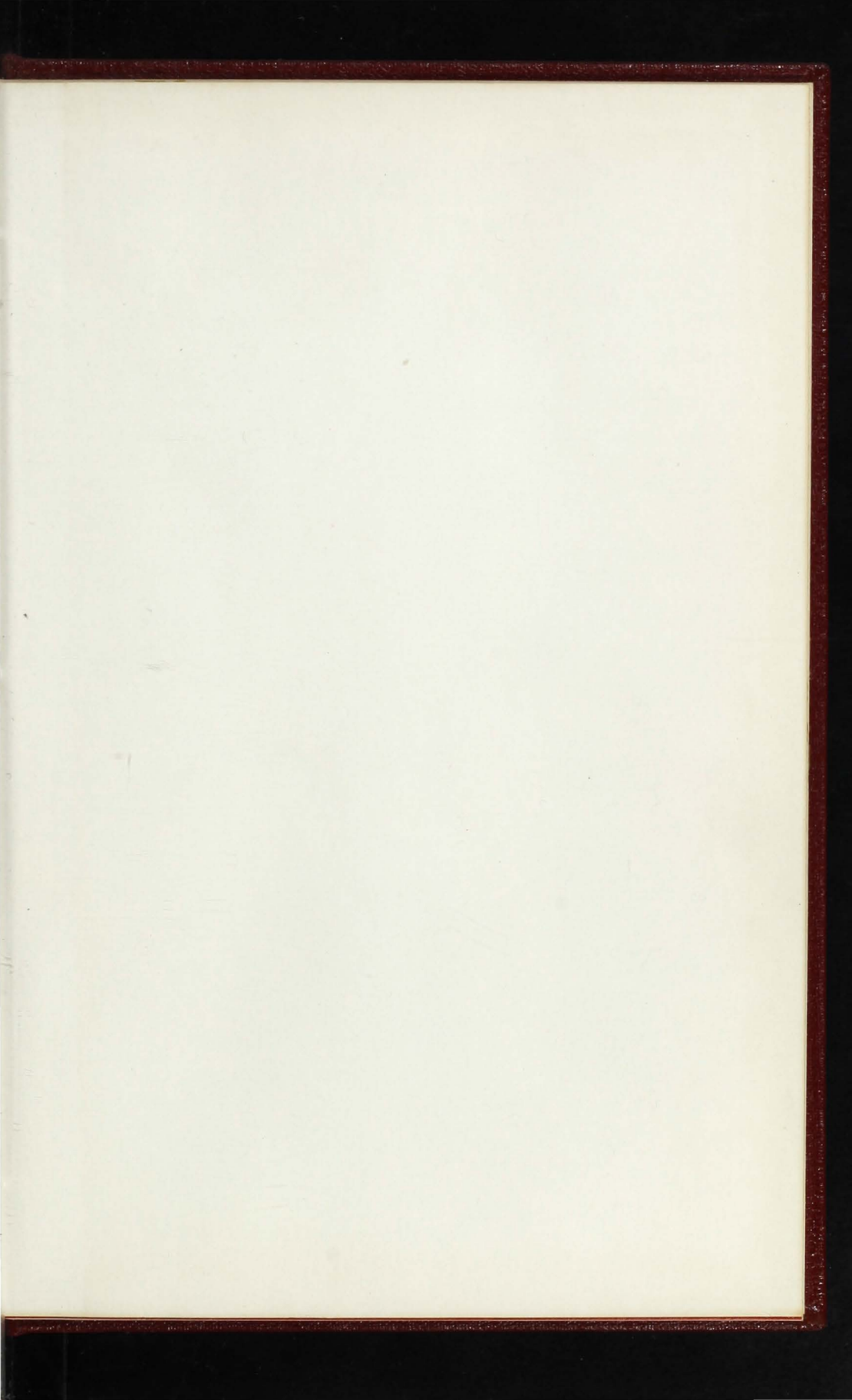


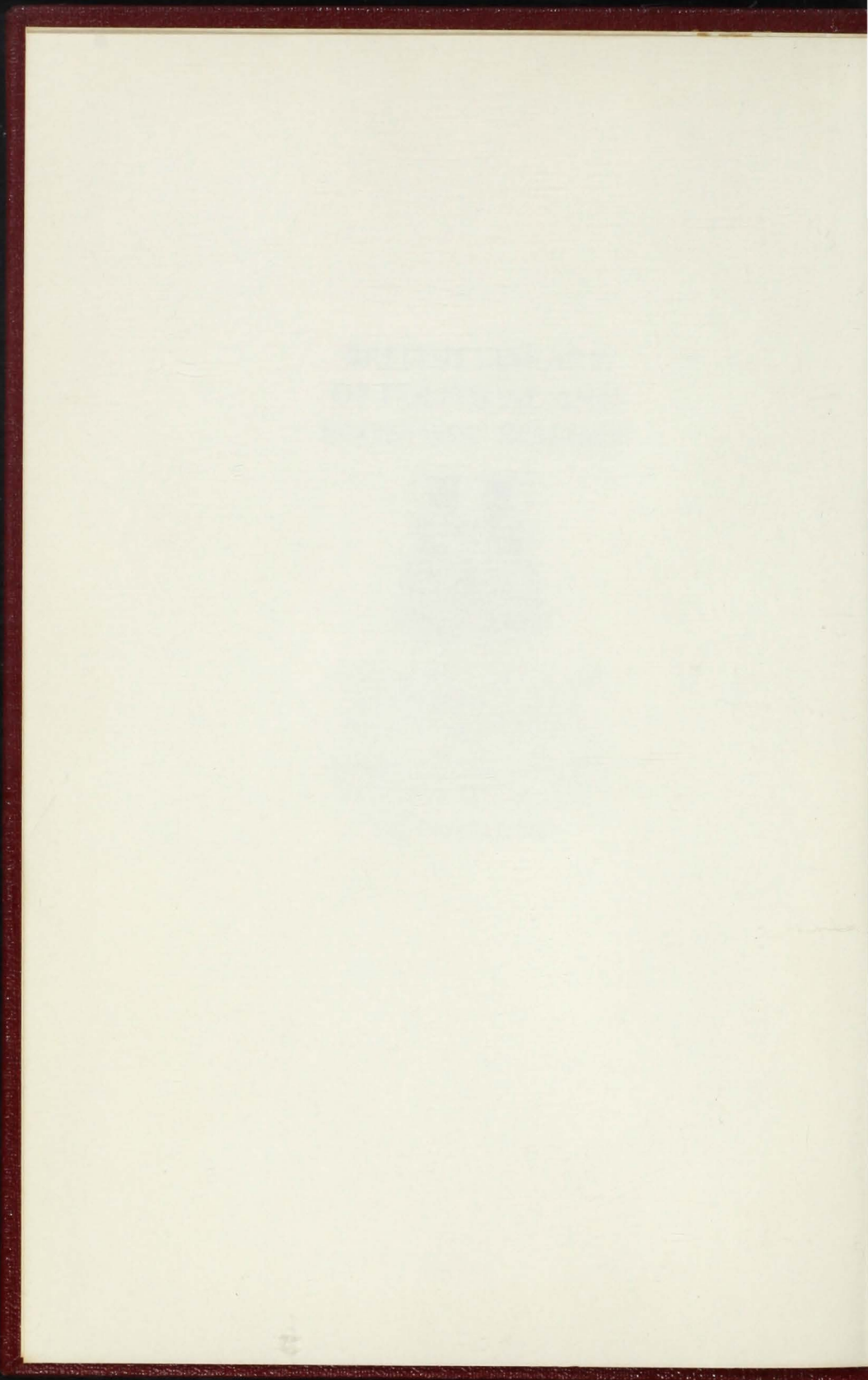
BRITISH LIBRARY
OF POLITICAL AND
ECONOMIC SCIENCE



LONDON SCHOOL OF
ECONOMICS AND
POLITICAL SCIENCE
10, PORTUGAL STREET,
LONDON WC2A 2HD

Tel. 01-405 7686





THE WELFARE OF THE MEXICAN PEASANTS

by
J. H. COLEMAN

THE UNIVERSITY OF CHICAGO PRESS

justice, welfare and juvenile delinquents

John May

fabian tract 472

80p



fabian tract 472

justice, welfare and juvenile delinquents.

chapter	1. introduction	1
	2 historical review	2
	3 welfare and justice	6
	4 Warwickshire—a case study	8
	5 constructing a socialist penal policy for youngsters	14
	6 summary of proposals	20

the author :

John May spent seven years doing research in local authority Social Services Departments, the last five in Warwickshire. During this time with Warwickshire Social Services he carried out a two year study of the effects of social work intervention in delinquency, and has published three papers on this work. He is currently employed in the Corporate Planning Unit of Hampshire County Council.

