U. S. DEPARTMENT OF LABOR
JAMES J. DAVIS, Secretary
CHILDREN'S BUREAU
GRACE ABBOTT, Chief

PROCEEDINGS OF THE CONFERENCE ON JUVENILE-COURT STANDARDS

HELD UNDER THE AUSPICES OF THE

U. S. CHILDREN'S BUREAU AND THE NATIONAL PROBATION ASSOCIATION

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LETTER OF TRANSMITTAL.

U. S. Department of Labor,
Children's Bureau,
Washington, October 29, 1921.

Sir: I transmit herewith a report of the Proceedings of the Conference on Juvenile-Court Standards held under the auspices of the Children's Bureau and the National Probation Association, Milwaukee, Wis., June 21–22, 1921.

The conference brought together judges and probation officers, as well as representatives of social agencies interested in the fundamental problems of the juvenile court, and important differences of opinion appeared in the course of the discussion. A continuing committee nominated by the conference and including judges, probation officers, the secretary of the National Probation Association, and the secretary of a State probation commission, specialists in the psychological and psychiatric study of delinquents, and individuals with special experience in private child-caring agencies, has been appointed as an advisory committee to the bureau. Miss Emma O. Lundberg, the director of the social-service division of the bureau, will act as secretary of the committee. It is hoped that through the joint efforts of the committee and the bureau some progress may be made in the development of standards, particularly in the administrative aspects of juvenile-court work.

Respectfully submitted.

Grace Abbott, *Chief.*

Hon. James J. Davis,
Secretary of Labor.

PROCEEDINGS OF THE CONFERENCE ON JUVENILE-COURT STANDARDS.

FIRST SESSION—JUNE 21—EVENING.

The Conference on Juvenile-Court Standards was opened by the Hon. Herbert C. Parsons, president of the National Probation Association, with a brief statement of the purpose of this conference under the joint auspices of the Children's Bureau of the United States Department of Labor and the National Probation Association. He then introduced the chairman of the first session.

CHAIRMAN: HON. MICHAEL S. SHERIDAN, *Judge of the Juvenile Court of Milwaukee County, Wis.*

INTRODUCTORY STATEMENT.

JULIA C. LATHROP, *Chief of the United States Children's Bureau.*

A conference like this offers certain marked advantages to a Government bureau. First, it brings together the stimulating, free activity of a voluntary organization and the traditionally calm placidity of governmental method. Second, it subjects us to each other's candid criticism in a friendly atmosphere that is good for the Government bureau, at least. Third, and most valuable, it exemplifies and encourages cooperation between public and private agencies. And this cooperation—intelligent and disinterested—must exist if the public which supports us by taxes or by voluntary contributions is to secure the services it is endeavoring to purchase from us both. We may hope that what is described as the "Government stroke" may be quickened by our deliberations, and, on the other hand, that you may feel more inclined to trust your cargoes to craft which can not turn turtle nor stop moving forward, however slow the rate of progress.

The history of the juvenile-court movement in the United States affords many examples of continuous cooperation between public and private agencies. Thus, in the Illinois juvenile-court law of 1899 no provision was made for the payment of probation officers, and the court in Chicago was able to operate only because public-

spirited individuals, the organizations which urged the law, and other agencies which necessarily brought children into the court or which were intrusted with children by the court all joined in placing probation officers at the service of the judge. Gradually the taxpayers have assumed their rightful duty of paying for the probation service, without which the juvenile court is ineffective.

The earliest mothers' pension laws lodged administration in the juvenile-court judges, who had urged for their wards legislative relief from the poverty which was at the bottom of the delinquency. The Illinois law allowed no money for paying administrative officers, and again the law operated only because citizens and organizations came forward and placed under the judge's direction a committee of experts on family rehabilitation, later supplemented by a competent family budget authority. At present the Illinois law permits payment for this subsidiary juvenile-court work. Similarly, the history of the mental examination of juvenile-court children began when a woman of extraordinary vision gave the psychiatric wisdom of Dr. Healy to the Cook County (Chicago) Juvenile Court.

I have confined myself to the one court whose development I know personally; the instance could be duplicated many times and as to other services. But this voluntary stimulus and cooperation is needed in all our courts and doubtless always will be needed, because the juvenile court, although, formally speaking, 22 years old, is really very young. It is experimental, disturbing to the authority of legal precedents, endeavors to weigh social values unknown to penal codes, uses social measures, and it therefore requires the informed sympathy of social students.

I need not point out the danger of emphasizing the social aspects of the juvenile court at the expense of its legal authority. The day is long past when a judge could say good-humoredly, "What you need is a humanitarian, and not a judge." Men of such high legal standing have self-sacrificingly accepted the wearing duties of juvenile-court judges, that no intelligent observer would now be found to justify lack of legal training in a juvenile-court judge. We agree that the more the juvenile court departs from the old penal method, the more its bench needs legal ability of a high order, with a clear sense of law as an instrument for perfecting social justice.

Of well-equipped courts, of fine judges, our country has splendid examples—but that is not enough. Have we prevailing and accessible for the children and youth of our country who are brought into courts those provisions for their protection, guidance, or restraint which have failed them elsewhere?

Recent studies have shown clearly that this question must be answered in the negative. We have laws providing juvenile courts

in 46 States and providing juvenile probation in all the States save one; but our performance lags behind our laws. The juvenile court is 22 years old; we can never revert from its idea. Is it not possible to awaken fresh interest in a nation-wide realization of its ideal of justice? If judges and laity could join in a committee to study practicable recommendations for juvenile-court standards, would not much public interest be awakened in its work and a genuine advance be made in juvenile-court provision in those areas where it is now lacking?

THE CONTRIBUTION OF THE JUVENILE COURT TO THE CHILD-WELFARE MOVEMENT.

C. C. CARSTENS, *Director of the Child-Welfare League of America.*

There has been an increasing inclination during the last few years to study the juvenile court as an institution and to attempt to define its proper function and its place in relation to the other child-welfare agencies of the community. In many cities and States juvenile courts have not been established except as the result of a struggle; but on the whole the movement to establish them has had a tremendous sentimental backing in many places and has suffered therefrom. That backing and that influence have largely disappeared. The sentimental period of the history of the juvenile court is over. It is appropriate at this time, two decades after the first court was established, to study it in the light of its development, properly estimate its contributions to the child-welfare movement, learn its shortcomings, and endeavor to determine—out of 20 years' experience—what services a juvenile court of the present day ought to render to its community and what the trend of its development should be.

Distinctive Features of a Juvenile Court.

First. A juvenile court that is fully entitled to be called a juvenile court must have a man or woman as its judge who, besides being reasonably well versed in the law, has a deep and abiding interest in the care and protection of children and in the improvement of his fellow men. A juvenile court may have all the mechanism and auxiliary services, so that it would rank in those respects with the best; but if the judge has not the time for the stupidest parent, and patience with the meanest youngster, he is probably out of place on the juvenile-court bench. For this reason the juvenile-court work should take a considerable part of the time that the judge spends on the bench, so that the services of the juvenile court may become his major interest.

Second. The juvenile court needs a specialized service for probation. Men and women both are needed where the services of more than one probation officer are required. If only one, a woman would probably meet the needs better than a man, as both girls and younger boys can be taken care of by a woman satisfactorily, while girls should not be placed on probation to a man. Where probation officers are used for investigation and a considerable staff is required for all the services of the court, it is advantageous to recognize that the making of a social investigation is a specialty, and certain probation officers might very well be assigned to that specialty if they are particularly well fitted for such service. Some of the most capable probation officers have not been able to make a good social investigation.

Third. A court that is worthy of the name should be so organized and equipped that there is privacy for its hearings and no publicity with regard to the facts brought out in the hearing, either in newspapers or through attendance at court. It is entirely suitable that both child and parent appearing before the court should be impressed by the dignity of the proceedings and the demeanor of all the court's attendants; but pomp, uniforms, and talking to the gallery should have no place in the proceedings.

Fourth. The court worthy of its name has the important task of finding its place with reference to the other children's and social agencies in the community, and of maintaining such relations that it becomes the bulwark for establishing family responsibility for the care of its children throughout the community. Here and there one still finds a court which considers itself the only children's agency of any importance in the community, and which attempts to do everything but does nothing particularly well—not even the administering of justice to those who have the misfortune to be brought before it. For a temporary period a court may now and then have to undertake various forms of administrative service that have no close relation to the judicial function, but it seems best that such undertakings should be temporary and that the court should be the first to assist in the establishment of agencies best equipped to undertake the nonjudicial functions in a community. Ambition on the part of judge or probation officer is sometimes to blame for excursions into the general field of child welfare.

The Distinctive Services of the Juvenile Court.

Most of the juvenile courts have been organized on the chancery basis. Even where the juvenile court has existed as a modification of the criminal court, the chancery idea of protection in dealing with a child has been foremost, and this, to my mind, has been the great

contribution of the juvenile court to the child-welfare movement. Implicit in this protection is not only the protection of his person, but also the protection of his relationships to his parents and to the other members of his family, and of his rights to training, education, and proper development.

