.

8. The examination of offenders as per Nos. 6 and 7 above is usually carried out prior to the trial.

9. Special tests in regard to intelligence are not usual.

10. Specially fitted-up institutions for observation do not exist. The observation as a rule takes place in a public hospital.

11. (a) and (b) Courses of instruction for supervision officers as special courses are non-existent. On the other hand, the carrying out of such supervision is
GERMANY

12. The accused can only be placed in an institution for observation on the order of the judge.

13. A special union of persons who exercise protective inspection does not exist. Questions regarding protective inspection are, however, treated scientifically in the unions of juvenile courts and juvenile prisoners' aid in Berlin.

14. Statistics in respect to the number of full-time paid probation officers are not available.

THÜRINGEN

1 to 3. Conditional pardon or pardon on probation is mentioned in par. 1, No. 1 of the Thüringen Law, in regard to the exercise of the right of pardon by the courts and executive authorities, of the 27th January 1923. These regulations also have reference to youthful persons (see par. 9, sect. 2, and par. 10, sect. 1, regarding the matter of execution). The provisions of the Imperial Juvenile Court Law, February 16th 1923, also come into consideration. Conditional pardon is mentioned in par. 24, sect. 1.

4. It happens sometimes that juvenile criminals when they are residing with their own family are placed under protective inspection, in which case it is exercised by the O.F.Y.P., or a voluntary assistant of the Prisoners' Aid Society.

5. A special training of probation officers (helpers) has up to the present not been prescribed. Special probation officers do not exist. Protective supervision, which is ordered either by the juvenile court or by the guardians court, is carried out either by the O.F.Y.P., Prisoners' Aid Societies for juvenile prisoners, or by individuals (helpers). The judge determines who shall carry out the supervision. In most cases this is done by honorary unsalaried helpers. When the same is carried out by the O.F.Y.P. it is done by its welfare workers. These are employees and are paid by
the authorities (district or city manager). The honorary workers only receive a refund of their cash outlay.

6 and 8. Juveniles are as a rule only examined in regard to their mental and physical condition when so ordered by the court. The judge of the juvenile court has good data in this respect in the Health Book* of the juvenile, which is obligatory in Thuringen for all children subject to education.

7. For the examination of criminals who are subjected to protective supervision, the Observation Stations in the training homes at Stadtroda and Hildburghausen come into consideration.

8. As a test of intelligence for juveniles of school age and for children who have not yet attained school age, the Binet-Simon method as worked by Bobertag is employed. This method is for children of from three to twelve years of age, but can generally be employed for still older children, as many of these juveniles are mentally backward. A very clear scheme of tests as recently employed by the Society for Curative Pedagogy we enclose herewith. In the case of juveniles who have left school and are too far advanced for this test scheme, the test of intelligence is carried out in a free manner, bearing relation to the course of education and career of the juvenile and as a rule avoiding schematic series of questions. Each juvenile being tested has also to write without assistance a statement of his career.

11. A special course of instruction for persons working in juvenile court aid and probation is not prescribed. Frequently now the voluntary workers take the continuation courses provided by the Wirtschafts Ministry of Social Economy.

12. It is not possible for a helper to send a juvenile for observation on his own authority. If he considers this necessary, he can apply to the O.F.Y.P. or directly to a judge of the guardians' court or to the juvenile court.

13. There is a society of Juvenile Prisoners' Helpers in Thuringen that has branches in all towns, or at least responsible representatives, wherever there is a juvenile court. The principal official is the Geschäftsführer (manager), who is occupied in extending the building-up of local groups.

14. This is already replied to in Nos. 5 and 13.

* See Court Clinics, below.
WÜRTENBERG

In Württemberg there is no special law which entitles the courts to grant criminals a remission of punishment on probation. The courts are only entitled to grant remission of punishment to juveniles in accordance with provisions of the Juvenile Court Law. In the case of adults, postponement on probation can only be granted by the Ministry of Justice as an act of grace.

The supervision of criminals on probation living with their families is in Württemberg exclusively in the hands of voluntary welfare societies. Training, employment, and payment of such officials for the purpose in question is not carried out in Württemberg.