The views expressed in this pamphlet are his own and not those of either Warwickshire or Hampshire County Councils.

acknowledgements :

I am grateful to the many people in Warwickshire who helped in the research I undertook into the 1969 Children and Young Persons Act and its impact on delinquents. Also to those who encouraged me to embark on writing a Fabian pamphlet, to Margaret Kealy for typing it and to Bob Bessell for awakening my interest in the subject in the first place.

this pamphlet, like all publications of the Fabian Society, represents not the collective view of the Society but only the views of the individual who prepared it. The responsibility of the Society is limited to approving publications it issues as worthy of consideration within the Labour movement. Fabian Society, 11 Dartmouth Street, London SW1H 9BN. December 1980 ISSN 0307 7535 ISBN 7163 0472 4

1. introduction

HV
9146
M46

Why should socialists in particular be concerned with delinquents? Humanitarian reformers have a long and honourable tradition of concern for people in prison and the humanitarian strain is an essential part of the socialist make up. Without the reformers' efforts we might still be using prison hulks moored in major rivers to contain our young offenders.

Marxists too can legitimately point to the overwhelming evidence of class bias in the treatment of youngsters who indulge in anti-social activity. The working class and black youngsters—those at the bottom of our society's heap—are the ones who figure most prominently in the criminal statistics.

At the opposite end of the political spectrum, the Tory Right with their obsessional demands for more "law and order", to say nothing of the ritual call for bringing back the birch, also recognise that many criminals have graduated to adult crimes from juvenile delinquency. Their remedy, immortalised by Mr Whitelaw's phrase "the short sharp shock", is intended to intervene in the process of maturing from delinquency into crime. Whatever else one may say about the 1979 election result, there can be little doubt that for once a traditional Tory tune found an electorate willing to sing it. At this level, too, socialists need to be concerned with the treatment of young offenders since we need to be able to challenge Tory policies on every front and not just on economic issues.

A further reason for socialist concern is that a socialist society must surely be one in which every effort is made to allow each individual a full and equal share in that society, in which youngsters are not denied their share by being written off as casualties of modern life but are helped to retain or regain their all too often precarious membership of that society.

It should also be said that the way society, any society, behaves towards its youngsters when they break the law pro-

vides an insight into the fundamental principle on which that society is based. If a socialist society is to be fundamentally different from what we have now, its penal policy will have to be different too. Political discussion has to be about all the members of our society, including those who break the rules, if it is to be worth anything at all.

This pamphlet will describe some of the immediate steps that should be taken to ensure that delinquents are dealt with according to socialist principles, for no society we are ever likely to see will be free from delinquency or crime. It begins with a brief historical review to set the scene and then outlines the two main principles which have dominated penal policy and thinking for a very long time and which we need to move beyond in developing a socialist approach to delinquents.

The fourth chapter consists of a case study of one part of the country, Warwickshire, and one group of delinquents—those for whom the 1969 Children and Young Persons Act introduced new measures. With supporting evidence from a variety of other sources, this chapter is the one which provides a critique of present practice and also points the way forward. The final chapter puts forward some proposals for a new policy for dealing with delinquents.

2. historical review

The main statute relating to the treatment of juvenile offenders and those in need of care and control (in England and Wales) is the Children and Young Persons Act 1969, which, despite its title, did not come into force until 1 January 1971, and even then only in part. Since 1971 various changes have been made to the 1969 Act but it is still the main statute. It is instructive to trace some of the history lying behind this Act, in particular the principle of abolishing the distinction between children who were officially classified as delinquent and other children in need or in trouble—the distinction being the deprived and the deprived, as it has been succinctly, if inaccurately, put.

The early nineteenth century is as good a starting point as any for this brief history. England was like most other countries in that the prison system played host both to child offenders, to children awaiting trial and to adult offenders. Elizabeth Fry the prison reformer and Mary Carpenter who founded the first reformatory school can be said to have begun the change in attitude to and treatment of delinquency which has brought us to the present. There were some concessions to the special circumstances of young children in those days; for example those under seven were deemed to be incapable of forming guilty intent and could therefore not be tried, while the 7-13 year olds were shielded to some extent by the requirement that the prosecution prove that the child knew he was doing wrong. Also the Parkhurst Act of 1838 had created a separate penitentiary for juvenile offenders.

In 1854 an Act was passed which empowered (but did not compel) criminal courts to send young offenders to a reformatory school—three had been founded between 1849 and 1853. However, in an interesting forerunner of Mr Whitelaw's "short sharp shock" every child had to serve 14 days in (an adult) prison before going to one of these schools. The climate of opinion must have been right for a change, because in the four years following the 1854 Act reformatories had been opened in nearly

all English counties. Not, as it happens, by the State, but by a variety of religious communities and private individuals, so that the voluntary sector, as it would be known today, was ahead of the public sector in its provision. Not for the last time, this led the government to take an interest and in 1860 the Home Office took on responsibility for the supervision of the reformatories.

In 1861 the Home Office also accepted responsibility for the "industrial schools" which had been established for the maintenance and education of children under the Poor Law. Thus the first step was taken towards bringing together two strands of child care, the "justice" strand and the "welfare" strand, with the two categories of residential establishment being administered by the same government department. Later on the two were to merge under the name of "approved schools", although they are now known as Community Homes with Education on the premises, or CHES for short.

Various other developments culminated in the Children Act of 1908 (known as the Children's Charter) which set up separate juvenile courts to deal with young offenders under 16 years of age. The courts' jurisdiction was both civil and criminal, covering both those in need of care and protection and those in trouble with the criminal law. If the court found a child guilty of a criminal offence there were a range of both custodial and non-custodial sentences available to it, since the Act did not set out to lessen a child's liability under the law in any way, but to mitigate the harsher elements of judicial practice as applied to children. Imprisonment for children under 14 was now finally outlawed, and restrictions placed on the imprisonment of 14-16 year olds. Youngsters remanded pending a final decision on their disposal were now to be sent to remand homes, not prison, and the public were to be excluded from proceedings.

The introduction of separate juvenile courts in England in 1908 was not unique.

In the USA the separate trial of adult and juvenile offenders was introduced on a regular basis in a number of states from 1870 onwards. Illinois (Cooke County 1899) established the first modern style juvenile court and within 25 years nearly all the states had introduced laws to provide for something along the same lines. The Illinois Juvenile Court Act of 1899 expressed that society's view that children should not be treated as criminals, that welfare considerations were paramount and that a full understanding of the child's background and circumstances was necessary and more important than the question of guilt or innocence. The problems of the child were to be the focus of the court. England had to wait another 34 years before the welfare principle became enshrined in law.

Scandinavia, meanwhile, was also ahead of England. In 1896 Norway raised the age of criminal responsibility to 14, while Sweden and Denmark raised it to 15 in 1902 and 1905 respectively. (In 1980 by contrast the age in England is 10.) Below the age of 14 or 15, Scandinavian children who committed offences were regarded as being in need of care and were dealt with by non-judicial panels which were instituted to meet the needs (including the education) of neglected children rather than to punish offenders. Over the age of 14/15 prosecution was possible, though the youngster would be referred to a panel by the public prosecutor. These principles still form the basis of practice in those countries.

the welfare principle

The (English) 1908 Children Act lasted until 1933, when the Children and Young Persons Act was passed. This Act was concerned with a range of matters relating to children, including their protection against cruelty and exposure to moral and physical danger, but it also extended the jurisdiction of the juvenile court to the seventeenth birthday and (section 44) laid down the welfare principle which governs proceedings concerned with juveniles: "Every court, in dealing with a child or young person who is brought before it,

either as an offender or otherwise, shall have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings or for securing that proper provision is made for his education and training".

The crucial six words are "either as an offender or otherwise", which reflect the conclusion of the 1927 Departmental Committee on the Treatment of Young Offenders that there was little distinction between neglected and delinquent children. The wording of this Act lit a fuse which is still burning today. How can the same institution be both a court and a welfare agency? If the two functions are separated how can anyone ensure that the one will pay any heed to the proper concerns of the other? The latest flare up of this dilemma is the justice versus welfare controversy which is going on at the present time.

In addition to the welfare principle, the 1933 Act also raised the age of criminal responsibility to eight years, required local authorities to provide remand homes in place of the ones provided by the police under the 1908 Act and finally brought together the reformatory and industrial schools as approved schools.

After 1933 it was 30 years before the law relating to juvenile offenders was directly altered in a major way. Meanwhile other changes were taking place. Two Acts of 1948, neither concerned directly with juvenile offenders, had an important bearing on what was to come.

First, the Criminal Justice Act placed further restrictions on the imprisonment of children (but made up for it by establishing detention centres) and also abolished the power of the juvenile court to order the birch. Second, the 1948 Children Act which was concerned with the care of children, not with the responsibilities of the juvenile courts. This was the Act which created local authority Children's Departments and laid upon local authorities the duty of looking after children who were without parents or were deprived of a normal home life.