When judges began to give patient thought to the child problems that came before them, they very soon learned that one of the great faults of the previous court system had been that the child's point of view had rarely been taken into consideration, and that the child had therefore had small opportunity to be understood. There were also revealed limitations in his physical and mental development which led to even greater misunderstandings. Out of this has grown a movement which has come to be of the greatest importance to the child. No juvenile court at present deems itself well equipped without medical and psychological service for at least half its cases. It is no longer sufficient to determine whether the child is feeble-minded, backward, or psychopathic; but a study of the child's personality, his outlook on life, his attitude toward important questions of behavior must be ascertained. The establishment of such service is comparatively in its infancy, but it has already affected in a powerful way the equipment and the work of many other child-helping agencies. Where the psychiatric service understands the court and the possibilities of service inherent in the other social agencies of the community, there comes about a teamwork between the three groups that is of the greatest significance in modern child-helping work.

Juvenile courts have been a conservative force for the maintenance of family life and family responsibility. Before the day of the juvenile court family relations were often broken, without an adequate examination of the facts and without a persistent effort to conserve the family tie. It was doubtless equally true that children were left in demoralizing circumstances and surroundings, to their undoing, because of the legal limitations imposed upon the court's action. The juvenile-court movement has on the whole encouraged a careful analysis of the facts in each case, a recognition of the spiritual power of good family life, an effort to reshape and improve the family whenever it seemed reasonably possible, and such team work among the social agencies as will eliminate waste and result in a fair amount of success. There are communities where the court, through its recognition of case work, has held children's as well as other social agencies to their responsibilities in a more substantial way.

The analysis of the hereditary and environmental factors in each case and the case-work process in dealing with each family problem

are scientific methods. They have revealed to the court, and through the court to the community, the failures of the community in safeguarding childhood. They have led to a discovery of causal factors that has been a stimulus for community action in many lines. The truancy problem as dealt with in prejuvenile-court days—and, alas, even by juvenile courts in certain jurisdictions at the present time—was an excellent illustration of what a physician would call the treatment of disease through the treatment of symptoms. An intelligent juvenile court has helped both social worker and educator to find that truancy indicated family neglect, child delinquency or defectiveness, or very frequently a maladjustment of teacher or curriculum to the child. An intelligent juvenile court has found remedial physical and mental problems, and has led the community to equip itself with better medical and psychological service. The probation officers in many juvenile courts have been the first to recognize the value of directed play, or supervised amusements and recreation, and of a well-managed boys' club as a preventive against delinquency.

A juvenile court stands at a peculiarly strategic place in the community's scheme of child welfare. In it are registered the results of family and community breakdowns in the preservation of a wholesome family life. Without necessitating any undue amount of time or money, the tabulation and summarizing of the elements entering into each case will quickly inform a judge who is interested to find not only the solution in each individual case but also the flagrant weaknesses in a community's organization. Without being unduly alarmed over every indication of serious delinquency, he should be en rapport with the other social agencies, so that there may come out of their joint experience plans for greater protection and care of the community's children.

The Juvenile Court is Still on Trial.

Few of the many juvenile courts in the land have as yet contributed all or most of these services to the child-welfare movement. The juvenile court has suffered in the house of its friends. They have too often been satisfied with only part of the necessary equipment, and have stupidly vaunted themselves in the thought that they had a juvenile court, but the name has no virtue in it unless it is attached to an institution of substance. It is for this reason that the juvenile court is still on the defensive in many communities, for it is making bricks without straw. The juvenile-court movement where it is adequately exemplified is the best expression of a community's interest in the protection of its children and the prevention of their falling into adult crime. The friends of the juvenile court

must seek for certain recognized standards of organization and procedure and organize an educational campaign, so that this honorable and promising institution may come to be better standardized and a more efficient instrument for the carrying out of its task.

THE FUNDAMENTAL PRINCIPLES OF THE JUVENILE COURT AND ITS PART IN FUTURE COMMUNITY PROGRAMS FOR CHILD WELFARE.

Hon. CHARLES W. HOFFMAN, *Judge of the Hamilton County Court of Domestic Relations, Cincinnati, Ohio.*

In a recent contribution to the literature on juvenile courts, Judge Edward F. Waite, of Minnesota, stated that "it would be interesting to consider in detail the wonderful advance in the legal status of disadvantaged children during the nineteenth century."[1] The judge assumes as a fact that the legal status of unfortunate children has improved, and in this assumption we concur. The most important consideration, however, taking it for granted that the laws of the last century and the organization of juvenile courts have changed the legal status of children, is that of determining whether this change has brought the delinquent child any relief.

From the earlier days of English history there have been persistent attempts to save offending children by the mere force of a statute, and the history of law discloses that in many cases such attempts have failed.

In the reign of Æthelstan there was a statute that embodied many of the beneficent provisions of our present-day children's codes, but there are few records of any children who were accorded the privilege of this and subsequent statutes. "It is recorded in the Year Books of Edward I that judgment for burglary was spared to a boy of twelve years (Year Book 32 Edw. I). Yet in the seventeenth century John Dean, being of the age of eight years, was hanged at Abingdon for arson, and in 1833 the death sentence was pronounced upon a child who broke a pane of glass and stole twopennyworth of paint."[2]

It would indeed be interesting, as Judge Waite suggested, to trace the legal status of children during the nineteenth century. We would find that while the law in New Jersey in 1828 professed great solicitude for the welfare of children, a boy 13 years of age was hanged there for an offense committed when 12 years of age. It

[1] Waite, Edward F.: The Origin and Development of the Minnesota Juvenile Court; address before the Minnesota Association of Probate Judges, Jan. 15, 1920. Minnesota State Board of Control, 1920, p. 1.

[2] Garnett, W. H. Stuart: Children and the Law. John Murray, London. 1911 pp. 137, 147.

would be found on further investigation that numberless children in this country were tried as ordinary criminals and imprisoned in reformatories and penitentiaries. About the middle of the last century or earlier, the so-called "houses of refuge" were founded, the harsh and cruel management and discipline of which were in direct contradiction to the benevolent implications of the name. There were but few of these prisons—for such they may be called—that were in any way different from that which existed in Cincinnati until the early years of the twentieth century. Stone cells and iron bars were characteristic of practically all of them, and finally the name "house of refuge" itself signified in the public mind all that the term "prison" implies. These institutions that the law so generously and mercifully provided for the correction and reformation of delinquent children were no more than camouflaged penitentiaries in which children were incarcerated as a means of punishment.

Previous to 1899, notwithstanding the advanced legal status, unnumbered thousands of delinquent children perished either for want of a proper administration of the law or because of the revengeful and vindictive attitude, born of primitive instincts, against the lawbreaker, even though the offender be a little child. Whatever the advance in the legal status in the nineteenth century may have accomplished for the dependent and neglected child, it failed in its purpose, if it had any definite purpose, in saving or protecting delinquent children.

It is said that the year 1899 marked a new era in child welfare. It was then that the juvenile courts of Denver and Chicago were organized. Permit me again to quote Judge Waite, who says that the acts authorizing the organization of these courts were no more than the affirmation or incorporating into the statute law of the State principles already well grounded in English and American jurisprudence.[3] It has been reported by this association that since 1899 every State in the Union except two has enacted a juvenile-court law. It should, however, be stated that the juvenile-court laws of many States are not so comprehensive as those of Illinois, and because of these limitations their usefulness is proportionately reduced—sometimes is minimum.

It was the evident purpose of the founders of the first juvenile courts to save, to redeem, and to protect every delinquent child for the benefit of himself and of society and the State. In most of the codes this idea seems to be incorporated in both the letter and the spirit of the law. After two decades this exalted conception of a great law—the greatest, as one juvenile-court judge has said, that has

[3] Waite, Edward F.: The Origin and Development of the Minnesota Juvenile Court, p. 3.

been enacted by any civilized people since Magna Charta was wrung from King John on the plains of Runnymede—has not been realized in its fullness.

Children whom it was intended to take out of the pale of the criminal law and save by all the means that education, religion, science, and medicine could command have been subjected to treatment and conditions but little different from those of the last century. The juvenile court is now, by law, an established institution; yet in one State two boys were recently imprisoned in a row of cells filled with adult felons and murderers, and in full view of the boys a scaffold was erected on which to hang the murderers. In another State, two children of tender years were placed in a cell in a lonely district, with a guard pacing before the cell door. Children within the last five years have been placed in death cells waiting for their execution, only to be finally pardoned by a high-minded governor. The country but recently has been aroused to the barbarity and savagery of it all by the trial of an 11-year-old boy for first-degree murder.

But we need not cite these extreme cases only. The Federal Children's Bureau, in its report of a survey of children's courts in the United States, gives us an instance of a judge stating that in one year he sent 65 children to jail, 40 to a chain gang, 12 to a reformatory, 1 to an orphanage, and further that during the same year he fined 156.[4] With few if any exceptions, in every State children of juvenile-court age, sometimes numbering into the hundreds, are found in such penal institutions as the reformatory and penitentiary. The industrial schools, often semipenal institutions both in conception and management, are filled even now to overflowing; and for want of detention homes in hundreds of jurisdictions children when arrested are placed in jail until the hearing. What has the advanced legal status accomplished for children thus situated? Is it not clear that the juvenile courts are not functioning?

Why have the juvenile courts failed to provide the machinery necessary for the redemption of offending children? Is the cause of this default inherent in the juvenile-court law, or is it to be found in administration?

