The Child And The Law

(BY LEO PAGE IN THE CONTEMPORARY REVIEW, (LONDON).

The passage into law of the Children and Young Persons Act of 1933 marked a very real advance in that most important branch of legislation which deals with children and adolescents. The Act set up and provided for special rules to be made as to the composition and procedure of juevnile courts all over England and Wales, on lines similar to those which had been already in existence in London and certain other centres. These children's courts have, therefore, been in operation for nearly three years in country districts. Taken as a whole they have done good work. But the difficulties incidental to the institution of a novel practice and procedure have, in some rural areas, caused the Act to be misapplied and misunderstood. The result has been missed opportunities of helping those boys and girls who appear before these courts, and a tendency amongst some magistrates to regard the Act and its procedure as no more than a fad foisted upon practical men by the theorists of Whitehall. It is for these reasons that an account of the working of such a court based upon personal experience may be found of general interest.

A juvenile court consists of not more than three justices chosen form the panel of magistrates appointed for this work. At the outset, therefore, benches are faced with a duty of selecting individuals for this panel. The best results will never be attained if this duty is not conscientiously performed. The Home Office circular letter to justices, issued before the Act came into operation, gave valuable advice on this point. The panel was to be composed to justices specially qualified to deal with juvenile cases; men and women were to be chosen of sympathetic understanding of young people, and experience of dealing with them in social work. No rigid provision was made as to disqualification on account of age. This was left to the good senes of benches, but it was carefully pointed out that this was work likely to be best carried out by the younger magistrates. The advice thus given by the Home Office has been authoritatively endorsed on many occasions since that date, only recently, indeed, by the Lord Chief Justice of England, in his address on the treatment of juvenile delinquency delivered to the members of the Clarke Hall Fellowship. Lord Hewart emphasized that justices should be appointed who were fathers and not grandfathers, too liable as are the latter, through inability to look through the mental eyes of childhood, towards excessive severity or undue laxity.

Where the Act is not being applied to the fullest advantage this is probably due to a neglect of this primary duty of selection for the juvenile panel. In an attempt to avoid an invidious choice of individuals, some benches have elected to the panel the whole of the bench 'en bloc'. In other cases magistrates have insisted upon seats on the panel by right of seniority, or as a matter of pride. Where the importance has not been realized, and the duty of discrimination not properly performed, it has been inevitable, therefore, that an almost insuperable barrier to the best results has been erected at the very outset. Children have appeared befor magistrates who, however well intentioned, suffer form the defects of irascibility, or lack of knowledge, and sympathy with children, and that handicap of deafness which, in itself, is almost fatal to success, ind ealing with a frightened child. It is urobable that in a considerable number of benches up and down the country the panel of juvenile magistrates has been inadequately or carelessly selected. It is suggested with the utmost seriousness that every individual justice should re-examine in the light of the considerations above the panel of the bench of which he is a member. If he finds that there those upon it whom the authority of the judicature and the experience of the Home Office deem unsuitable, it will surely be his duty no longer weakly to acquiesce in what he knows to be wrong. Nor will the excuse be valid that a particular bench has only a few children's cases, and those of a trivial nature, in the course of a year. Such a state of things may be changed at any moment, or as the duties of the local authority, particularly the local education authority, and the police, under the "care and protection" sections of the Act, become more fully realized. And even of a particular bench is fortunate enough to have little serious juvenile delinquency, nevertheless the difference between a single mistried, or unwisely treated, child and between ten such children, is a difference only of degree and not of kind. The leadership of a good chairman, inspired at once by an enthusiasm for the Act and by a love of children, is almost all-important. There should, if possible, be a woman member of the court, and if such be available it may be wise to complete the court by the addition of a justice of the working classes, whose more intimate knowledge of the lives and habits of those who mainly come before the panel is frequently of the greatest value.

As regards the place of sitting, it is forbidden by the Act to hold a juvenile court in the ordinary court room on the same day as the adult court. In large towns accomodation is often provided, as it should be, in a different building altogether. This is not always possible in a small market town, desirable as it is, and the magistrate's room provides a common and convenient compromise. The essential is that there should be no association with adult offenders. The juvenile court ought not to be regarded as solely or even primarily a criminal court at all. Everything possible should be provided in the way of surroundings which may tend to drive home the lesson that the Act aims not at the punishment of children, but at their reclamation. It is for this reason that section 59 provides that the words "conviction" and "sentence" shall no longer be used in connection with children and young persons dealt with summarily. The whole conception of the young offender is altered. Whereas he was merely a young criminal, he has become, in its more charitable and discerning view, rather a child in trouble and therefore in need of help. Nohting should be wanting which would help to substitute for the cold formality of a police court the atmosphere of an inquiry in his study by an understanding father.