It would be wrong to give the impression, as this rapid run through 150 years of history could easily do, that new laws popped up at intervals without long periods of gestation first. In particular, there were, during the 1960s, a number of reports and White Papers which both reflected a great deal of thinking during that decade about juvenile offenders and led to major pieces of legislation. One such report was the *Ingleby Report* (Cmnd 1191, 1960) which highlighted the difficulty inherent in the welfare principle of the 1933 Act, the dilemma of the juvenile court which was required to consider a case on one ground—the commission of an offence—and dispose of it on another—the needs of the child. The Ingleby Committee felt that the juvenile court was the best available safeguard of the rights and liberties of the child and his parents and tried to avoid the justice/welfare dilemma by recommending that the age of criminal responsibility be raised to 14 years. (It will be recalled that Norway had done this in 1896.) Below this age children should be subject only to care, protection or control proceedings, not criminal proceedings. The 1963 Children and Young Persons Act, however, only raised the age to ten years, and its main thrust was the definition and widening of the powers and responsibilities of local authorities in relation to the care of children.

Thus the history of the law from early in the 19th century up till the 1960s saw only a slight convergence of the twin desires to apply justice to children (above a certain age) but also to have regard to their welfare. The juvenile courts, from 1933 on, had to take account of the welfare principle, but were essentially in the business of administering the criminal law. On the other hand there were slow developments in the care of children who were not offenders, and there was not much overlap between the two strands.

Then in 1965 came a White Paper (inspired by Lord Longford's report *Crime—A Challenge to us All*, Labour Party, 1964) called *The Child, the Family and the Young Offender* (HMSO). This resolved

the justice/welfare dilemma in a truly radical way, by proposing the abolition of the justice part altogether. Juvenile Courts were to be done away with; the age of criminal responsibility raised to 16; family councils composed of social workers and other suitably experienced people were to deal with all undisputed cases involving children under 16 (offenders and non-offenders alike) according to their needs; cases of dispute were to go to family courts and offenders over 16 years of age would be dealt with in young offenders courts operating conventional legal procedures.

Looking back, one can applaud the desire to remove children from the ambit of the criminal law but there was a good deal of criticism at the time, which is still valid today, that in the attempt to place welfare considerations first the vital role of the court as defender of the individual's rights and liberties was being lost sight of. Consequently the 1965 White Paper was followed by another one (*Children in Trouble*, HMSO 1968) which advocated the retention of the juvenile court within certain limitations. Magistrates were still to have the responsibility for determining guilt or innocence but were no longer to have the power to decide on the appropriate treatment. It was the 1968 White Paper that laid the foundations for the 1969 Children and Young Persons Act.

the 1969 children and young persons act

This Act was concerned, first and foremost, to remove what its sponsors saw as an artificial distinction—the one between justice and welfare, or more particularly the distinction between the child who had come into conflict with the law and the one who was in need or trouble of some other kind. There is a good deal of evidence to show that delinquency (that is the administrative classification of someone who comes into conflict with the law) is very often only one of the sea of troubles that beset the youngster. Not always, but very often. It was therefore absurd to pretend that offences could be dealt with in isolation

from the total circumstances of the youngster and his family. In order to make the full resources of the child care system available to youngsters who had come to the notice of "the authorities" via the delinquency road, the 1969 Act included the commission of an offence as one of the primary conditions for bringing them before the juvenile court in care proceedings. Approved schools were brought within the child care system—more or less; Borstal training, detention centre orders, attendance centre orders and the remand of juveniles to prison department establishments under Certificates of Unruliness (because the local authority homes couldn't handle them) were all to be phased out.

the act in practice

Unfortunately it hasn't quite turned out like that. Sentences to Detention Centre can still be made, as they can to Borstal training (through the Crown Court, not the juvenile court). Remands to adult prisons can still occur as well. Meanwhile the expected development of non-custodial, humane treatment measures by Social Services Departments has proceeded only slowly. But the crucial weakness of the 1969 Act is that it also made provision for "secure accommodation" which has come to mean in many cases cases locking children up. There are enlightened secure units where containment is secondary to treatment and there is a high ratio of well qualified staff to youngsters. Yet eligibility for this kind of intensive care is gained in practice by proving that one can break out (literally or metaphorically) of all other forms of care! And if even the local authority system cannot cope, there is always the Youth Treatment Centre (provided by central government) as a backstop complete with all kinds of fancy electronic security apparatus.

This one loophole, the small minority of disturbed and difficult children who require "treatment in conditions of security", is capable of ruthless exploitation by the law and order brigade, and is fast leading to devastating conse-

quences. As cash becomes more and more scarce for community based approaches to dealing with delinquents, so does cash become available for creating tougher and tougher regimes for delinquents. As social workers find they have less and less time to spend with youngsters in trouble with the law, so they react by shunting them further and further into the embraces of the penal system, and what can easily become its local authority counterpart, the residential child care system. What is truly frightening is the prospect of a complete polarisation, with magistrates being faced with a choice between non-custodial penalties, such as fines or attendance centre orders on the one hand and junior prisons (under different names of course) on the other. This scenario, by no means far fetched, would represent a triumph for the justice side of the coin—and it can all be done in the name of the very Act which tried to put welfare on top.

This historical review, sketchy though it is, brings out the main theme of the last 150 years, the continual tension between the welfare of the youngster and the demand that youth be no excuse for criminal behaviour. It may seem that welfare has gradually gained the upper hand, but the way we treat youngsters has not altered very much at all. The reason for this is that the advocates of "welfare" have constantly had to have regard to the strength of the "justice" camp, and have had to make concessions which, while apparently innocuous, have virtually undermined the gains that were made. Since the two principles of justice and welfare are so central to the whole debate, the next chapter looks at them in some detail.

3. welfare and justice

Current practice in this country is a mixture of these two principles or models and it is rare to find either being advocated in its pure form. Nevertheless, many magistrates take the view that they are thwarted in their attempts to carry out justice by the refusal of welfare-minded social workers to accept that justice has any further part to play once the finding of guilt has been made.

two models

Now a summary of the main features of each of the two models of thinking about and dealing with young offenders, adapted from the recent *Report of the Children and Young Persons Review Group* (HMSO, 1979) which considered legislation and services for children and young persons in Northern Ireland. First the justice model:

* Delinquency is a matter of opportunity and choice.

* Insofar as a person is responsible for his actions, he should be accountable for them.

* Proof of commission of an offence should be the sole justification for intervention by society and the sole basis of punishment.

* Society has the right to declare certain behaviour as unacceptable and to impose sanctions and controls for deviant behaviour.

* The court has a dual role—safeguarding society by imposing sanctions, but also protecting the delinquent to the extent that his rights as a citizen, especially his right to liberty, are only infringed by judicial process.

* There should be proportionality between the seriousness of the delinquent behaviour and society's response, between the offence and the sentence.

Next the welfare model:

* Delinquent, dependent and neglected

children are all products of an adverse environment. All forms of disadvantage are relevant considerations.

* Delinquency is a pathological condition.

* Delinquents can therefore not be held responsible for their actions—they need treatment and not punishment.

* Treatment is possible.

* Because we are thinking of treatment and not punishment there must be a high degree of flexibility and discretion in its application.

* Treatment has no harmful side effects.

* The child and his welfare are paramount though considerations of public protection cannot be ignored.

counter claims

The Northern Ireland report goes on to outline the counter claims that are often put forward in rebuttal of these two models. The welfare model, for instance, is criticised for its underlying hypocrisy—offering the promise of help for a pathological condition but in fact being concerned with social control. Anyone who breaks society's rules must be sick and should therefore be subjected to assessment diagnosis and treatment. If the treatment doesn't work at first, it indicates that a different sort of treatment is needed, not that the concepts of health and sickness might have been inappropriately applied. Also, since the welfare model takes delinquency out of the legal sphere and into the medical one, different standards of individual rights and liberties apply, usually much less strict standards so that the welfare agency can exercise an astonishing degree of control over the youngster. For example, a youngster on a Care Order might well remain in care until his eighteenth birthday—the court cannot unilaterally revoke the order before then, or set a prior limit on its length. The welfare agency on the other hand can apply to the court for an

early discharge of the order, but the youngster cannot do so on the grounds that he declines to be treated, even though (with certain exceptions in psychiatric case) the ordinary citizen and the adult offender both have the freedom to decline medical treatment if they wish.

The welfare model is also criticised for paying too much attention to the needs of the delinquent youngster and not enough to society's need to be protected from his behaviour, for being "soft on young thugs". It is also criticised for not being effective in preventing repetition of offending and not being able to deal with the serious, persistent offender.

On the other hand the justice model is said to be wilfully blind to the realities of disadvantage and to impose the standards of behaviour which are acceptable to comfortable middle class society on youngsters against whom the dice have been loaded from the beginning. In more formal terms, for the majority of youngsters appearing in court, complete responsibility for one's actions is an unrealistic assumption. Furthermore, the vast majority of cases do not involve any dispute over the facts and hence, the argument goes, the judicial process is redundant in these cases. All that is needed is a decision on how best to deal with the youngster involved.