It is our contention that the cause of so large a percentage of the courts not functioning is because of a misconception, willful or otherwise, of the purpose of these institutions, not only on the part of laymen but of lawyers and judges as well. It may be found on final investigation that the greater part of the responsibility for this condition of affairs must rest on the legalists.

[4] U. S. Children's Bureau: Courts in the United States Hearing Children's Cases; results of a questionnaire study covering the year 1918, by Evelina Belden. Bureau publication No. 65, Dependent, defective, and delinquent classes series No. 8. Washington, D. C., 1920, p. 42.

The courts of last resort in at least a score of States have definitely interpreted and defined the law. We need cite but two cases, as they are illustrative of practically all the others.

In the case of Januszewski (196 Federal, 123), Judge Sater said:

> The purpose of the statute is to save minors under the age of 17 years from prosecution and conviction on charges of misdemeanors and crimes and to relieve them from the consequent stigma attaching thereto; to guard and protect them against themselves and evil-minded persons surrounding them; to protect and train them physically, mentally, and morally. It seeks to benefit not only the child but the community also by surrounding the child with better and more elevating influences and training it in all that counts for good citizenship and usefulness as a member of society. Under it the State, which through its appropriate organs is the guardian of the children within its borders, assumes the custody of the child, imposes wholesome restraints, and performs parental duties, and at a time when the child is not entitled either by the laws of nature or of the State to absolute freedom, but is subjected to the restraint and custody of a natural or legally constituted guardian to whom it owes obedience and subjection. It is of the same nature as statutes which authorize compulsory education of children, the binding of them out during minority, the appointment of guardians and trustees to take charge of the property of those who are incapable of managing their own affairs, the confinement of the insane, and the like. The welfare of society requires and justifies such enactments. The statute is neither criminal nor penal in its nature, but an administrative police regulation.

In the opinion in the case of Commonwealth *v.* Fisher (213 Penn. Reports, 62 Atlantic, 198), Justice Brown says:

> To save a child from becoming a criminal or from continuing in a career of crime, to end in maturer years in public punishment and disgrace, the legislature surely may provide for the salvation of such a child, if its parents or guardian be unable or unwilling to do so, by bringing it into one of the courts of the State without any process at all, for the purpose of subjecting it to the State's guardianship and protection.

In view of these decisions, expressly stating that the objective is saving rather than destroying children and that trials in the ordinary meaning of that term have no place in a juvenile court, let us turn for a moment to the administration of the juvenile-court law in a State in which these decisions are in point. In 1918, 22 children from one county of a southern State were sent by the juvenile-court judge to the county workhouse—"a sort of half-way station between the detention home and the house of reform." One hundred and five children from 21 counties in this State were sent to the house of reform, but the conditions at this institution were such that the grand jury of one county "turned in a severe indictment of the management, concluding with a recommendation to the governor that he either pardon or immediately transfer to the State penitentiary at least 150 white men and 50 colored men who do not belong in this corrective school for children." Nine children were committed to county jails, 3 of them after having been transferred as "felons"

from the county to the circuit court; 77 children were fined, to 55 of whom, being unable to pay, the fine meant imprisonment in the county jail. In addition, there were a number of children held in jail pending hearing or transfer to an institution. All this occurred in a State in which it is plainly written in the juvenile-court laws that no child under 14 years shall be imprisoned in a jail or "any place where he can come in contact with criminal adults." The penalty for the violation of this provision is $100, but there is no one to defend the child, and he is lost and forgotten. In the State cited there are other means employed for saving a child, among which is that of whipping.[5] A survey of conditions in other States would reveal that the treatment of children differs from this in degree only. It can not be said that the improved legal status of children has resulted in benefiting in great measure the delinquent child.

So long as the juvenile-court laws of practically all the States are ignored, conditions such as I have described will persist. It can not be urged in defense of the failure of those who preside over the juvenile courts that the necessary facilities for caring for delinquent children have not been provided. It is the duty and business of the courts to enforce the law and to administer relief to *every* delinquent child. We can not too strongly emphasize the doctrine that it is the duty of the judge—the legal duty, if you please—to save the child.

It is not possible to dispose of a child wisely until all the social, pathological, and psychological factors that contributed to its delinquency are known, and no judge or anyone associated with the juvenile court is justified in disposing of children until all that science dictates has been brought to bear upon the case.

In the study of juvenile courts made by the Federal Children's Bureau, few courts were reported which had connected with them regular clinics for the physical and mental examination of the children, only 7 per cent reporting mental clinics.[6] If the court has no facilities for conducting these examinations it is then its duty as one of the social agencies of the community to reveal this defect to the community. But it has been urged and strongly asserted in discussions and criticisms of the juvenile codes that the summary hearing of children's cases, the investigations as to social conditions, and the psychological and physical examinations tend toward the "institutionalization of the courts," and that lawyers and judges rightfully resent this process. Objection is made to the judge being the "complaining witness, the prosecutor, the jury, and the executioner."[7]

[5] Child Welfare in Kentucky; an inquiry by the National Child Labor Committee for the Kentucky Child-Labor Association and the State Board of Health, under the direction of Edward N. Clopper, Ph. D., 1919, pp. 235–238. Also Ky. Stat., 1915, s. 331e, 4.

[6] U. S. Children's Bureau: Courts in the United States Hearing Children's Cases, p. 14.

[7] Baker, Herbert M.: "The court and the delinquent child," in The American Journal of Sociology, Vol. XXVI (September, 1920), p. 178.

In reply to this it may be said in the words of Judge Edward F. Waite, as found in the February, 1921, number of the Minnesota Law Review, that—

One need not be a profound student of affairs to have observed that in the last quarter century the emphasis of public opinion, as expressed in statutes and decisions of the courts, has made a notable shift away from preservation of the rights of private property as the chief object of the law, and toward securing and safeguarding the welfare of people—people as individuals and as grouped in the community. This process of humanizing and socializing the law and its administration has gone on more rapidly in substantive than in adjective law, probably because the influence of the conservative legal profession has been most effective in the field of procedure. But, beginning with the juvenile court in 1899, one can trace the process of socialization in the latter field expressing itself in the wide and rapid spread of juvenile courts and the development of courts of conciliation and small claims, morals courts, traffic courts, and courts of domestic relations; in quasi-judicial instrumentalities, such as rate commissions, industrial-accident commissions, minimum-wage commissions, the so-called "court of industrial relations" in Kansas, and in agencies for securing justice for the poor, such as legal aid bureaus, private and municipal, and the public defender, and in the increasing use by criminal courts of scientific aids and organized probation.

He adds:

The basic ideas of the juvenile court are not new; they are as old as chancery. The new things that happened in Chicago in 1899 were the working out of these ideas to their logical conclusions as legal concepts and the creation of an agency to make them effective; that is, an organized and socialized piece of judicial machinery. The child in need of the guardianship of the State, whether dependent, neglected, or delinquent, was cared for in a single court instead of several, as before, with adequate administrative aid at its command.

Prof. Eugene A. Gilmore, quoting Dean Pound, of Harvard, in the Journal of the American Bar Association, states:

There is a traditional mode or habit of thinking upon legal questions which becomes a part of the mental equipment of a lawyer. The traditional principles arrived at by this method of thinking are taken to be fundamental principles of all law. It is assumed that the only measure of critique of legal rules is an ideal development of these traditional principles. All questions are looked at from the standpoint of this received juristic tradition. Subconsciously all new elements of the law are molded thereto. Legislation at variance with these traditions is viewed with indifference and suspicion, if not with hostility. Persistency by law teachers in training men in this mode of juristic thinking and in teaching these traditional principles as universals of all law makes for a rigid body of law out of harmony with prevailing notions concerning social interests and social progress. Moreover, this method of teaching is responsible for the attitude of our law toward legislation, which attitude wholly ignores the imperative element and treats the law as if it consisted of the traditional element only. Further, our traditional law is individualistic and regards its end as the protection of individual interests; whereas, the center of modern juristic theory is no longer the individual; it is society.

The Chicago Bar Association did not conceive that the juvenile-court act of Illinois was "repugnant to every tenet of the science of the law," [8] as is evidenced

[8] Idem.

by their report in 1899, in which it is asserted that "its fundamental idea is that the State must step in and exercise guardianship over a child found under such adverse social or individual conditions as develop crime. It proposes a plan whereby he may be treated not as a criminal or one legally charged with crime, but as a ward of the State, to receive practically the care, custody, and discipline that are accorded to the neglected and dependent child, and which, as the act states, 'shall approximate as nearly as may be that which should be given by its parents.'"

The true principle upon which the juvenile court is constructed is well stated, in the article cited, in the following criticism of the court and its work: "That the child who breaks a law is not a lawbreaker, that crime is not a crime when committed by a juvenile, and that so far as children are concerned things are not at all what they seem." If this principle were recognized and applied in the juvenile courts, we would not find judges, lawyers, and others discussing the courts in terms of criminal law. It would be observed that the charge that the court prejudges, before the trial, "the guilt or innocence" of a child is not true. We would find also that the statement that the judge is the "complaining witness, the prosecutor, the jury, and the executioner" in children's cases has no foundation whatever in law. It is just this conception of the juvenile-court law that has prevented the saving of multitudes of children. It has perpetuated the terms "guilty," "not guilty," "arraignment," "sentence," etc. It has surrounded the court with sheriffs, policemen, bailiffs. It has encouraged the doctrine that the laymen without any information whatever as to the causes of child delinquency may advise the judge as to what disposition should be made of a child or as to the cause of the child's delinquency.