It is important, for example, that the nature of the proceedings should be clearly understood, both by the boy or girl and by the parent, who is almost always present. There should, therefore, be a mimimum opportunity for distraction, and for this reason it is advisable to have as few persons in the room as possible. Witnesses should be kept outside the room until they are called into give evidence. In the majority of cases of any importance at all the defendant is ill at ease in the presence of strangers, and it is a wise practice to require witnesses who have given their eidence to leave the room after they have been cross-examined and re-examined. There is thus no possibility of a room gradually filling up with persons who remain for no useful purpose, with the resulting embarrassment and distraction to a lad who should be at his best.

It is at once kind and wise to commence the hearing of each case with the absolute assumption that the particular child before the court is deserving of a great deal of trouble and understanding, and that he will, morever, respond to the sympathy that is shown him by doing his best to understand and answer questions, and, at the end of the case, to follow the advice given him by the bench. This mental assumption is not always easy to make in the case of a stupid, frightened, or unprepossing child. But, if the child is to do himself justice, it is a very necessary one. It is remarkable how responsive is the least pleasing child to the feeling that he is about to be treated not only with justice, but with human interest for his own good as well. So long as a child remains sullen or afraid, so long will he remain unreceptive of advice or warning, and so long will it be infinitely more difficult for the court to come to any final conclusion as to the treatment best suited to his case. An invincible patience, and a determination that there are attractive traits in this child's character which will presently disclose themselves, will be rewarded, as, gradually, his appearance gains in alertness and intelligence, and his former look of sullen defiance disappears. Morover, with such offenders as remain obdurate and defiant despite all sympathy and consideration, the chairman may subsequently use all such severity as the occasion may warrant. Cases of course, come before a court where real severity is the sole instrument of any value, the only argument which a particular child can understand. Then it must be used. The plea here is only that it be not employed prematurely, but only when all else is seen to fail.

Scarcely ever does it happen that a boy or girl defendant has the wit to make any effective cross-examination of the witness against him. The same is true also of his father or mother. Yet a discerning chairman can frequently discover without much difficulty that there are questions which the defendant would like put. In such cases it is not only premissable, it is the duty for the chairman himself to put them to the witness, if, as is almost invariably the case, the boy or girl is not professionally represented. Not only does it happen on occasion that a fact in this way emerges which alters the entire aspect of the case, but, even when no material evidence is disclosed, there is no more certain method than this patient and serious cross-examination to a boy's behalf to convince him, and his parent, that the boy has had a completely fair trial, and to gain their confidence and trust in whatever may be the ultimate decision of the court. Conversely, if the boy is himself subjected to cross-examination it is the duty of the chairman to protect him from questions or methods to which a professional advocate would be entitled to object, and to see that he understands such questions are are put to him. Here, again, the boy and his parent are able to appreciate the impartiality of the court, and on occasion to change their whole attitude in consequence.

In the some way much may be done with a boy by tactful handling when he comes to tell his own story. It is obvious, for example, that he will not readily make accusations against his father, however well founded, in the man's presence. Clearly, in a case where there is any possibility of the presence of an individual being the cause of a child's refusal to speak, it is necessary to send that individual out of the room. But there are cases where a child will stand obstinately mute, determined, to all appearances to say nothing; roughness or a threat will have no effect save to make the child still more utterly dumb. But not seldom the same child, two minutes later, will burst into a flood of revealing talk, disclosing the very evidence for which the court has been vainly searching, if everybody be sent out of the room but the magistrates themselves, and if one of them brings him gently forward, so close that the least whisper can be heard, and with a hand on his boulder, say quietly, "Now, Tommy, there is nothing to be afraid of. We only want to help you. Tell us all about it."