Another criticism is that while the welfare model might erode civil liberties to some extent, the justice model is too legalistic, trapping and confusing youngster and parent alike in the unintelligible formalities of the law.

Finally, the justice model is criticised for not being effective in preventing repetition of offending and not being able to deal with serious and persistent offenders—a criticism also applying to the welfare model.

The proposals in chapter five depend ultimately on a model which is neither justice or welfare, although it contains elements of both. As to the effectiveness of these proposals, at the least they will perform no worse than the present

arrangements, while there are also grounds for believing that they will actually reduce recidivism to some extent.

4. Warwickshire—a case study

It may be helpful, having sketched out the historical background and described the philosophical concepts which underline current thinking, legislation and practice, to turn to a case study. It should be stressed that the interpretation and the conclusions drawn from this study are the author's and not necessarily those of the Social Services Department for whom the research was carried out.

Criticism of the 1969 Act, whether from the welfare or justice positions, began as soon as parts of the Act were implemented in 1971. However, this criticism did not seem to be accompanied by very much factual evidence on the Act's workings. It was with the intention of providing some factual evidence that Warwickshire Social Services Department began to study the youngsters in its area on whom either a Care or Supervision Order was imposed during the period 1971 to 1976.

Care and Supervision Orders were introduced for offenders, in the 1969 Act. A care order, as the name implies, commits the youngster to the care of the local authority, giving the local authority the power and duties of a parent. In practice this gives the authority the power to determine where and with whom the youngster will reside, with no facility for appeal. There is a statutory duty on the local authority to review the case every six months to consider whether to discharge the order, but the courts play no part in this review unless an application for discharge is made to them by the authority or the youngster's parent. Once a care order has been made the local authority and the whole child care system cease to distinguish between the offender and the non-offender. Care orders last (unless discharged) until the youngster's eighteenth birthday, or nineteenth if he was aged 16 at the time the order was made.

Supervision orders closely resemble probation orders for older (17+) offenders, but the supervision may be undertaken by either the local authority Social Services Department or by a probation officer. This type of order carries no power of

removal from home at the discretion of the supervising agency, although the court may impose a condition of residence at a specified address. Supervision orders are for fixed periods of up to three years, and may be discharged early if application is made by the supervising agency to the court.

In all, 875 offenders were included in the survey, full details of which are available elsewhere ("Can Social Work Intervention Affect Delinquency?", *Social Work Today*, 18 September 1979 and *Youngsters in Court*, Warwickshire Social Services Department 1977 and 1978).

This research concentrated on Care and Supervision Orders because these are the means whereby the court can direct a youngster into the Social Services (or Probation) domain. But the value of the study goes beyond this narrow, agency-based perspective. Youngsters receiving this type of sentence form a sizeable minority of the total found guilty of indictable offences—31 per cent of those aged 10 and under 17 in 1971, 22 per cent in 1978 (*Statistics of Criminal Justice System, England and Wales, 1968-78*, HMSO, 1979) which in itself makes them worth attention.

In addition, though, it is these youngsters on whom the welfare model had its greatest impact since they were dealt with in ways which were not possible before the introduction of the 1969 Act. If the model is correct in regarding the majority of youngsters who offend as casualties of the society in which they live, then action aimed at repairing the damage they have suffered should prove to be no less effective than if they were treated as common criminals, with no heed being given to their social needs.

The procedure followed in the Warwickshire research was to trace the records of the youngsters for a period of two years after the Care or Supervision Order was made, to see whether there was any further finding of guilt during this period. For various reasons which are described in the research reports, the number for whom it was possible to do this follow-

up was 462, of whom 41 per cent were in fact reconvicted.

causes of reconviction

The real focus of the research, though, was not so much on the rate of reconviction as on the reasons for it. The reasons for reconviction need to be teased out if any progress in making a rational choice between the welfare and justice models is to be made—between two approaches to dealing with youngsters who offend—and thence to construct the framework for a new penal policy for youngsters.

The delinquency literature is full of similar attempts to identify the causes of conviction and reconviction, and the results have passed into the realm of common knowledge. The key to the 1969 Act indeed, the abolition of the distinction between the deprived and the depraved, has its origin in the recurrent finding that delinquent youngsters tend to be those who are already disadvantaged in various ways. Even the advocates of the justice model do not dispute this.

The Warwickshire research examined three sets of possible "causes" of reconviction. In any individual case there will of course be many many contributing factors, and it is highly unlikely that any amount of research could positively identify all the causes of a delinquent action. It is a different story, however, when one is considering a large number of actions (and youngsters). On the large scale, statistical regularities may begin to appear, and it is on the large scale that penal policies have to be framed.

The three large scale sets of possible influences on reconviction, then, were classified as "pre-treatment" variables, "sentence" variables and "treatment" variables.

The "pre-treatment" variables were the sex of the youngster; his or her age; the Social Services team which assumed responsibility for him or her, and the

number and types of offences of which he had been found guilty.

The "sentence" variables were the various orders—Care Order, Supervision Order with a social worker doing the supervising, Supervision Order with a probation officer doing the supervising.

The third set were rather more complicated, since they attempted to measure the nature of the response made by the social agency, and in particular to look at the use made of the powers of removal from home. This set comprised measures of the stability of the placement pattern following the making of the order and the types of placement.

These factors, and many others which could not be taken into account, interact in very complex ways. However, some findings can be distilled which point the way forward. Warwickshire youngsters appearing before the juvenile courts for offences are not untypical of their peers elsewhere, in terms of age and sex distribution. As to the number and nature of the offences for which the Warwickshire youngsters received Care or Supervision Orders, the following table makes several important points which have national as well as local relevance:

type of offence	FREQUENCY OF TYPES OF OFFENCE	
	average offences per youngster	per cent
involving violence	0.09	2
sexual offences	0.03	0.9
property offences	3.20	92
other offences	0.17	5
total	3.49	100

First, the table shows that offences involving violence (including both actual and grievous bodily harm, one case of manslaughter, assault, robbery and others) were rare. It may be of course that the majority of young violent offenders became the responsibility of the penal rather than the social work agencies, but the available evidence suggests otherwise. National statistics (which

are not strictly comparable in fact for technical reasons) indicate that offences of violence against the person by sixteen year old males made up less than 4 per cent of all indictable offences by this age group in England and Wales in 1978. Apparently, whatever else the typical young offender is, he is not violent, despite the popular image of young thugs roaming the streets. Young thugs do exist, but they are very much the exception.

The second point the table makes is that sexual offences are even more rare. Again, the national statistics support this conclusion, with under 2 per cent of all indictable offences by males aged 10-16 (England and Wales, 1978) falling into this category. When one examines the case records of the sexual offenders, it is transparently clear that many of these youngsters are in need of psychiatric or other medical help in addition to any other action the court may see fit to take.

The next conclusion to be drawn from the table is that the bulk of the offences are connected with property—theft, burglary, damage being the most common in fact, although there were several others. The proportion this time is a massive 92 per cent, and the national statistic which is broadly comparable is 94 per cent (males 10-16, England and Wales, 1978). I do not wish to play down the emotional distress that victims of burglary in particular feel, but it is important to get juvenile offending into perspective—the vast majority of offences do not involve personal injury to the victim.

The Warwickshire study concluded that the influence of “pre-treatment” charac-

teristics on the probability of reconviction within two years was very small, a finding which is in line with a major Home Office study (F Simon, “Prediction Methods in Criminology”, *Home Office Research Study 2*, HMSO, 1971).

As to the second set of factors that might influence the probability of reconviction, the different types of order, it was found in the Warwickshire research that there were significant differences in their relative effectiveness. The following table gives the figures. In this table the two year actual reconviction rate is the percentage reconvicted within two years of the making of the care or supervision order (Details are given in *Youngsters in Court*, *ibid*). The standardised rate is a statistical construct to remove the effects of the “pre-treatment” characteristics as far as possible, so that the specific influence of the type of order can be more clearly seen.

The fact that standardisation doesn't change the rates much simply reflects the earlier statement that the pre-treatment characteristics do not make much difference to the probability of reconviction within two years. Clearly, though, the type of order imposed on a youngster does make a difference to the likelihood that he will be reconvicted within two years, irrespective of his characteristics and those of his offences. The question of why there should be such differences in the effectiveness of these three ways of dealing with youngsters who offend is a fascinating and very complex one, which involves looking at the effects of sending youngsters to detention centres or Borstal as well as examining the role of the Social Services Department and the Probation Service in this field. The fact that the question needs to be asked

ACTUAL AND STANDARDISED TWO YEAR RECONVICTION RATES

type of order	actual reconviction rate (per cent)	standardised reconviction rate (per cent)	number of cases
local authority supervision	46	49	120
care order	29	31	84
probation supervision	42	40	258
per cent average	41	41	

at all is itself very encouraging, since it suggests that we need not be fatalistic in our approach to delinquency and do nothing in the hope that "they will grow out of it". Apparently it is possible to do something, albeit with limited success, to make an impact on a youngster's delinquency.