The juvenile court has a place in the community as a child-saving institution. Its work can not be wholly taken over by other agencies, as children afflicted with conduct disorders, because of the peculiar nature of the ailment, will come in the first instance in contact with the law and therefore with the courts. But when the child comes into court by any process, or, as said by the Supreme Court of Pennsylvania, without any process at all, it must be realized that that child is there for relief and salvation, and not for the purpose of being tried for any offense. To afford the relief necessary will require the combined efforts of all the social organizations at the command of the court. If it be alleged that the court lacks these facilities for accomplishing the work, this is no justification or excuse for disposing of the child, without a protest on the part of the court, by sending him to a reformatory or an industrial school. We have no right to ignore the law and imprison a child or place a stigma of criminality upon him because of the want of the means to dispose of him otherwise. An adult criminal can not be deprived of the benefits of the

safeguards which the Constitution and laws have placed about him, and if a judge were to attempt to do so he would be impeached. Offending children, however, numbering into the thousands, are deprived of that most precious right of being protected and shielded from the harsh and cruel methods that characterize the ordinary criminal procedure and saved from a life of crime, for a life of usefulness and happiness, and few—very few—utter a protest.

It has been well urged that some agency, preferably the schools, may be able to handle the problem of delinquency more efficiently than the court, but it must be remembered that there will always be the necessity for some legal adjudication of the rights of the parents and some procedure authorizing the administration of the relief needed. In thousands of cases it is possible for the juvenile court to show that the child of abnormal physical or mental structure has been in the public schools for seven or eight years, and his abnormalities have not been detected. In numberless instances it can be demonstrated by the juvenile court that the egocentric boy, because of the failure of the schools to ascertain his abnormal tendencies, has been permitted to pass through the grades, only to be finally engulfed in the stream of delinquency. It is said by those whom we consider to be experts in psychology and psychiatry that in dealing with the egocentric individual it is necessary to determine the fault at an early date, otherwise the case may become hopeless. It can be shown, as some courts have demonstrated, that from 10 to 25 per cent of the children who appear in the court for offenses of various kinds are feeble-minded.

If the courts were specially organized and represented to their respective communities that a large percentage of the delinquent children were feeble-minded or of the types I have mentioned, it would not be long until educators and all interested in child welfare would realize that it is within the province of the schools so to educate and train this abnormal and feeble-minded class that they may not finally become victims of delinquency—which, in fact, means destruction.

It is not possible to transfer the work of the juvenile court to the schools or to any other administrative agency until the juvenile court itself demonstrates to the public the necessity for such a transfer.

No juvenile court that is disposing of children without any physical or mental examination—imprisoning them, whipping them, or disposing of them in any way as criminals—is of any particular consequence or benefit to the community; in other words, it is just such courts as these which "excite the contempt of lawyers and social workers and laymen." I repeat that the lives of hundreds of thousands of children in this country will be jeopardized until the

juvenile-court laws are enforced. The question is no longer as to the necessity of disposing of children as criminals for the purpose of protecting life or property or society. The law expressly forbids such treatment or disposition.

It is immaterial what a priori opinions those who preside over the juvenile courts may have in reference to delinquency, crime, and criminals, so far as the law is concerned. The law is to the effect that it is our business to save the child, and no process of reasoning can relieve us of this duty. The legal mind is not always infallible in its deductions. In England, when there were 160 offenses punishable by death, it was declared by Lord Chancellor Eldon, in his speech in the House of Lords when Sir Samuel Romilly proposed the mitigation of this cruel system of the law, "that the very existence of society depended upon the power to deal out the punishment of death for these offenses." It may be that in some instances the legal mind conceives that life, liberty, and property can only be secured and society benefited by harsh, repressive measures in respect to the delinquency of children. It may be, too, that this conception, wholly unwarranted under the law, has perpetuated a system of punishment by imprisonment and whipping that has undermined the juvenile courts. If the delinquent children of our country are to be saved, the doctrine must be disseminated that the juvenile court exists not for the purpose of trying children as criminals but for the purpose of saving them, and that no judge is keeping faith in his jurisdiction who does not insist upon the child receiving the benefit of the law. This will not be accomplished by the distribution by mail of pamphlets and tracts only. There must be some means devised to obtain personal contact with the courts and to bring directly to the public the object and purpose of the juvenile-court acts and the existence of the present knowledge and information in respect to child welfare. If we expect to "sell this idea," it is necessary that we have salesmen who are willing to go into every community in which children are imprisoned and whipped and advertise the fact that this procedure is not warranted by the law; that it is inhuman in all its tendencies, and that by reason thereof unnumbered thousands of children perish every year.

There is no hope for the betterment of conditions in respect to delinquent children until the juvenile courts demonstrate that it is necessary in dealing with the problem of delinquency that every social-service organization of the community and State be enlisted in the cause.

The schools unquestionably can finally take over the great part of the work, but other organizations must assist in cases that can not be handled by the schools. An intensive study of the individual

child must be made in the first instance by the juvenile court. In some cases the child can be referred to the schools. In other cases, such as the psychopaths, it may be found necessary to provide specialized treatment in an institution or in a home. It is, of course, not possible to save every child. It is never presumed that the physician can save everyone who is ill; neither can it be presumed that it is within the power of those who deal with conduct disorders to save everyone thus afflicted.

We suggest that hereafter in all jurisdictions every child afflicted with conduct disorders that may eventually lead him again to the courts be given mental and physical examinations by the court, and that the combined social organizations of the district in which the court is located provide for the care of that child. If it be said that in the rural communities there are no social organizations that can take over the work of caring for delinquent children and administering proper treatment, then it is the first duty of the juvenile court to advise the public of their respective districts that contrary to law children are permitted to perish for lack of facilities for caring for them.

It should be noted, however, in pleading lack of facilities, that in States having juvenile-court codes provision is made for the placing of children on probation and for the appointment of probation officers, yet there is probably no State in which there are not some courts that have no probation service and have not even exercised their right to appoint probation officers.

In Ohio eight counties have no probation officers. It may be observed, further, that in many courts having probation the service is of little consequence, as the officers are appointed without particular regard to their especial qualifications for the work.

It was said by Edwin J. Cooley in his address to the National Probation Association last year—an address that ranks among the best statements of the principles of probation—that "definite qualifications as to character, ability, and training should be required of those who seek to become probation officers. Merit and fitness alone should be the basis of appointment." No hospital would countenance for a moment the employment of nurses who had had absolutely no experience or knowledge of the profession of nursing. If a professional nurse is not always demanded, a so-called practical nurse is at least the representative of the minimum standard. Children afflicted with conduct disorders have been placed in the charge of men and women with no knowledge whatever of the principles of child welfare or of the ailments with which the child may be suffering. Cooley declares that adequate probation requires "that same painstaking study of the structure of human personality that the

physician makes of the human body; that same study of the functions of the human spirit that the physician makes of the human physiology; the same study of healing and upbuilding of human conduct, character, and personality that the physicians make of the toxicology and the hygiene of the human body."

Judged by this standard, there are but few of us who are rendering the service demanded.

There must be no further temporizing or compromising on this problem. Delinquency is a disease shadowing and destroying the lives of more children than any other disease known to man. Children afflicted with this disease must no longer be sacrificed on the altars of vengeance, vindictiveness, and hate, such as has always characterized our emotions against the lawbreakers. Science has proclaimed that these children are "not guilty" of any offense. Principles that the great sociologist Lester F. Ward laid down in respect to human behavior have been corroborated by the research and laboratory work of Dr. William Healy, as set forth in his epoch-making book, "The Individual Delinquent." If these principles are not applied in the juvenile court, the result will be that in the future, as in the past, distressed children, broken in body and mind, must travel along the trail of tears that leads finally to destruction.

This association can render no greater service to this country and its children than that of sending its emissaries into every community and demanding in the name of the law and humanity that the juvenile-court laws be recognized and that the barbaric and savage treatment given children in the past must cease.

STUDY OF THE INDIVIDUAL CHILD AS A PRELIMINARY TO TREATMENT.

WILLIAM HEALY, M. D., *Director of the Judge Baker Foundation, Boston, Mass.*

Theoretical generalizations in our field are not as much in vogue as they were 20 or even 10 years ago. To be sure, every now and again argument arises concerning some old questions, such as whether heredity or environment is really responsible for delinquency, as if either could be gauged by itself, as if there were not all sorts of admixtures of reactions of myriad features of the environment on each distinctive personality, and, above all, as if there was no such thing as the inner mental life, the mainspring and the regulator of conduct tendencies.

In legal circles frank theorizing about the foundations of criminal law, about forms of punishment, the age and fact of responsibility, and so on, is certainly not the fashion nowadays, although many

would still consider them matters for discussion. All such theorizings and anthropological dialectics in general seem learned. The heredity *versus* environment argumentation is echoed in the newspapers, for instance, as representative of learning in socio-legal affairs.

But our getting away from such bare generalities, even if they are "philosophical"—in some quarters rapidly getting away, in others hardly at all—marks, unless I am greatly mistaken, the first stages of the evolution of a science that deeply concerns us all, a science of conduct.