Where a child is brought before the court on a serious charge, it is sometimes painful to see the distress of the father or mother. A great deal can be done here, too, by common sense to alleviate the pain of the moment and to create a more hopeful atmosphere for the future. Mrs. Smith, standing tight-lipped, in an agony of pride and fear, against the wall, may be melted in a moment from her attitude of frozen resentment against fate by the kindly offer of a chair at the table where the magistrates are seated. "Now, Mrs.. Smith we all understand what an anxiety this has been to you. Let us talk it over together and see how we can help you." Mr. Jones ceases to repeat over and over again how respectable his family has always kept itself, and how difficult it is for him to understand why this trouble has come upon him, when the chairman sits him by his side, and tells him how well they realize that thre is a lot of good in his boy, Jim, and how anxious they all are to set a lad of so much promise on the right path in life. These are the moments when it is of importance that whoever talks to the father or mother should not be ignorant of the lives led in working-class homes. Advice as to the treatment of an erring boy or girl, fantatically unpractical, which the parents cannot carry out, is not only useless, but usually alienates much of the goodwill which the most careful hearing of the case has just created. It is, on the contrary, of the greatest importance that the chairman should know at least enough to make intelligent suggestions as to such Boys' Clubs, Girl Guides, Boy Scouts, or similar organization which may exist locally.

It is almost always the wisest course at the conclusion of a case to speak to the parent of the child alone. He will more readily accept counsel or rebuke if it is given in complete privacy. Especially is this the case where the court are of the opinion that the parents' misconduct or laziness has contributed to the boy's trouble. In such a case no greater mistake could be made than to convey this opinion to the parent in the presence of the child. Whether a child, on the other hand, should be spoken to in the presence of his father or mother at the conclusion of a case must depend on particular circumstances, and especially upon the characters and disposition of the parents. But if the court desire to make a real impression on the child's mind they will have as few others in the room as possible. A troublesome child should be given no opportunity of regarding himself as the centre of attraction to an audience of witnesses or reporters but, in a room with little to distract his wandering attention, he should be spoken to seriously, quietly, and in words which he can understand.

The most difficult, as it is the most important, duty of a children's court is to decide on the best treatment of a child after he has been found guilty of an offence. A generous use of probation, never for less than one year, has almost everything in its favor. But there are pitfalls to be avoided in this connection. A court need not be afraid to put a child on probation merely because he appears at the moment to be defiant. Anxiety, fear, a desire to show a brave front, pride — all these combine in the child's mind to produce an outward appearance which is not a true reflection of his feelings. But it is not only useless in the case of an individual child, but harmful to the whole probation system, to put on probation, through misplaced clemency, or from reluctance to use sterner measures, a child on whom the court realizes such treatment will be utterly ineffective. If probation is used too frequently in the case of a child who is really an annoyance or trouble to neighbors, there is a real risk of the system being brought into contempt and dislike, and of the idea being fostered that a child can, within the jurisdiction of that court, break the law with impunity. But it need not be a matter for undue disappointment if a child who has been once on probation finds himself again in trouble. The child was presumably a naughty one, or he would not have been before the court. And no intermittent supervision by the wisest probation officer can be guaranteed in a year to eradicate original sin. It is hardly necessary to point out that the results achieved depend mainly upon the probation officer. Magistrates can do much to encourage and assist him by taking a personal interest in his problems, and by talking over, with sympathy and understanding, his successes and his failures.

It is extremely important that a child should not be allowed to have the impression when put on probation that he has "got off." The perfunctory reading by the clerk of a statutory admonition, couched in legal phraseology which the child cannot understand, is an absurdity. A few simple words explaining to the child his new obligations, with a warning as to the possible consequences of failure to observe them, are sufficient. It is the most useful plan in suitable cases to make it a formal condition of probation that the child does not associate in future with a particular person or playmate. Such a condition is not only valuable in itself, as helping to keep the child out of bad company, but it is an everpresent reminder that the child needs to be careful. The punishment of whipping is retained by the Act. It is not feeble-sentimentality, but the results of actual experience, which show that it is a power which should be used so sparingly as to make it in practice scarcely to be considered. The analogy of the public schoolboy is quite false. Figures show that the most certain method of ensuring that a child found guilty of an offence should again appear before the court is to whip him. It is surely obvious that, in practice, a police whipping cannot be sufficiently severe as to act as a deterrent through sheer terror. It can be no more than a temporary smart. It is a point of honor, therefore, with any lad of spirit to show his companions by an immediate resumption of defiant wrong-doing, that his manly spirit has not been broken by so paltry a device.

There is much that the conscientious justice who is a member of a juvenile panel can do to fit himself for his work. He can go over a Home Office Approved School and see its possibilities for good. He can visit a Remand Home, and consider if, on occasion, a short period on remand may not be sufficient to bring a rebellious child into a better frame of mind. He may sit as a learner in some juvenile court especially successful and well managed in London or elsewehre. Everything is possible if only he abandon the idea that the work is less interesting, or less important, in the juvenile than in the adult court. The work can never be easy: never safe from failure and disappointment. But the children's magistrate may remember in compensation that his may be the privilege—perhaps the greatest granted to any who sit on any bench—to save a young child from a life of crime.