It is often said that it is the residential component of the Care Order which makes it work, that sending a youngster away from home is what reforms him. A spell in a CHE (approved school) can be seen as deprivation of liberty in order to punish—if you subscribe to the justice model—or as an opportunity to remove the youngster from his criminogenic environment and expose him to professional help—if you support the welfare model. (The community home itself will probably steer an uneasy course between the two concepts of why its inmates are there and of what, as a result, it should be doing with them.) Either way, removal from home is seen as the key.

deprivation of liberty

Further down the delinquency road the same difference re-emerge, in the form of the Detention Centre and Borstal training. The Detention Centre is "punitive and deterrent rather than reformative" and it was always intended to be so. The 1948 Criminal Justice Act introduced "an avowedly strict regime of detention" in order to effect "the abolition of corporal punishment and of middle range prison sentences for under 17s" (Iain Crow, *The Detention Centre Experiment*, NACRO, 1979). Borstal training, on the other hand, was intended to be precisely that—a period (of semi-indeterminate length) of training to provide constructive alternatives to crime.

If, however, we look at the Prison Department's official figures for two year reconviction rates, we find that neither Detention Centres nor Borstals have a particularly good record. The figures are not strictly comparable with the Warwickshire ones, but they are relevant

nevertheless. For Detention Centres, 73 per cent of those under 17 discharged in 1974 were reconvicted within two years, while for Borstals the equivalent figure was 81 per cent. Hardly very very impressive, although it would be wrong to leap to the conclusion that Care and Supervision Orders are twice as effective as Detention Centres or Borstal—the two sets of figures are based on different populations. Nevertheless, these figures do cast some doubt on the effectiveness of deprivation of liberty, whether the purpose be punishment or help, and they also strongly suggest that Detention Centres and Borstal are especially ineffective.

Investigation of the Warwickshire Care Order cases produces sadly inconclusive results regarding the effectiveness of residential care, a milder form of deprivation of liberty. One of the features associated with residential placements under a Care Order is that they tend to be interspersed with periods at home, so that for a youngster to spend the whole of a two year period following the imposition of the Care Order actually in residential care is fairly unusual. Allowing for this type of complication, though, the results of the Warwickshire study are still strictly speaking inconclusive, in that they offer no support at all for the thesis that placement in a residential child care establishment diminishes the likelihood that a youngster will be reconvicted within two years. Indeed a study by Cornish and Clarke for the Home Office research unit, concluded that residential treatment or training fails to have a significant reformatory effect (*Residential treatment and its effects on delinquency*, HMSO, 1975).

And yet despite all the evidence, we keep on using these ineffective, expensive measures! As a recent *Briefing Paper* by the group New Approaches to Juvenile Crime points out: "Since 1968 there has been a particularly marked increase in the use of Borstals and detention centres. The use of Care Orders and Supervision Orders has declined" (No. 3, 1980). The perversity of this is well illustrated by the fact that the Home

Office young offender psychology unit found that a third of the fifteen-sixteen year olds going into closed Borstal do so directly from some form of social services contact and that in some junior detention centres approximately 50 per cent of the boys are subject to a care order. As Professor Tutt comments "It begins to look, therefore, as though prison department establishments . . . are becoming part of the repertoire of placements for children on a care order" (*Social Work Today*, 4 April, 1978). In other words, if residential treatment doesn't work, try some more residential treatment! One may perhaps be forgiven for wondering what would happen if the social services departments responsible for these youngsters had to pay directly for the use of this accommodation?

At best, then, residential settings are ineffective for dealing with youngsters who commit offences, and yet both the courts—representing society, and the social work agencies, representing the youngster—connive at their use. It is very unfortunate indeed that deprivation of liberty can at one and the same time symbolise punishment for the justice model and treatment opportunity for the welfare one. Without this deceptive coexistence of two opposing concepts in the same subject, the fundamental differences between the two models would surely have destroyed long ago the present unsatisfactory compromise which satisfies neither camp and which damages a lot of youngsters caught in the crossfire.

But there is another line of argument which needs to be brought to bear on the use of residential placements, and that is their haphazard nature. It is this above all that exposes the danger of allowing the welfare model to slide into a pseudo-medical model, as can all too easily happen. The assumption of delinquency as being a pathological condition leads to the ideas of assessment, diagnosis and treatment. What this can mean in practice is that a youngster on a care order goes to an "observation and assessment centre" where his condition will be diagnosed and appropriate treatment prescribed. However, except in a very

small minority of cases, this treatment has nothing to do with medicine and everything to do with finding accommodation. One may well ask why a spell in an expensive institution, staffed by highly trained people, costing over £138 per week on average in 1979, is necessary to find accommodation?

A study of an assessment centre by the Portsmouth Polytechnic Social Services Research and Intelligence Unit concluded that the eventual recommendations of the sophisticated and long drawn out assessment process could have been predicted from a handful of basic facts about the youngster, without even seeing him! Apparently, then, assessment makes precious little difference to the type of residential placement used, which very often comes down in the end to a question of which institution has a place available at the right time. Far from the use of residential care being part of a deliberate treatment plan, as the welfare-medical model would seem to require, it is quite haphazard in reality. Thus, residential care for delinquents would not seem to fulfil any of the objectives prescribed for it, by either the justice or the welfare sides of the argument (*First Year at Fairfield Lodge*, Portsmouth Polytechnic, 1976).

So what is it about care orders that makes them work? We have seen that "pre-treatment" factors don't appear to be very important, and that residential care is a very doubtful contender. What the Warwickshire study found was that one aspect of the care order process stood out above all others for the strength of its association with reconviction within two years.

This aspect was the stability of the placement pattern: the fewer changes of placement there were and the longer each placement lasted the lower was the probability of reconviction within two years.

The nature of the placement, whether at home or in an institution, whether in a children's home or in an approved school, did not matter nearly as much as the stability of that placement. The impli-

cations of this key finding are tremendous, especially when linked in with the other evidence I have presented on the effectiveness of Detention Centre and Borstal, and with evidence still to come from the "Massachusetts experiment" in the United States and even from a country whose general attitude to law and order is usually regarded as being far tougher than ours—France.

So now we have three things to take into account when looking at why it is that some youngsters become recidivists while others do not. These three are the pattern of relative effectiveness shown by the three type of "social agency order" (the Care Order, Supervision by the Probation Service and Supervision by Social Services), the irrelevance of residential care and the importance of the stability of the placement pattern. The common factor in these three is the presence or absence of sustained and close contact with a concerned and caring adult.

a concerned and caring adult

First, the pattern of relative effectiveness. Although no direct measurement of contact between social agency staff and youngster was possible in the Warwickshire study, it was overwhelmingly apparent from reading over one thousand case files that there was a definite hierarchy of frequency of contact, which exactly paralleled the relative effectiveness of the three types of order. Studies of Birmingham and Berkshire Social Services Departments, while not completely comparable with the Warwickshire research, also confirm that youngsters on care orders will see more of their social workers than youngsters who are being supervised by social workers, while it is generally accepted that the Probation Service adopt a different style of supervision which includes more regular contact than social workers are usually able to provide.

Second, the question of residential care which is characterised by a succession of placements to which might be added the problem of turnover of staff in the

home. The result is that although there is intensive contact between youngster and adult, it is rare for this to be sustained.

Third the stability of the placement pattern. Research has shown that it is not the nature of the placements (whether at home or in institutions of different kinds) that matters so much as the speed with which they change. Each change means that the youngster has to break off one set of relationships and construct a new one. A cycle of making and breaking relationships with concerned and caring adults means that there can be no continuity, no opportunity for developing a close relationship and therefore no real chance of making an effect of preventing recidivism (*Youngsters in Court, ibid*).

5. constructing a socialist penal policy for youngsters

In the last analysis a society's penal policy reflects the society itself and the same might be said of the ideal approaches outlined earlier under the headings of the welfare and the justice models. It could be argued that the welfare model reflects a collectivist view of society, in which the delinquent is not an individual but part of a greater whole. Just as it is senseless to punish an organ of the body for misbehaviour, but sensible to treat it, so the medical model of pathology and treatment can legitimately be applied to a member of society whose actions are unacceptable by the dominant standards. Inasmuch as the collectivist view in economic and political matters is characteristic of the Left, so it is only to be expected that the welfare model tends to be associated with the Left.

On the other hand the justice model can be said to reflect an individualist view of society, one in which we are all set in competition one against another like animals in a jungle. There is only one law, the law of survival, breaches of which lead to inescapable and unpleasant consequences. Similarly the criminal law is as absolute and inevitable as any natural law, and although the penalties may not be so harsh, compliance with it is as much a precondition of survival in society as compliance with any natural law is a precondition of existence in the physical world. Thus retribution for breaches of the criminal law is not a question of what is deserved but a question of what must inevitably follow from the nature of society itself. And insofar as the individualist view in economic and political matters is a characteristic of the Right, so we see the proponents of the justice model lined up on the Right.