This leaving the earlier attempt at classification and deduction before thorough studies of any sort of the material or phenomena under discussion have been made has its analogy in the development of other sciences dealing with simpler material than human beings. I need mention only how botany for long was in the naming and classification and theorizing period, and how then came the modern idea of the closer analysis of material, of processes, of genetic processes, whether of health or disease. Yes, part of the work of botanists, I would remind you for the sake of this analogy, is termed plant behavior. And out of this and the experimentation with environment and growth that always is necessary for such study have come the conquests that have set the agriculture and plant industries of to-day very far ahead of anything that any civilization has known before.

And shall we not remind ourselves once more, for the sake of our own encouragement, if we would consider what might be done if a similar effort was made for the study of human beings in their behavior reactions, how great an expenditure of time and money there has been, comparatively, for some of these other sciences? The study of plant life, for instance, has many laboratories and many college courses devoted to it (with psychology, the study of human behavior, often relegated to attics); it has a large share of the effort of one department of our National Government with a splendidly working system of agencies and experiment stations (and no national recognition whatever in the way of study or attempt to diminish the great excrescence on our social life, American delinquency and crime); and there is the fine private support given by such institutions as the Carnegie Foundation, which willingly sends men to the wildest desert regions to observe the environmental reactions of a plant growing there (with not a single psychological institute yet established in this country).

All these, by comparison, are indicators of what is *not* being done in our field, and of what might be done and perhaps will be done when we realize that the most important concern of civilization is the conduct of human beings.

We have not neglected the great names; for help in solving the problems of delinquency we did long ago earnestly look to the works of the thinkers. There were the theories of the theologians—original sin, possession by the devil, temptation by the same hypothetical individual, or possibly the trial of this world to determine the fitness for a next life. There were the philosophers with conceptions of the rational and responsible and self-guided man, as against the sharply discriminated irrational man drawn by the eddies and side currents of this life's ebb and flow; and from philosophers we learned about evolutionary ethics, and so on. There were the many sociological theories of delinquency—economic, parasitic, failure of adaptation. And then we absorbed the biological ideas that were multiplying fast two or three decades ago—with heredity, degeneracy, the stigmatized man, atavism, the born criminal, etc., especially to the fore. The theories of criminal law and of penological science, as it is euphemistically called—for really very little science has one ever discovered even lurking in the corners of penal institutions—these showed nothing but slight modification of the theory common to mankind, namely, that somehow punishment does avail something. Only I am afraid that a large share of alleged theory in these last connections consists in a couple of bare facts, namely, that an offender out of society's way is, at least for the time being, considered an innocuous person to society, and that the outraged feelings of the injured one and of the community are assuaged by punishment rendered.

Psychological theories there were, too, psychological in name but purely philosophical in trend; I mean, not based on real studies of the mind. Such psychological generalizations as have come recently, however exaggerated they have been for a time, have at least had the merit of being founded on some direct observations.

Thus having eagerly frequented doctor and saint, like the genial Omar, what then? So far as actual help in solving the problems of delinquency, I am afraid that we, also, for the most part, came out by the same door wherein we went.

The first really big step, it was obvious, would be to make an attempt to know what one was doing when one did something. Or, better still, to know with some more show of reason than formerly, what specifically ought to be done when face to face with a matter of delinquency that requires definite action, whether it be of the drastic or the let-alone kind. Cases must be treated, decisions and judgments must be formed, generally bits of social machinery must be set in motion. Now, for this, some sort of opinion must be held; if one is not entirely inert mentally, some sort of opinion must be formed about the given case.

Considering general theories as guides to action in the adjustment of given situations, it becomes clear from any wide look about us

that there is breakdown oftentimes of whatever parts of the above theories are practicably usable to-day. And thus it becomes certain that it is about the given concrete affair at hand, about the delinquent as he stands before us, different in a thousand ways from others, differing from all others, that we must know, if we are to be of much aid in solving or in helping him to solve his delinquency problems.

Shall we clearly recognize the realities of the situation and speak about them plainly, perhaps even with brutal frankness, to ourselves? That is surely good sense.

Here is a work of the deepest importance for the well-being of society, this treating with the problems of delinquency. It belongs to and has many bearings upon the whole problem of human conduct which, after all, is the main concern of civilization. One doubts if the importance of their problem is well realized by workers in this field, even by judges of juvenile courts. Certainly with the ample proofs that can be mustered, it has not been made plain enough to the world at large.

The most delicate organism in the world is involved, the human being—body and, more especially, mind. We are concerned, then, with affairs that invite, yes, and require the very deepest scientific understanding.

Most strangely it has been somehow felt that this work could be done without professional attitude, professional training, knowledge, or technic. Of course, it is easy enough to see reason for this in the newness of juvenile courts and other agencies treating specifically with juvenile delinquency, or in the fact that our methods of administrative government in this country stand in the way of the development of a really trained personnel. And, then, why should we expect to know it all in two or three decades, even if the world does move so fast nowadays? As a matter of fact the whole of civilized progress has long been waiting on a better understanding of conduct tendencies of human beings for the development of a better relationship of man to man.

It is plain that a great deal of our work with juvenile delinquents is a botch. The vastly important fact of what happens to the individual in the future is kept in the mind all too little. Of course, devoted men and women do accomplish much through good personal touch and through a common-sense outlook. And we observe self-initiated rightings of conduct tendencies, sometimes through fear of punishment, perhaps more often as the result of the passing of the general instabilities of youth.

But through the courts a steady stream comes and goes and continues to be delinquent. And the same is true of a considerable

proportion of those who go to institutions. One sees very little account taken of this. What judge has kept an accurate record, over years, of the outcome of his judgments? After these 20 years of the juvenile court we are, for the most part, in a very chaotic stage as far as knowing the effectiveness of measures employed. To the onlooker there is nothing so curious about courts as the fact that there are no studies by them of the effects of their own decisions and efforts.

Such bare statistics as are occasionally worked up are of no major value because they are figures without groupings of causes, of potentialities, and of treatments. Such figures would not go far in any scientific work or any business, for that matter, where analyses of all kinds compare effort, as calculated in terms of cost and qualities of material, with production, or saleability, or income—that is to say, with results.

What have we from chief probation officers, or from officers in more intimate contact with offenders, or from institutions, that really tells us the essentials of successes and failures? We altogether lack studies of outcomes as compared to the possibilities of the human material, or to the possibilities according to the nature of the offense, of the living conditions, of the habits, of the direct causations, etc. We lack the good self-criticism which can develop only upon the basis of knowing two fundamentals, (*a*) the relation of specific causation to the given delinquency and the given case, and (*b*) what is practicable to know of the human material which is being worked with, particularly its potentialities. We lack conclusions and judgments centered about two plain, practical issues, (1) how the court can cope with various causes of delinquency, (2) with what reasonable expectation can it prescribe particular sorts of treatment when dealing with various sorts of individuals—individuals so different in needs and possibilities that what will serve in some cases will unquestionably fail in others.

There is often much satisfaction with formalization, with the establishment of a system; and to a considerable extent this has been true with the building up of the juvenile court as such, particularly in regard to probation, which to some seems almost like a magic word. As a matter of fact, probation may mean nothing constructive being done, and unfortunately little does happen in many cases to prevent further delinquency, even if there be a routine glance at the child's home and a few other aspects of his life. For example, part of the regular procedure in some courts is attention to physical needs; a child comes in for breaking a window, and to the astonishment of his parents gets his tonsils taken out. This systematic physical oversight is certainly admirable, but it has little bearing upon delin-

quency. In several phases of court work there is apt to develop a mere formalism.

We may note in this connection an attempt recently to take over a little psychological science, just a little, with a jump at the idea that there can be handed out overnight a percentage statement which shall represent the so-called intelligence of delinquents, or at the idea that some few words of classification will tell a valuable story about the individual.

But sometimes in courts we meet the easy-going conception that any scientific attempt whatever to study the elements which are in the background of conduct is academic. There is some talk about still hanging on to common-sense methods, phrased almost in the terms of the "conservative" farmer who does not know what the agricultural schools can teach.

Most unfortunately, however, only too often decisions are made, and have to be made under present circumstances, with quick judgment and with inadequate knowledge of personalities and of whole situations, in such a fashion that nobody with sense can conceive that this is what is expected of a court that is most fundamentally concerned with the welfare of human individuals and has the protection of society at stake.

It is not a little difficult to get away from the idea that the offense must be treated, even though we certainly wish to do the best for the individual. It sometimes seems as if those who have committed a delinquency of a certain grade of severity should be committed to an institution and others not, for the opposite reason, when, as a matter of fact, the real evidence of bad tendencies, of the need of removal from home, or for reformatory training, may not be shown by the conduct complained of in court. Behavior tendencies known only through study of the case—meanness, cowardly lying, instability at work, bad attitude toward parents, bad personal habits—may be much more significant for treatment. On the other hand, an offense more specifically punishable is not necessarily indicative of any deep-set trend toward criminality.

It stands out clearly from even a little study of the situation that juvenile courts and probation without studies of cases before treatment are not nearly living up to their responsibilities and possibilities. We feel so sure of this because our accumulated earlier studies, with years of follow up, show hundreds of failures where causes and personality needs were not met, as against many apparently more difficult cases with remarkably favorable outcomes, sometimes through minimum effort, where there was an understanding of what treatment was fitted to offset causes and needs, particularly, I may say, as represented in the individual's mental life.