There are no special regulations in Württemberg in regard to the examination as to the mental and physical condition of the criminal, or the manner of the examination, nor as to sending them to an institution for observation. Such examinations take place only before the sentence, according to the provisions of the penal code.

SUPPLEMENTARY INFORMATION

The application of the new German law for the protection of children, 14th February 1924. (B.I.F.E. November, 1924.)

Mr. Serge Goguel, a Berlin professor, tells us that in order to understand the fundamental ideas of the above new law which was put into force by the Reichstag, 16th February 1923, and subsequently adopted by the different German States, it is necessary to go back a long way into history.

So early as 1478 there was a Württemberg Statute, under which the children of beggars, on attaining eight years of age, were placed out as servants in town or country. In the Code for the Prussian States 1794 the guardianship court had the power of removing children from cruel parents and confiding them at the parental expense to the care of trustworthy persons.

In 1871 the German Penal Code laid down twelve years as the age of criminal responsibility, and that children of less than twelve years should come within the scope of the guardians court if they commit a crime or are morally abandoned.

The promulgation of the Penal Code of 1896 had a considerable influence in extending the powers of the State to intervene in child-welfare and many of its enactments still remain in force.

Children morally abandoned through the fault of their parents are a danger to the public, and the new tribunals, whose duties are to be carried out by an Amtsrichter (who roughly corresponds to a justice of the peace), are called upon to watch over the interests of children. The age at which they are eligible for court protection was raised to
eighteen years. The right to make dispositions and choose measures for youthful protection was reconferred upon these tribunals, and such dispositions and measures included adoption, educational establishments, houses of correction, apprenticeship and supervision of guardians. The unions of Communes were to establish the tribunals towards which the State (Prussia) contributed two-thirds of the expense.

Such an organisation could not be carried through without voluntary assistance. Hence, originating in Baden, the institution of tutors or guardians (fürsorger) has extended throughout Germany. These guardians consist of priests, schoolmasters, and others, including women, known and respected in the country and worthy of confidence. Their position is regarded as an honourable one, and there is no need to elaborate the value to any State of so great an army of social workers.

Gradually there grew up private organisations concerned with various aspects of child-welfare side by side with some 900 State institutions for correction and education, etc., of morally abandoned and criminal children, and the need of co-ordination and collaboration became apparent.

The above to a slight extent represents the background to the new law, but there was abroad a feeling that a new code of laws for children was necessary, and that, as a complement to the new law, all welfare organisations should be brought into co-operation with one another and also with the courts.

Mr. Serge Goguel confesses that he was aghast at the magnitude of the new undertaking. He said, "It is great, it is spectacular, but it cannot be realised; the richest State could not support the expense." A subsequent order of the Reichstag withdrew the necessity of putting the new law into complete operation so far as it increased present expenditure. Nevertheless all the States have introduced the law and almost all have created offices for children (jugendamt = O.F.Y.P). All the States except one have confided the application of the law to the Communes, the State making a grant for the purpose. The constitution of the O.F.Y.P. Communal office in Prussia, for example, is as follows: The President of the Commune nominates the President of the O.F.Y.P. and from one to three of its members. Then follow ten members, men and women experienced in charitable work. Four of these are put forward by the unions devoted to the protection of children. Three of the remaining six should include a Catholic priest, a Lutheran minister, and the Rabbi if there are Jews in the Commune. The remainder are chosen by the Assembly of the Commune. Ex-officio and in a consultative capacity there are others who take part in the work of the O.F.Y.P., viz. a representative of the schools, of the medical profession, of industry, and the judge of the guardians court. They all serve for a period of four years. The O.F.Y.P., and not the police, initiates legal proceedings in cases of the morally abandoned child.

Berlin is divided into twenty administrative districts each with its local office, and there is a central office. Here is realised the principle of organisation and collaboration. The different branches
of the protection of children are all there in the same building, thus avoiding unnecessary duplication of work, loss of time, and needless correspondence. Mr. Serge Goguel thinks that at bottom there is a resemblance between the above organisation and the hundred English charity organisations and the 150 American similar Societies.

The time is not yet ripe for the discussion of the interesting point as to whether the legal basis of the O.F.Y.P. proves a greater source of strength to that organisation than the voluntary basis upon which charity organisation societies are founded gives to the latter.