Despite the influence of these two extreme views, progress has already been made towards development of a new way with the introduction of "intermediate treatment", which sets out to create precisely the kind of sustained and close contact with a concerned and caring adult which I have already put forward as the key to successful intervention in

a delinquent's career. One way of doing this has been described by Professor Tutt as using "an activity on which the adult through experience is obviously an authority, for example motor cycle maintenance. A child will be interested in the activity and listen to and acknowledge the experience of the adult. The child may well then come to accept the adult's advice and authority in other more important and intimate areas of his life" ("Intermediate Treatment", *Social Work Service*, DHSS, October 1976).

What sort of controlling principle for society does this approach reflect? Neither the inhumanity of the collectivist nor the ferocity of the individualist, but the fraternity of the socialist. It is worth noting in passing that fraternity is the least often mentioned member of the socialist trinity of liberty, equality and fraternity, yet it is surely the most important in any discussion of a socialist penal policy.

Fraternity, in the context of a penal policy for youngsters, recognises that the delinquent is a person and as such worth just as much as any of the rest of us. Coercion, which devalues the individual, is therefore ruled out. Control, which does not devalue the individual, is not however to be ruled out, and the problem is to find a method of social control which does not devalue, whether by regarding the youngsters as a diseased organism to which it is legitimate to apply drugs (the extreme of the welfare model), or as an animal to which physical force can be applied (the extreme of the justice model).

Looked at in this light—control and not coercion—the problem really solves itself. What is needed is for the youngster who has offended, who has broken the rules, to accept that the rules apply to him as well, and to persuade him to accept these rules for the sake of the rest of us. Easier said than done! While it is not difficult for a well-off, white, middle class youngster to see himself as part of the ruling (in the sense of rule making) class, and therefore as having a vested interest in the preservation of whatever

it is these rules are designed to maintain, the view is very different from the bottom of the heap. The importance of fraternity now is that unless the youngster from the bottom of the heap can find a concerned and caring adult who aligns himself with at least the better values of society as a whole and, having found him or her, can relate to this adult in a fraternal not authoritarian manner, then without this relationship he stands precious little chance of relating to and becoming part of that society, let alone of accepting its rules.

supporting fraternity

This probably sounds like a very chancy business. As to putting something as mysterious and delicate as a personal relationship at the centre of a penal policy for youngsters, this is something which, it must be admitted, is risky, since personal relationships—perhaps especially those between child and adult—are notoriously unpredictable. Nonetheless, it is possible to buttress this element in the policy with others that are less delicate and less controversial.

These elements—decarceration, diversion, decriminalisation and the reduction of opportunity crime—must play a part in a socialist penal policy for youngsters, which is why they are mentioned here. However, these topics have been extensively written about elsewhere and those interested in taking them further can obtain additional information from the group "New Approaches to Juvenile Crime" (169 Clapham Road, London SW9, 01-582 6500) since only a brief outline will be given here.

The previous chapter referred to evidence to be presented from France and from the "Massachusetts experiment" in the United States. This evidence is connected with what has been called the strategy of "decarceration", the opposite of incarceration or locking up. Borstals and detention centres are less than effective in persuading their charges to accept society's rules. They are also expensive establishments and we

are told that public expenditure is running at too high a rate. One would have thought that costly failures would be the first to go in any public sector cut-back, but apparently not.

The French adopt a different approach to us. As far back as 1945, a judicial order was made which states that young people under 17 shall never be incarcerated unless "exceptional circumstances the the personality of the minor requires it". In 1970 the Children in Danger Act went further, declaring it to be illegal to imprison a minor under sixteen "except to prevent a crime or if it is impossible to do anything else" (quoted by Anne Corbett in *The Guardian*, 26 February, 1980). And unlike us, the French appear to mean what they say when they commit themselves to a policy of decarceration.

In Massachusetts the location of one of the most famous experiments in the control of delinquency, and easily the most radical, the State junior prison system was practically dismantled in a very short space of time. About 750 places in five residential institutions were shut down and replaced by some 200 different community programmes. Across the State as a whole there has not been an increase in recidivism as a result, according to the Harvard University research team which has been monitoring the experiment. While it may be true that the energy and enthusiasm poured into the alternatives to prison have led to some chaotic results, this only proves that it is difficult to move fast in this area, not that it is impossible to move at all, and it certainly does not detract from the value of the experiment in showing that decarceration does not equal disaster.

Decarceration then has to be an element in the new penal policy for youngsters. There are others including diversion from the court system especially by the greater use of cautioning by the police instead of court proceedings. The great advantage of cautioning is that it keeps the penal sanction on a personal level, however embryonic this level might be and therefore keeps it far closer to

the ideal of a relationship with an adult than the incomprehensible formalities of the law can ever do. (It is precisely the same personal basis that makes cautioning a potential threat to justice by removing the safeguards that are supposed to be built into the legal process; so cautioning needs to be carefully watched.)

There are two other buttresses to the fragile relationship between youngster and adult which need to be mentioned, although my personal view is that they have only a limited scope. One is "decriminalisation", or declaring certain actions to be no longer illegal. The legalisation of cannabis, for example, has often been put forward as a candidate for this treatment. Much more relevant to the realities of youth crime would be the abolition of the "sus" law, whereby youngsters—in practice often black youngsters—can be prosecuted for being "suspected persons". Abolition of this law would cut the crime statistics at an administrative stroke, but it would also go some way towards improving relationships between black youngsters and society. Decriminalisation in general offers some scope for reducing crime, by redefining it, but it can never make a major contribution. Still, it is worth pursuing.

The other buttress is a bundle of measures which would need to be taken by a variety of people and organisations. There is evidence to suggest that at any rate a proportion of offences by youngsters are "opportunity crime" rather than premeditated actions, and can be prevented by removing the opportunity. The classic case of this was the West German experience of making the fitting of steering wheel locks on cars compulsory. This led to a dramatic decrease in the number of cases of taking and driving away of cars. As with decriminalisation, however, the effects of removing opportunity will only be comparatively marginal.

To return to fraternity, it is now possible to set out some policy proposals for the new penal policy advocated in this pamphlet. Some of these proposals are

straightforward, needing only political will and courage to put into effect. Others can be no more than pointers at present, needing carefully monitored experiments to establish the best way of implementing them. Only one would require the creation of a new form of disposal, the rest involve extending or abolishing existing provisions. This new one is the Sponsorship Order.

sponsorship orders

The central role played by fraternity leads straight to a new kind of provision for delinquent youngsters—or at least the comparatively small proportion who at present receive Detention Centre or Borstal sentences or Care Orders (16 per cent of males aged fourteen-sixteen convicted of indictable offences in 1978 and a similar percentage in the preceding years). It has been argued that what should be provided for them is "fraternity", in the sense of a close and sustained relationship with a concerned and caring adult and it has also been argued that this does not happen within any kind of residential setting, whether its purpose be punishment or reform. It has been shown, too, that there are grounds for believing that this kind of relationship actually works. It is recognised that it is quite impossible for any court or welfare agency to order such a relationship into existence. It should however, be within the power of the juvenile court to admit the possibility of such a relationship existing, and of giving this possibility official recognition as an appropriate solution to the welfare/justice dilemma. It should also be within the power of the welfare agencies to provide professional support to both parties in this relationship and to provide practical support as well when required.

To bring this about we need a new kind of order, which could be called a Sponsorship Order. By sponsorship is meant a kind of cross between intermediate treatment (which is a group activity) supervision (which is one-to-one with a professional but sporadic) and fostering (which involves providing a substitute

family). Sponsorship would not be a substitute for any of these types of provision, but would supply the hub for the wheel of which at present we have only the spokes and rim.

How would such a scheme operate? The details will have to be worked out by experiment rather than spelt out here and now. After all, the unsuccessful Borstal training concept has been with us since 1902, and the history of punitive detention for youngsters stretches much further back. Intermediate treatment, at least under that name, is still in its infancy by comparison, and the basic concepts are still being worked out. The Sponsorship Order would have something in common with existing schemes for befriending youngsters in trouble with the law, such as that run by the Cheshire police, but the distinctive features of the Sponsorship Order would be its basis in juvenile court proceedings and its recognition in law as a valid and appropriate form of court disposal. A new Order is required, rather than simply an exhortation to make more use of existing provisions, both because it would symbolise a shift in society's attitudes towards delinquency and for the more mundane reason that exhortations have already been tried and have largely failed.

the sponsorship order outlined

The outlines of a Sponsorship Order scheme can be set down quite simply. *First*, the Sponsorship Order would complement purely punitive sanctions, and not replace them. The juvenile court would still have the duty to indicate society's displeasure but in a civilised manner. This could be by absolute or conditional discharge or imposing a fine (related to the offenders' ability to pay) or by requiring the sacrifice of some free time at an attendance centre or in community service, or by making an order for compensation or restitution. What the court would not have the right to do would be to subject a youngster either to "treatment" or to locking up, unless there were clear medical grounds for the first or the offence was so grave

as to warrant the second—murder for example. Whether or not a Sponsorship Order should be considered in a particular case is something that should be determined partly on a tariff basis, that is according to the gravity of the offence and partly by the availability of a sponsor. The nature of the tariff would have to be worked out in consultation with magistrates and others, but it should roughly speaking correspond to the offences which qualify juveniles for Detention Centre, Borstal or a Care Order today.