It should be obvious that competent studies of delinquency are aimed at effective treatment, and that they must include diagnostic understanding and knowledge of causes. Unless he who deals with the youthful delinquent knows the material he is working with, the active forces it represents, as the engineer knows his varieties of material and how they may be strengthened and how they may suffer from stresses, how is he intelligently to decide to proceed on a line of action? And without studies of what the offender is in himself and inside his mind, and without studies of what there was outside him that tended to make him what he is, a delinquent, knowledge that is an absolute prerequisite for a good study of results does not exist.

Moreover, these agencies, juvenile courts and probation, do not even make any systematic attempt to know whether or not they are accomplishing anything like their best. A most important need is the comparison of the effectiveness of different methods of treatment—in the long run the existence of the juvenile court itself must depend upon demonstration of its results—and this, too, implies the analysis of causes.

It is to the unraveling of the twisted threads of personality and environment in cases of delinquency that the modern sciences must come. With all the different types and variations of personalities, and the important conditions and content of mental life, and the external causes and background in delinquent tendencies, adequate studies are no easy matter. But if we are going to handle these complex affairs at all we should rationally be in some position to answer the question of what this individual can do or is likely to do in education, in work, in conduct, or what is apt to take place if he is sent to this or that institution, or if he stays at home, or if he has special chances given him, and these points should be known early in the procedure with him for the sake of economy of effort.

Work with children and youth can receive support that comes to little else in public affairs. It has been the rallying point a number of times for cleaner political conditions, and with appreciation of greater needs and of the possibility of better returns from better efforts there should easily be general education concerning betterment of juvenile-court methods and results.

After these years of observation in courts and study of conduct disorders, I see nothing any clearer than the necessity for the following: (1) Better training of the personnel, beginning with the judges. (2) The placing of this whole work upon a professional basis through such training and through the education of the public. What has already taken place during 10 or 15 years shows the great possibilities in this direction, including the matter of adequate financial support. (3) The forming of an association of juvenile-court

judges meeting as do other professional men, with closely knit interests, gathering together, not for the purpose of self-advertisement or presentation of superficial statements but with the idea of gaining much from the experiences of others and from the interchange of scientifically worked up data concerning types of cases and other special problems. (4) The focusing upon the fact that the real results of effort in our field are to be measured by the nonrecurrence of delinquency; in other words, therapy is the aim and cure is the measure of success.

I have recently reviewed a list of failures among cases we saw long ago and for whom little that was fitting was done under the ordinary procedures of the juvenile court, probation, institutions, or parole work, but instead of being downcast I am to-day a firmer believer than ever that the very largest share of delinquency and crime in young people is preventable. Comparison of these failures with successes shows that, with anything like a reasonable effort in a reasonably decent community, delinquent tendencies in most individuals can be thwarted. The study of causes shows them to be ascertainable and generally alterable. If a scientific procedure can be built up, the possibilities of the development of these particular safeguards to civilization, the juvenile court and the other agencies which deal with juvenile misconduct, are far beyond their present achievement.

Even in these early stages of its own development the science of conduct comes, then, with a message of better achievement, with the hope for advancement that science now has demonstrated in many other fields.

If there are fears that new ideas, scientific ideas, may usurp the place of the law, we can allay them. None of us desires anything but a greater obedience to the law and respect for it. But inertness under the law we must face with the fact that betterment of method and progress in achievement is the keynote of our civilization.

SECOND SESSION—JUNE 22—FORENOON.

Chairman: Hon. JAMES HOGE RICKS, *Judge of the Juvenile and Domestic Relations Court of Richmond, Va.*

Judge RICKS. In opening the discussion this morning, it has occurred to me that it would be very helpful if we would read the findings of the Washington and Regional Conferences on Child Welfare, taking these as a sort of starting point, and allowing the speakers of the morning to develop from that point forward just what should be the field of the juvenile court, "where the responsibility of the court begins," and "how far court procedure can be socialized without impairing individual rights." These were the findings of the conferences of 1919 with reference to juvenile courts:[1]

> Every locality should have available a court organization providing for separate hearings of children's cases; a special method of detention for children, entirely apart from adult offenders; adequate investigation for every case; provision for supervision or probation by trained officers, such officers in girls' cases to be women; and a system for recording and filing social as well as legal information.
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> In dealing with children the procedure should be under chancery jurisdiction, and juvenile records should not stand as criminal records against the children.
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> Whenever possible such administrative duties as child placing and relief should not be required of the juvenile court, but should be administered by agencies organized for that purpose.
>
> Thorough case study should invariably be made. Provision for mental and physical examinations should be available.
>
> The juvenile victims of sex offenses are without adequate protection against unnecessary publicity and further corruption in our courts. To safeguard them the jurisdiction of the juvenile court should be extended to deal with adult sex offenders against children, and all safeguards of that court be accorded to their victims; or if these cases are dealt with in other courts, the facts revealed in the juvenile court should be made available, and special precautions should be taken for the protection of the children, as here suggested.

The first speaker on the program this morning is Judge Edward Schoen, of the Juvenile Court of Essex County, Newark, N. J. We welcome him as the first speaker on the definition of the field of the juvenile court.

[1] Children's Bureau: Minimum Standards for Child Welfare; adopted by the Washington and Regional Conferences on Child Welfare, 1919. Bureau publication No. 62. Conference series No. 2. Washington, D. C., 1919, p. 13.

THE FIELD OF THE JUVENILE COURT.

Hon. EDWARD SCHOEN, *Judge of the Juvenile Court of Essex County, Newark, New Jersey.*

Before a survey can be made, or the boundaries of the field indicated or more accurately defined, it is first important that we understand what is meant by the name "juvenile court." A court may be defined and its field or jurisdiction formally declared by the organic act of a State. Each State, through its constitution, grants the powers, prescribes the duties, and limits the jurisdiction of its courts. Courts and court procedure are arbitrarily defined, and jurisdiction clearly specified.

The fact is that legislatures have been enacting laws to meet a social demand, and we have all undertaken in our several States—by conference, by comparison, by copying the acts of other States, and by original excursions into an uncharted field—to grope our way to the establishment of a special piece of State machinery that will in some better way meet the social needs of our urban and rural communities. We, as States, have tried to add to existing court machinery some new and extra part or accessory which, for lack of anything more explicit, we have up to the present time given the general term of "juvenile courts."

In my own State of New Jersey the first effort was the creation of a "court for the trial of juvenile offenders," and it was made one of the functions of the county court. Subsequent legislative action created separate courts, known as "juvenile courts," but only for first-class counties, of which there are but two in the State.

Other States have experimented, following their own lines of court arrangement, but there is not to-day, after our years of experimenting, a general standardized, nation-wide court system adequately equipped to meet this social need of our present-day community life.

The reason, perhaps, why the true function of the juvenile court is not more generally understood by the laity, and why social reforms found necessary by it are not more popularly supported, is because the court began with a misnomer, and so continues. It is really not a juvenile court at all. It is not a court dealing with minor and petty offenses committed by the youth of our communities. The popular conception—a sort of psychological state of mind produced by this misnomer and against which the person presiding over the juvenile court labors—is that it is some sort of simple tribunal, in that it deals with offenses which would be crimes if committed by adults, but which have been committed by those who are below or beneath the jurisdiction of a police court or higher courts having to do with adult offenders.

As a first step toward accomplishing the greater mission of this tribunal which we have been some years trying to evolve, this common conception must be remolded through a designation which will be clearer and better understood, and which will be more descriptive of the wider sphere of the juvenile court.

Our original conception in striving to get away from treating an offense committed by a minor in the same manner as if it were committed by an adult was a most important one; but we have not gone far enough in meeting this social need. Those who were appointed to do the pioneer work of developing methods and practice in these new courts early found their labors handicapped in many ways, and so we have gone on patching and tinkering in our efforts to make the new machine work. Like the flying machines, which only developed rapidly under the pressure of war necessity and even yet have not become fully standardized, our juvenile-court machine has been improved and altered as new light has come, but it is still in a formative state and is not yet fully recognized as the great social agency for good in community life that all of us had hoped it might become after so many years of earnest effort by so many people in so many quarters all over the land.

We still speak of burglary, arson, rape, and all the long list of offenses, while the offense concept is the very thing we object to.

What then, after all, is this tribunal called a "juvenile court"? A recent supreme-court decision in New Jersey says:[2]

> The proceedings authorized by the juvenile-court act are not proceedings by way of punishment, but by way of reformation, education, and parental care. The act makes it clear that the proceedings are intended to save young persons from the ordinary punishment for crime, from the consequences of criminal conduct or of conduct which would justify immediate punishment or immediate restraint. Children and minors are necessarily more restricted in their liberty of action than adults, and I see no reason why children under the age of 16 years should not in proper cases receive such restraint and care from the public authorities as ordinarily they ought to receive from their parents. The act in this view is an attempt to substitute public control for parental control. This was permissible under English law long before the Revolution. * * * If the English court of chancery can act as parens patriae, surely the State of New Jersey may act in the same capacity through a juvenile court created by the legislature for the purpose. But I want to emphasize this ruling of our high court: "Proceedings under the juvenile-court act do not relate to offenses, and the act is careful to remove any suggestion that there is an offense or conviction in the ordinary sense of those words."