Elsa von Liszt, who writes from the Children's Welfare Department of the Central Organisation of the Offices for Youthful Persons at Berlin, has been kind enough to contribute the information given below.

AN EXEMPLARY JUVENILE COURT LAW

By Elsa V. LISZT (BERLIN)

Formerly if a boy aged twelve had stolen a halfpenny post-card or broken into a neighbour's premises and taken an old toy, the court was bound to punish him, provided that the youngster was able to realise fully the culpability of his action.

The penalty might be only an admonition, yet, e.g. in case of theft, it had to be registered against him and always left on his character a slur, detrimental to him when he had to procure a certificate of good conduct in order to enter the military or civil service.

The law had to be fulfilled without any lenity, the Attorney-General had to take up the case as soon as well-founded suspicions of a dishonest act had been established, and the court had to mete out the punishment if the delinquency was proved.

Within the last few years many improvements have taken place in this respect. To begin with, after a certain lapse of time, which is of shorter duration for juveniles than for adults, no one, except civil authorities, may obtain information about law-suits or penalties from the court records, and after a further interval the offence is struck off the list, and only the records of capital crimes are retained.

With the enactment of the law of 16th February 1923 establishing the juvenile courts, criminal procedure as far as juveniles are concerned has been put on an entirely new footing.

Children under fourteen years of age are exempt from criminal proceedings, the chief idea being to improve the character of the juvenile offenders rather than to punish them.

This reform has been advocated for a great number of years from many different sides; but the proposal, reaching still further, to extend this privilege to juveniles up to sixteen and even eighteen years of age (as advocated at the Conference for Juvenile Court Work at Jena in 1920) has not been accepted by the legislator. In our opinion, it would be unwise to exclude juvenile delinquents of the age of sixteen and seventeen from criminal proceedings before we know exactly how to deal with them. There, however, lies the difficulty, for we do know that we have neither men nor
private institutions able to cope with such difficult cases as are met with in these unruly times, when delinquency has greatly increased, especially so far as serious crimes are concerned.

The juvenile court, however, must not inflict penalties in all cases of juvenile delinquency, for the law says: Juveniles are not liable to punishment for misdeeds, if at the time of the deed, in consequence of their mental and moral development, they were unable to discern the criminality of their deed or to control their will in conjunction therewith. (The wording of this passage has been taken from Austrian enactments.)

The juvenile court is formed by a judge and two lay assessors (jurymen), and in serious cases by two judges and three jurors. The latter are chosen from a list submitted by the municipal authority for child welfare (Jugendamt).

The proceedings in the juvenile court are not public, the representative, father or guardian, of the accused, the injured party and their representative, as well as a delegate of the Juvenile Board, are the only parties admitted, but admission may be granted to other persons by the court.

This regulation will be fully appreciated by those who in a police-court have seen how badly influenced culprits are by the signalling, calling, and laughing of their friends during the proceedings, and even more so during the intervals.

The first thing to investigate is what the environments and upbringing of the offender were as well as all the conditions which would enable the court to judge of his physical and mental qualities; in special cases a medical examination has to be insisted upon. Such a necessity would come in question when the previous enquiries have confirmed the suspicion of a psychical anomaly, or if a serious crime has to be dealt with, as well as in cases of juveniles who have a decided antagonistic disposition against all authority or have been thoroughly neglected in their bringing-up.

For these investigations and at all stages of the proceedings the officers of the Juvenile Court Aid staff (J.C.A.) should always be consulted. By this regulation this work acquires a legal standing and receives at the same time a very great responsibility. The decisions of the court will greatly depend on the J.C.A.s’ prompt and intensive preliminary work and to a great extent through their considerate pedagogical and psychological influence the judge’s directions will be of lasting benefit to the offender. The Children’s Act designs the J.C.A. Department as a part of the Juvenile Board (Jugendamt). This board ought to work in close connection with the private associations, who in certain eventualities may act on their own responsibility.