Baby Mix-Up Again Revived

MACON, Ga., Aug. 5—(AP)—A dark haired girl, claimed by two families in a baby mix-up 17 years ago left yesterday the one which reared her in favor of the other which she hadn't seen until a week ago.

In making the decision, the attractive girl raised by the Daniel L. Pittmans of Atlanta as Louise Madeline Pittman exercised her court-granted privilege and decided she was the daughter of the John C. Garners of Macon.

In 1919 Mrs. Garner and Mrs. Pittman gave birth to daughters at Grady Hospital, city-operated institution in Atlanta. Mrs. Garner's baby was born on May 22, Mrs. Pittman's May 23.

Both mothers claimed they were given the wrong baby, but that error was believed corrected to the satisfaction of all concerned. When they left the hospital the Garners said, however, the baby given them was not theirs.

Months passed and the dispute raged. Then it was decided to let the hospital superintendent decide the parentage. Before his decision came, the baby the Garners named Mary Elizabeth died.

Subsequently the Garners went to court in an effort to obtain custody of Louise Madeline.

Judge George L. Bell ruled in 1920 the child would remain with the Pittmans "until of an age to make a voluntary choice of her own deciding."

Last week Louise Madeline came to visit the Garners who moved to Macon two years ago from Atlanta. Neighbors said they noted a strong resemblance between the Garners' three other girls as they stood together.

"I love the Pittmans of course," said Louise Madeline. "They were good to me, but somehow I haven't felt they were my parents. I do feel the Garners are and that these are my sisters."

CORNWALL SCHOOL CLOSING

At the closing exercise of Cornwall School there was a large number of parents and ratepayers present and Rev. D. K. Ross acted as chairman and the following program was given:—

Recitation—"Welcome," by John Walker.

Flower Drill—by Seven Junior girls.

Recitation—"Health Habits," by Ruth Bain.

Drill—"The Test," by seven pupils.

Exercise—"Getting an Education," by three pupils.

Recitation—"A Boys Lament," by James Donahue.

Exercise—"Days of the Week," by seven girls.

Recitation —"My Kitty," by Lavergne MacEachern.

Exercise—Saluting the Canadian Flag," by sixteen pupils.

Recitation—by Roland Walker.

Song—by four Senior girls.

Dialogue—"School Closing," by eight Junior boys.

Presentation of Grade VIII certificates to: —Alice Howard, Martha Walker; Ruth Bain; Lillian Scott; Margaret Danahue; Stanley Crosby.

Presentation of prizes to the pupils having the highest standing in each grade.

Grade X—Jr. —Norma Walker.
Grade IX—Lillian Scott.
Grade VIII—Alice Howard.
Grade VII—Margaret Donahue.
Grade VI—Marion Good.
Grade V—Phyllis Godfrey.
Grade IV—Ralph Bain.
Grade III—Billy MacEachern.
Grade II—Marcell Donahue.
Grade I—Louise MacEachern.

Prize for best attedance:—Senior —Margaret Danahue
Junior—Isabel Howard.

Prize for highest standing in Arthmetic in Public School Certificate Examination—Stanley Crosby

Prizes for the highest standing in Temperance Contest:—

Senior first—Hilda Crosby; second —Lillian Scott.

Junior first—Phyllis Godfrey; second,—James Donahue.

At the close of the program an appreciative address was read, and a beautiful gift was presented to each teacher. The teacher replied in fitting terms, thanking both the pupils and ratepayers for their interest and cooperation during the past two years. The singing of the National Anthem concluded these interesting exercises.

(Patriot Please Copy)

SIMLA, Aug. 5—A "war" costing anything up to £5,125 is to be waged on mosquitoes in Delhi, India's capital, this year.

This has just been decided by the Government of India, who are disturbed by the presence of malaria in the city at certain times of the year.

The "War" is to be conducted under the command of Colonal Covell, assisted by a technical "general staff."

Aeroplanes will be used experimentally to do the spraying if extensive breeding areas are discovered.

Fish will also be employed in the fight—to devour the larvae of mosquitoes in tanks containing water which cannot be treated with oil. For this work the Gambusia Fish—discoverd in America but now bred in government hatcheries in India—with be used.

Propagada urging the inhabitants to keep all well and sinks covered is also included in the programme, for which a sum not exceeding £5,125 has been sandtioned by the Government.

OUR BOARDING HOUSE with Major Hoople

OUT OUR WAY By WILLIAMS