Thus high court rulings are coming to our aid to assist us in firmly establishing the underlying principle of this tribunal, not as a court with jurisdiction defined as to offenses, but for the consideration of

[2] Newkosky *v.* State Home for Girls (N. J. Sup. Ct., opinion by Swayze, J.; filed July 7, 1920).

certain members of the community, namely, the minor boy and girl. The State is bound to step in and give the child the same protective care and training that normal parents give to normal children in normal homes in civilized, socialized, conventional communities.

Let me then suggest, in concluding this part of my subject, that the term "juvenile court," because of its popular misconception, may well be discarded for some other and more clearly understood title that will the better convey to the popular mind what its purpose really is.

In determining and fixing the limits and boundaries of the jurisdiction of the juvenile court the original framers of the law circumscribed the jurisdiction within a compass that is entirely too narrow and restrictive. While admitting that there must be some boundary marks somewhere, it may be conceded that for the present, at least, we may arbitrarily adopt the chronological age of 16 years as the age limit of minors properly to be brought before this special tribunal for treatment and consideration; but there can be no age limit as to those who are the contributing factors in the child's misfortune, and they should be triable before the socially minded judge of the juvenile court, regardless of their age.

To be consistent, if we really are fully convinced that psychology and psychiatry are important factors in the consideration of an offender, then the mental age, and not the chronological age, of the person to be brought before the court should determine whether he is within or without the jurisdiction of the court. I take pride in the fact that New Jersey promises hope for the future in the recognition of the theory that the mental age of a person is ascertainable and should be considered in relation to his conduct. I quote from an opinion by Justice Swayze, of our highest court:[3] "To me, the case of idiocy or mental incapacity is as much for the jury on the question of criminal intent as in the case of insanity."

This leads to another point on which we are not agreed when we consider the limitations of the field of the juvenile court. So much in earnest were we to get away from the stigma attached to criminal procedure when the offender is a minor that we did not want to speak of the offender as one who has committed a crime, and so we, most unhappily, I think, brought into vogue the term "juvenile delinquent." We have attempted to set up arbitrarily some vague line of demarkation between a class which we call "dependents" and another class which we call "juvenile delinquents." This tribunal, wherein minor children are to be given the protection and supervisory aid and training by the State acting in parental relationship, should not handicap itself by stigmatizing a minor child by some vague term, even though it may be a softer term than that known in

[3] State *v.* Schilling (112 Atl. Rep., 400).

criminal procedure. The juvenile court should deal with the great social problems which the court experience has already unfolded to us. The word "delinquent" should be eliminated from juvenile-court nomenclature, because the experience of all judges has been that a great majority of the cases before the juvenile court are cases in which the juvenile is a victim of circumstances, and not a willful, malicious, and pernicious offender. The proportion of cases in which children show decidedly criminal instincts or willful determination to become antisocial members of society is so small that it does not give us warrant to designate juvenile offenders as "juvenile delinquents." We endeavor to soften the harshness of the words "crime" and "criminal," but in substituting "delinquency" we do not begin to accomplish that object. Since we consider the offense merely as an incident to the main inquiry, which relates to the underlying and antecedent social conditions of the offender who comes before the juvenile court through an act which has focused public attention upon him, we should not fear to throw away utterly all that even remotely carries with it in the slightest degree the stigma of wrongdoing.

In the field of the juvenile court I want to eliminate any classification which justifies an inference of wrongdoing, and hence the term "juvenile delinquent" has no proper place in our legal phraseology as related to the juvenile court. This is justified because of the general theory on which the juvenile court rests. We act on the theory that parental control is inefficient—in other words, that there is "parental delinquency"—giving the State the right to act in place of the parent. "Parental delinquency" and not "juvenile delinquency" is more nearly descriptive of our problem. Our procedure is not punitive, but protective, correctional, and educational, by the State in loco parentis. We must discard, to the minutest detail, every semblance of similarity with the ideas and methods of a criminal court, and we can not take over from the criminal court any of its procedure or even its theory of meting out a punishment conceived to fit the crime.

My idea of the field of the juvenile court is that it is a social agency set up by the State for the adjustment of such social ills in the community as are disclosed by an act or by repeated acts of minors whose conduct gives us the objective symptoms of unwholesome social conditions. The field is the maladjusted child, whom the State is in duty bound to protect, correct, and develop; and the duty of this tribunal is to follow up the case by ascertaining all the facts and circumstances in the life of the child, to determine in what particulars that child has been deprived of essentials for a full moral and physical development. And if, as is common experience, it is found that certain essentials are lacking in the environment in which the

child is being reared, the State in loco parentis, acting through its instrumentality, the juvenile court, must provide the essentials of which the child has thus far been deprived. If the State does not provide those essentials there is no justification for the substitution of State control for parental control. The State then is as delinquent as was the offending parent.

This tribunal may properly be denominated the X-ray of the community, set up by the State to locate and determine where disease is lodged in the social system, and none but the socially minded are qualified to read the plate. Having made the discovery, this tribunal should have a full equipment to administer the remedy. Its jurisdiction should be broad enough and flexible enough to embrace every offense and every offender against the welfare of the child, the dominating idea in the work of the juvenile court being to *adjust.*

We should endeavor, therefore, to secure more legislation to enable this tribunal to work effectively under legal authority for the social welfare of the child who has, as a ward of the State, come under the State's agency for protection, care, education, and social readjustment.

I have already referred to the fact that but few of the minors before our juvenile courts show a real criminal instinct, but there is no question that these few need custodial care in State institutions. Many and varied factors contribute to the downfall of practically all the minors that come before us. Therefore, if the court is to be enabled to solve these problems for the benefit of the community and the minors, it must of necessity have full control over all these contributing factors.

The State is the parens patriæ and natural guardian of all these children. The court of chancery was the court in England that functioned to enforce their rights. Most of the juvenile-court laws provide a certain amount of equity jurisdiction and practice, but so far as I know none of the laws go far enough to give the judge the necessary freedom of action to secure a complete solution of the case and enable him to meet all of the problem that arises at the hearing. An equity court can add any number of defendants and change the issue as the case develops. It can make any order or decree that is necessary to secure the parties an equitable and just remedy to remove the cause of complaint.

Along the same lines, I feel that this court must have absolute control not only over the family and home conditions of the child but also over any other person against whom in the testimony it would appear the court should make an order or decree.

So I conclude that the misnomer "juvenile court" may have now outlived its usefulness and that existing legislation should be sup-

plemented by laws extending equity powers to the court; that its provinces should be extended to every source which pollutes and dwarfs the youth of our great country, with full power to enforce the duty of the State, as parens patriæ, as far as possible to guarantee to the child its full rights and opportunity under a wise State parental protection. And since it is a court which deals with social problems, which are nation wide, affecting the quality of our future citizens, the Federal Government, as part of its public-welfare programs, should logically undertake the extension of this important work through Federal courts to be created, with Federal judges having broad equity powers, appointed in the same manner as are the present Federal judges who preside in the civil and criminal courts under Federal authority.

The juvenile court, to perform fully its great mission, must be the social eye of the community, sensing its dangers and its pitfalls, and standing in the very prow of to-day it must point the way to salvation to the community which it serves.

GENERAL DISCUSSION.

JUDGE RICKS. It seems to me that Judge Schoen has given us something to really talk about. The subject before us for discussion is the definition of the field of the juvenile court.

Hon. EDWARD F. WAITE, *Judge of the Juvenile Court of Hennepin County, Minneapolis, Minn.* I find myself very much in sympathy with the spirit of Judge Schoen's paper and almost in entire sympathy with the details of what he presented, but I can not help raising a question in respect to the entire elimination of the word "delinquent" and the thought that goes with it. Perhaps Judge Schoen is more fortunate in Newark than we are in Minneapolis, but in Minneapolis it is a sort of pastime of boys of 16 or 17 in our high schools—whose presence in the high school is generally an indication that they come from good homes and have parents who are at least on the job as much as parents are on the average—to appropriate other people's automobiles and go, as they say, "joy riding." It may bring them joy, but when the automobile brings up against a curbstone or tree and is smashed to pieces, as it often is, or when the reckless spirit which leads the boy to do that sort of thing leads him also to drive in a reckless way and somebody is injured, then it is anything but joy to the other people concerned. Shall we in dealing with such offenders—and they are typical of a class—take a great deal of pains to make those youngsters understand that there isn't anything in that situation which is in any way

analogous to the commission of a criminal offense? And shall we, in dealing with that particular sort of thing—and it is representative of a great deal that comes into the juvenile court—when older boys and girls come in, shall we completely remove the sense of personal responsibility from them by doing away with that very mild and gentle term "delinquency"? I question it.

CHARLES P. WALKER, *Probation Officer, Municipal Court, Philadelphia.* I would like to ask Judge Schoen if under the law in his jurisdiction there are ex officio powers in the justice of the peace to have proceedings instituted under the law against adult offenders in the juvenile court.

Judge SCHOEN. There are some powers, not ex officio powers, in the justice of the peace, conferred under a general act known as the child-welfare act, which is rather broad but indefinite—perhaps too much so to be effective.

Mr. WALKER. In your idea of dealing with the adult offender, if you do have authority to have the proceedings instituted under an act of the assembly in your State, would you proceed against that adult by process of summary conviction, or proceed by action under the criminal law through indictment by the grand jury, and also directly by jury in your court; and if so, wouldn't that very much interfere with the general idea of the juvenile court, having one judge hold court?