At all events the important, difficult, and extensive tasks of the J.C.A. staff can only be fulfilled in conjunction with all official and voluntary forces available. One of the main objects of the J.C.A. Department should be the training and advising of its officers and voluntary helpers. The primary and essential point of this law is for the court to decide whether educational measures must be adopted or not. In such cases the judge of the juvenile court can either himself decide the necessary measures to be taken or he may
pass the case on to the educational court (Vormundschaftsgericht). Educational measures may be: admonition, or committal to the charge of the legal representative or the school, or certain obligations may be imposed on the culprit, or placing him with trustworthy people or under special supervision (probation), or committal to a reformatory or industrial school. Among so many possibilities the judge is sure to find out the course most suitable in each individual case.

Even in the preliminary proceedings any of these steps may be taken in preference to detention on remand, which only may be resorted to when it is not possible to reach the same result by other methods—for instance, by placing the juvenile offender under the charge of trustworthy persons or in a foster-home.

One of the most important paragraphs of this law is: that the court is not forced to impose punishment if educational measures are sufficient. When deciding this question, one should not only consider the offender, but also the injured party's interests and the effect on public opinion as clearly shown by the motivation of this law.

In case reformatory measures are not advisable or not sufficient, a penalty must be inflicted. However, in slight offences and delinquencies it may be commuted. The punishment may consist in a fine or imprisonment—maximum, ten years.

The imprisonment may be suspended from two to five years in order to give the condemned juvenile a chance to get a reduction of the sentence through good conduct. During this period of probation special obligations may be imposed on him, such as restitution of the loss to the injured person, or placing under the supervision of a probation officer. In this case the Juvenile Court Aid staff can help the culprit to be of exemplary conduct and to show himself deserving of this act of grace; besides, the judge will be guided by the reports of the Department when he decides at the end of the probation whether the sentence should be exacted or whether the probationer should be released entirely.

No doubt the rules of the juvenile law take the individuality of the juveniles into consideration and they certainly leave a great deal of responsibility to the judge and his agents, especially the Juvenile Court Aid staff. Everyone acting in this capacity must always be fully aware of his great responsibility and must never forget that every juvenile offender is a being who must be understood and treated individually.

Given that the right judge and competent helpers are found, an important step forward is made and an aim is reached, which many of the best who were with us and are still among us have fought for during many years.

(The above article is reproduced by kind permission of the gifted authoress, Elsa von Liszt, and of the journal "Soziale Arbeit." Redaction Dr. Artur Gieser, 21. Jahrgang, Wien, November 1923).

In the course of a letter to me (which was translated by my wife), the authoress of the above article gives the following information:

Child offenders under fourteen years of age are not brought before
a criminal court, but before a guardians court for the protection of children.

In accordance with par. 3 of the Children's Law, 16th February 1923, a youth is not punishable if at the time of his offence he is mentally and morally unfit to understand the illegality of his misconduct.

Children of from fourteen to eighteen years of age are considered as criminally responsible only to a limited extent and come before the juvenile courts.

From eighteen up to their majority offenders are brought before the courts for adults, but there is a strong tendency to use the juvenile court officers in the pre-trial investigations as to personality of such offenders and to use these officers as probation officers. Under the children's Welfare Law such offenders (eighteen to twenty-one years) may come under the same guardianship control and educational control as those of fourteen to eighteen years.

The juvenile court is in a sense a jury court. The judge has the services of two jurymen chosen from a list presented by the Jugendamt (Office for Youthful Persons). Women are now eligible to serve on this jury. The children's judge has the power to control the guardians of the child and to adopt educational methods of treatment. As early as possible in the proceedings investigations are made into the child's environment and character. The aid of the Jugendgerichtshilfe (Juvenile Court Assistance) is invoked for this purpose, since it is part of the duties of the Jugendamt to be in touch with all associations or individual persons who are at work in the care or protection of children (Jugendfürsorge). The general purpose underlying their investigations is to show whether educational measures should be adopted. If the court considers such measures are necessary and sufficient to meet the case, the penalty incurred is not inflicted. Should a penalty be inflicted, its execution may be suspended and the offender may be put on probation under the control of a Juvenile Court Assistance officer, who sees that the orders prescribed by the court are carried out by his probationer. This exemption from prosecution and suspension of sentence is provided for in the Juvenile Court Law referred to.

In cases where the penalty is actually inflicted, it must be executed in such a way as not to interfere with the juvenile's education. The 1923 Act specially provides not only for education, occupation during free time during confinement, but also the care of youths and those under age after their release.