Second, the sponsor will be a volunteer, and almost invariably not a paid welfare worker. Advertising and recruitment campaigns will be necessary to top up the supply, but the first recourse should be to adults already known to the youngster. The present system of remanding for social enquiry reports by probation officers or social workers could easily be adapted to allow time for approaches to be made to likely people.

Third, the court will have to be satisfied that the prospective sponsor is likely to be around for long enough to provide continuity of relationship, that he or she is willing to become a sponsor, and that the youngster is willing to accept him or her.

Fourth, the court will make an order that the youngster will meet the sponsor at least once a fortnight (holidays, sickness etc., permitting), for a period not exceeding three years—the length of time to be at the discretion of the court but in any event predetermined. Persistent failure to keep appointments will have to be reported to the court, who will decide whether to impose one of the penalties available for minor criminal offences, or to change the sponsor.

Fifth, the court will also make an order that a recognised welfare agency will provide professional support to the sponsor and the offender, principally in the form of counselling in all probability. The court may also make a probation, supervision, or intermediate treatment order at its discretion, to run concurrently with the Sponsorship Order.

Sixth, the welfare agencies will be expected to provide whatever level and type of support to the youngster they would have provided had no Sponsorship Order been provided. The relationship of sponsor and agency should therefore be the same as the ideal relationship between foster parent and agency—partners, not alternatives.

Seventh, there may very well be a case for payment of a fixed allowance to sponsors, in recognition of the possibility that their commitment might involve them in extra expense, although there would be no question of the sponsor being held to be responsible for the actions of the youngster. Sponsoring would not be the same as providing a surety.

What then are the sponsor and the youngster supposed to do at their regular meetings? The answer is that it will be up to them, with help from the welfare agency at least to start with. And there is little more that can be said until sponsorship has been tried and experimented with and experience has been built up.

One more thing needs to be said about sponsorship. It is to stress that it is not intended to be seen in isolation from other forms of provision, such as intermediate treatment (with which it might profitably in many, if not most, cases be combined). The whole point of sponsorship is to provide the close and sustained relationship with a concerned and caring adult, the expression of fraternity at an individual level, which most of our attempts to deal with youngsters who commit offences hitherto have either ignored or failed to achieve. Will it work? A failure rate in the 70-80 per cent region is tolerated for Detention Centres and Borstal, compared to this sponsorship must be a safe bet!

related policy proposals

In addition to the introduction of the Sponsorship Order, there are other proposals which stem from the same consideration of putting fraternity at the

centre of a socialist penal policy for youngsters :

First, abolish all Detention Centres and Borstals. They accomplish neither punishment nor treatment and have no place in the fraternity model either. They are ineffective and expensive and the savings made by putting this proposal into effect could be used to pay for the other proposals.

Second, abolish commission of an offence as a ground for applying for a Care Order. It is high time that the invidious confusion of welfare and justice created by the use of Care Orders for youngsters who offend was cleared up, and this is the only way to do it. Care Orders for youngsters who are thought, by the court, to need local authority care should continue, but commission of an offence should not be regarded as sufficient proof in itself of the need for care and control.

Third, make greater use of the short-term, non-custodial sentences already available. This means in effect recognising that most juvenile crime is fairly trivial, and avoids the kind of over-reaction that led in the past to the imposition of a Care Order on a youngster who had stolen a bottle of milk. Sentencing policy, despite the pronouncements of successive Lord Chancellors, is largely a matter for individual benches of magistrates, and it is therefore within their power to do this. The purpose of sentences of this kind is to indicate society's disapproval of certain forms of behaviour without devaluing the offender by coercion, whether the motive be retribution or treatment.

Fourth, convert all Community Homes with Education on the premises into centres for intermediate treatment (IT) and expand IT itself. This will need both legislation and a change of heart by a number of local authorities—the former being easier to achieve than the latter. A short-stay residential facility will probably be a feature of many of these centres, in recognition of the fact that some youngsters who offend will want to spend some time away from home—or

indeed have no home to go to. Residence would however, be at the request of the youngster and not at the discretion of either court or local authority.

Fifth, develop professional fostering to replace residential care for the small minority of delinquents for whom no other non-custodial provision can be made. "Professional" fostering means paying a salary, not just the usual allowances, to people who are prepared to offer a substitute home to a youngster who would otherwise end up in a residential institution. Payment is in recognition of the exceptionally demanding nature of this kind of fostering, which would only be relevant, once again, to a small minority of delinquents.

Sixth, provide "junior prisons" for the very rare youngster who commits the most serious offences. 1978 figures show that 20 youngsters under the age of seventeen were detained for life that year, 12 of them for murder. Only one was under fourteen. The Youth Treatment Centres which are currently provided at a cost of nearly £500 per place per week could be used to contain these youngsters instead of their present inmates who have supposedly reached the end of the child care line. This proposal is really an admission of defeat, an admission that we just don't know how to cope with this kind of youngster. Locking them up should be only the start, but what follows? Perhaps the success of the Barlinnie Special Unit in coping with hardened adult criminals in Scotland points the way. The philosophy of this unit is essentially that within the context of deprivation of liberty "if they are treated as responsible people they will try to respond as such" (*Scottish Prisons and the Special Unit*, Scottish Council for Civil Liberties, 1978).

6. summary of proposals

This summary sets out the proposals in two groups—those which require changes in current practice and those which need legislation. The first group are especially addressed to magistrates, social workers, probation officers, police and others connected with child care and youth crime. The second group are addressed to the next Labour government. Both groups of proposals need to be seen as parts of the same package, though, and the package itself as simply another step along the road to a socialist penal policy.

proposals requiring changes in current practice

1. Make greater use of the short-term, non-custodial sentences already available.
2. Convert all Community Homes with Education on the premises into centres

for Intermediate Treatment, and expand Intermediate Treatment provision.

3. Develop professional fostering to replace residential care of delinquents.

proposals requiring changes in the law

1. Introduce Sponsorship Orders to replace Care Orders following the commission of an offence, Detention Centre and Borstal sentences.
2. Abolish Detention Centres and Borstals.
3. Provide junior prisons for the very rare youngster who commits the most serious offences.
4. Abolish commission of an offence as a ground for applying for a Care Order.

postscript

young offenders: the Tory White Paper of October 1980

The Conservative government waited 18 months before producing what was intended to be their first major policy statement on delinquents (*Young Offenders*, HMSO, 1980). Not surprisingly, it turned out to be the familiar Tory shuffle—one step forward, three steps back. Ending remands to prison for fourteen year old boys and bringing down the age for Community Service Orders to sixteen constitute a step forward.

The steps back are that the opportunities for a radical rethink of how we regard young offenders and for getting rid of nearly all custody for under eighteens have been missed. The biggest step back of all is that the polarisation predicted at the end of chapter two of this pam-

phlet has come a lot nearer. Despite the lip service paid to intermediate treatment, the practical effect of the White Paper's proposals will be to condemn more youngsters to sterile, counter productive, unjustifiable periods of custody, whether in Borstals, Detention Centres or residential child care establishments. As past experience has shown over and over again if the courts are given the opportunity to lock more people up they will do so, and then clamour for more institutions to put more people in. Reducing the length of Detention Centre sentences will merely serve to increase the turnover of these establishments and that means more youngsters going inside.

Young Offenders amply illustrates the bankruptcy of the Tory approach to delinquents. Let us now show what we can offer in its place.

recent fabian pamphlets

research series

331	Chris Ralph	The picket and the law	60p
334	Carl Wilms Wright	Transnational corporations	75p
335	Vincent Cable	Import controls: the case against	70p
336	Christopher Parsons	Finance for development or survival ?	75p
337	Robin Cook, Dan Smith	What future in NATO ?	75p
338	Alan Fox	Socialism and shop floor power	60p
340	Deepak Lal	Poverty, power and prejudice	75p
341	Tom Sheriff	A deindustrialised Britain ?	60p
342	David Scott Bell	Eurocommunism	80p
343	J. Goode, D. Roy, A. Sedgewick	Energy policy : a reappraisal	80p
344	A Fabian group	Can tenants run housing ?	70p
345	David Taylor	India : the politics of change	75p
346	Robert Taylor	The crisis of American labour	70p

tracts

451	Dianne Hayter	The labour party : crisis and prospects	60p
453	Nicholas Falk	Think small : enterprise and the economy	75p
455	David Watkins	Industrial common ownership	65p
457	Tom Crowe, John H. Jones	The computer and society	50p
458	Robert Taylor	Labour and the social contract	65p
460	Walter Jaehnig	Family service for mentally handicapped	60p
461	A Fabian Group	Creating a caring community	65p
462	Bryan Gould and others	The politics of monetarism	60p
463	Austin Mitchell	Can Labour win again ?	75p
464	Giles Radice	Community socialism	65p
465	Peter Scott	What future for higher education ?	70p
466	C. Pond, L. Burghes, B. Smith	Taxing wealth inequalities	65p
467	Trevor Barnes	Open up !	65p
468	Evan Luard	Socialism at the grass roots	65p
469	Peter Hall (ed)	A radical agenda for London	£1.00
470	Roger Carroll	The two wage worker	65p
471	John Bowers, Suzanne Franks	Race and affirmative action	75p

young fabian pamphlets

42	Martin Smith	Gypsies : where now ?	40p
44	Melvyn Westlake	World poverty : the growing conflict	70p
45	Geoff Harris	A wider Europe	50p
46	David Elliott	The Lucas Aerospace workers' campaign	60p
47	Tom Schuller	Education through life	65p
48	Mark Swift	A regional policy for Europe	70p
49	Mark Goyder	Socialism tomorrow	80p

books

R. H. S. Crossman and others	New Fabian Essays	cased £1.75
Brian Abel-Smith and others	Socialism and affluence	paper £0.60
Peter Townsend and others	The fifth social service	paper £2.50
George Cunningham (ed)	Britain and the world in the 1970s	cased £3.00

justice, welfare and juvenile delinquents

The struggle to construct a socialist society must include a socialist policy for dealing with delinquents. The way a society reacts to youngsters in trouble with the law casts a very revealing light on the principles that society is based on. Two main principles have governed the last 150 years or so of the history of measures for dealing with delinquency in this country—justice and welfare.

Using research into juvenile delinquency in Warwickshire as a case study, this pamphlet shows how neither principle is satisfactory and how a new concept, fraternity, needs to be placed at the centre of socialist policies for delinquency. A set of practical proposals are put forward for making some progress towards a policy based on fraternity including the abolition of Borstal and Detention Centres and the introduction of a new type of court disposal, the "sponsorship order".

John May is under no illusion that his proposals will be enough to create a fully socialist policy for delinquents, but believes that the arguments and ideas put forward will bring such a policy a few steps nearer. The law and order lobby must and can be countered with firm evidence as well as ideological conviction.

fabian society

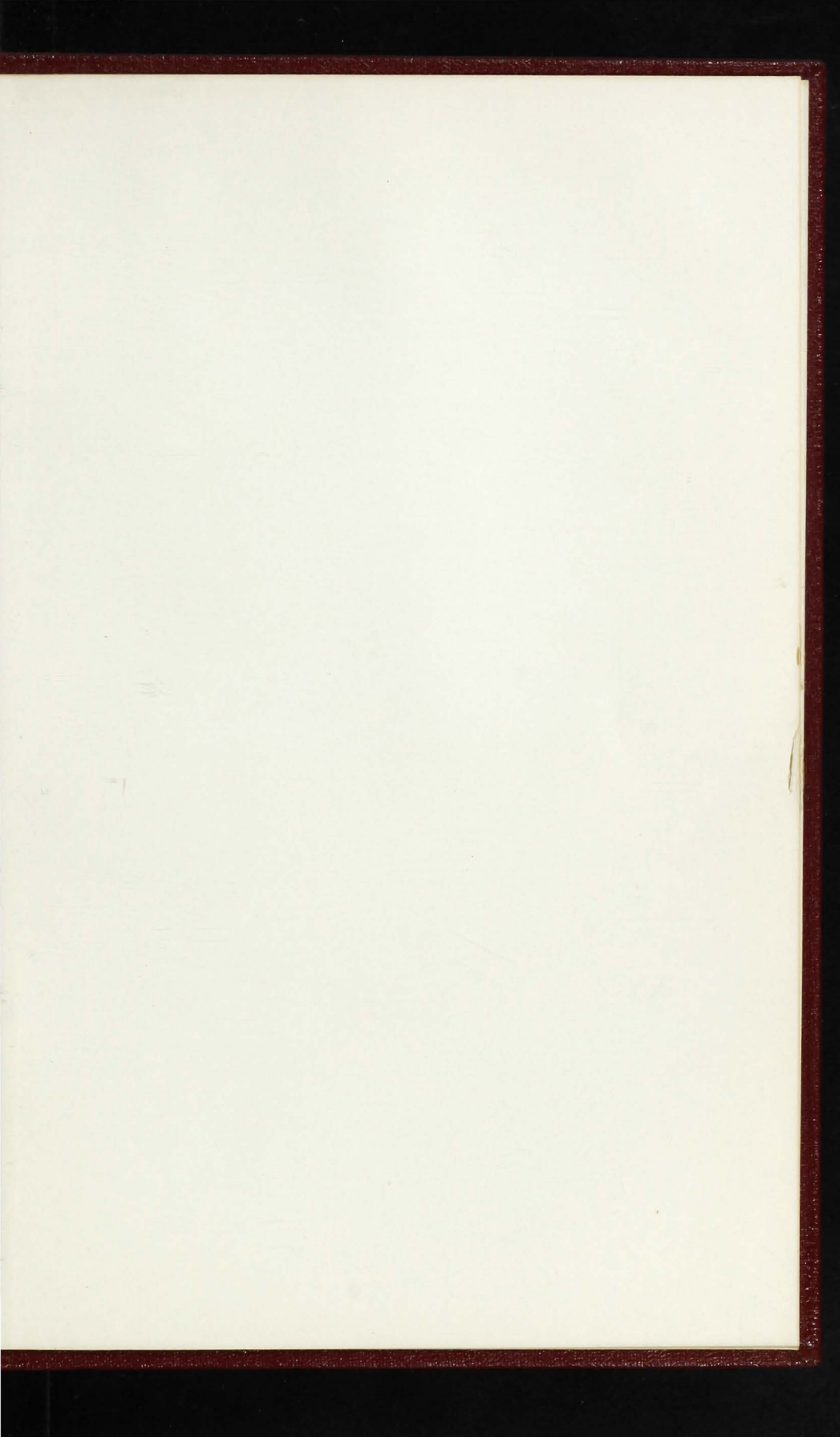
The Fabian Society exists to further socialist education and research. It is affiliated to the Labour Party, both nationally and locally, and embraces all shades of socialist opinion within its ranks—left, right and centre. Since 1884 the Fabian Society has enrolled thoughtful socialists who are prepared to discuss the essential questions of democratic socialism and relate them to practical plans for building socialism in a changing world. Beyond this the Society has no collective policy. It puts forward no resolutions of a political character. The Society's members are active in their Labour parties, trade unions and co-operatives. They are representative of the labour movement, practical people concerned to study and discuss problems that matter.

The Society is organised nationally and locally. The national Society, directed by an elected Executive Committee, publishes pamphlets and holds schools and conferences of many kinds. Local Societies—there are one hundred of them—are self governing and are lively centres of discussion and also undertake research.

December 1980

Cover design by Dick Leadbetter
Civic Street, Glasgow G4 9RH

Printed by Civic Press Limited (TU),
ISBN 7163 0472 4 ISSN 0307 7535



Journal of the Royal Society of Medicine

The objects of this Society are to advance the study of medicine and to promote the education of the medical profession. It does so by publishing a journal, holding meetings, and providing a library. The journal is published quarterly and contains original research, clinical reports, and reviews. The meetings are held in London and are attended by members of the Society and other medical professionals. The library is open to all members and contains a wide range of medical books and journals.

The Society was founded in 1825 and has since then grown steadily. It is now one of the largest and most influential medical societies in the world. Its journal is read by medical professionals in many countries and is highly regarded for its quality and originality. The Society's meetings are also highly regarded and provide an important opportunity for medical professionals to discuss their work and share their knowledge.

The Society's library is one of the largest and most comprehensive in the world. It contains a wide range of medical books and journals, including many rare and valuable volumes. The library is open to all members and is a valuable resource for medical professionals. The Society also provides a number of other services, including a website and a newsletter.

Editorial Board

The Editorial Board of the Journal of the Royal Society of Medicine is composed of leading medical professionals from a wide range of disciplines. The Board is responsible for the selection and editing of articles for publication in the journal. The Board members are elected by the Society and serve for a period of three years. The Board's work is essential to the success of the journal and the Society as a whole.

The Journal of the Royal Society of Medicine is published quarterly and is available to all members of the Society. It is a highly regarded journal and is read by medical professionals in many countries. The journal contains original research, clinical reports, and reviews, and is an essential resource for medical professionals.

December 1991

Volume 66, Number 12, December 1991. Published by the Royal Society of Medicine, 11, St Andrews Place, Regents Park, London, N1 2DA. Telephone: 020 7637 5200. Fax: 020 7637 5201. Email: journals@rsm.ac.uk