Judge SCHOEN. I think perhaps legislation could be so framed that one charged with being a delinquent parent or in other ways contributing to juvenile delinquency should be tried before a juvenile court without indictment by grand jury and without trial by jury, but I guess those are matters which would have to be considered in connection with the various State constitutions. In our own State there is a way in which a person may be charged with and tried for some offenses—as a disorderly person—which does not entitle him to indictment by grand jury or to trial by jury. Perhaps they might be designated as disorderly persons and in that way come within the jurisdiction of the court and be triable without indictment. However, that is a matter of detail, and if indictment were necessary and trial by jury were necessary, if the popular mind was sufficiently educated to the point of realizing the enormity of the offenses that are committed against minors, it would be just as easy to get indictments and convictions for acts which contribute to juvenile delinquency as it is now against persons who steal a 5-cent pack of peanuts.

Judge RICKS. Judge Schoen has said that every offense and every offender touching the life of the child should be within the jurisdiction of the juvenile court, or under the court which he suggests as

taking the place of the juvenile court. Now, it occurs to me that we might well consider whether or not men charged with felonies should be so dealt with in the juvenile court. Because certainly in the jurisdiction of many of the States men charged with felonies are given only a preliminary hearing before the magistrates' courts and are then sent on to a court of broader jurisdiction, indicted by the grand jury, and—as Mr. Walker said— tried by jury. I would like to ask Judge Schoen whether in his opinion offenses of that character should be tried in a juvenile court, with the necessary incidents of a grand jury indictment and trial by jury.

Judge SCHOEN. I think so, Judge Ricks.

Hon. KATHRYN SELLERS, *Judge of the Juvenile Court of the District of Columbia.* The Juvenile Court of the District of Columbia is a criminal court, and it was not a very great step to take the children out of the police court, but it was all that could be done. Now, in order to bring all children violating the law into the juvenile court it is often necessary to reduce the charge. For instance, when a boy is arrested for stealing an automobile, as not infrequently happens, the charge is reduced to violation of the section of the police regulations of the District which forbids operation of an automobile without permit. We are permitted to do that by the upper courts and by the police. The intention is not to punish the boy for taking the machine, but to get hold of him to keep him from taking another machine. Likewise, the charge for stealing large sums of money and valuable property is reduced to the charge of "taking the property of another." For this offense the punishment for an adult would be less than a year in the penitentiary, and thus a child is brought within our jurisdiction. We have a jury trial on information filed, not by indictment by the grand jury. Our court is practically a domestic relations' court, and we have jurisdiction over nonsupport cases and determination of bastardy cases and over cases in violation of the child labor law. In all these cases the defendant is entitled to a trial by jury on information filed by the corporation counsel.

ORFA JEAN SHONTZ, *Attorney, Los Angeles.* California is always willing to try anything once, and we have since 1911 left the words "dependent" and "delinquent" out of our juvenile-court law. It now reads that the juvenile-court law is an act concerning persons under the age of 21 years, and when they are declared they are simply declared wards of the court. Of course, it is pretty hard to legislate the words "delinquent" and "dependent" out of the public mind, but they have no place in our courts there. The California juvenile courts also have jurisdiction over contributory offenders—that is, they are heard before the juvenile court, without a jury, sitting as a superior court. If they demand a jury the case is transferred to one

of the other courts, but they very seldom do demand a jury; and to try the contributory offender in the same court as the juvenile offender has proved very satisfactory.

Judge RICKS. Do your contributory delinquency laws punish for offenses against persons under 21 rather than for offenses, as in many States, against persons under 18?

Miss SHONTZ. Under 21. I think the law is that they are considered misdemeanors instead of felonies, and the punishment is either two years in the county jail, a fine of $1,000, or probation, or both a fine and the county jail.

Judge RICKS. Does your court have jurisdiction of felonies against the minor?

Miss SHONTZ. Not rape or seduction.

Judge SELLERS. The term "delinquent" in our jurisdiction is defined by an act of Congress which says that the delinquent child is a child that has been *tried* before the court which operates in this fashion, and persons contributing to the delinquency of the child may be punished in several ways. But a child must be three times in our court before you can punish a person contributing to his deliquency. Our term "delinquent" is so defined, and I have within the last month had an amendment introduced in Congress making the term "delinquent" mean a child who has been convicted once. So having convicted a child—we have to speak of conviction, because our court is a criminal court—we can turn around and punish the person contributing.

Rev. A. J. D. HAUPT, *Social Service Church Federation, St. Paul.* Do they in California commit to State institutions, such as boys' and girls' reformatories? If so, how long is that commitment? In Minnesota, our age limit is up to 18 for both boys and girls, because we have felt that they ought to have a little while in our reformatory institutions, if necessary; and the age limit there is 21. I wonder how it has worked out in California.

Miss SHONTZ. Twenty-one is the age for both boys and girls.

Judge RICKS. Supposing a boy of 20 years and 6 months is sent to the industrial school, then at the age of 21 he has to be released?

Miss SHONTZ. Yes.

Miss MARY BARTELME, *Assistant to the Judge, Juvenile Court of Cook County, Chicago, Ill.* I would like to ask Judge Schoen if he would give us a little in detail about the suggestion that the work be placed with the Federal court. That seemed to me a very valuable suggestion, and I should like to know some of his reasons for making it.

Judge SCHOEN. I feel that the problems behind the minor offender who comes to the juvenile court are so far-reaching in importance—that is, the proper reconstructive work that is required to be done

to readjust the child, readjust his living conditions, is work of such magnitude—that the Federal Government, with its vast resources and prestige, would perhaps be the most effective agency or instrumentality with which to do that work. Further, it would probably lead more quickly to a standardization of all the work; and by that I do not mean that I am not particularly keen or concerned about the standardization of the method of procedure in the juvenile court, but I *am* very much interested and concerned about the standardization of reconstructive work that should be done, and the way in which it should be done, and to get the necessary financial aid to do it, and do it right. All these things, I think, can better be done through the instrumentality of the Federal court. There would be more uniformity of method throughout the entire Nation, if it were a Federal agency. Then, again, there would be a nation-wide application of this whole principle of juvenile-court work and procedure, which we have not yet got, although the juvenile court is some twenty years old, as I understand. In my own State, as I have said, the juvenile courts have only been created in the two largest counties in the State; and very many people still have the idea that juvenile-court work is only necessary in large metropolitan communities. A great part of our country is without the application of juvenile-court principles in its treatment of children, because the rural communities have not the means for employing the proper staff and getting the proper equipment to do the work in a proper way—that is, getting the psychologic and psychiatric and medical work that is necessary to be done. Now, if this whole thing were a Federal proposition, and judges were appointed in the same manner as our Federal judges are now appointed, who try the civil and criminal cases involving the Government, the whole territory of the United States would automatically be covered, because judges would be appointed for districts, and those districts would take in rural as well as urban communities, and our whole country would automatically be covered, and very quickly. That does not constitute all the details, but it gives you some of the high spots of my thought on that subject.

Miss BARTELME. You no doubt took into very strong consideration the fact that the judge would hold office during good behavior, and therefore would not be subject to political antagonism to the same extent as otherwise.

Judge SCHOEN. I am glad you brought that out. That is another point, and a very important one, because it would enable the man who undertakes work as judge of the juvenile court to do his work with a consciousness that it is his life work, and that he need not be distracted from it and from doing it well and thoroughly and devoting all his time and energy to it, by the political considerations

or the other considerations which naturally interfere to some extent with the work under existing conditions. I had not thought of that particular point, but I think that it is perhaps a very important one.

Hon. SOLON PERRIN, *Judge of the Juvenile Court, Superior, Wis.* I see we are drifting into this Federal proposition again this morning. I give notice that I want to be heard on that at length, if we get to the point where the Federal Government is going to be called in as a wet nurse. This idea that we are going to turn the whole proposition over to the Federal Government, really, ladies and gentlemen, is abhorrent to me. I don't believe in it; I don't think that is what the Federal Government is for. And if the truth were known, and Judge Sellers would be willing to tell just exactly what she feels, I believe she would say that she would rather take her code under almost any State government than to have to deal with the Federal officials at Washington to get every 5-cent piece she has to have and every little thing that goes to make up the administration of a good court. I am going to protest against anything of this sort. I would like to inquire of the distinguished jurist who is projecting this proposition whether he proposes to hang his legislation on the commerce clause of the Constitution, now enormously overworked, or whether he thinks that the reference to domestic tranquillity under the Constitution has any application to the cases under consideration.

Judge SELLERS. I do feel I ought to rise in defense of Congress, as it were. We do have some difficulty in getting all that we want in the District of Columbia, but I do not entirely absolve the people of the District of Columbia from blame in that respect. I have been three years at the juvenile court. If we are agreed on what we want, I believe we will be treated more generously by Congress; but in the past there has been a great deal of difference of opinion among the people who are concerned in District affairs, and I think if we figure our needs out before we go to Congress we may be treated more generously.

Judge RICKS. Judge Waite, of Minneapolis, has something to say on this subject?

Judge WAITE. I simply was going to ask a question as to the constitutionality of the legislation that is implied in what Judge Perrin says. I wonder if Judge Schoen has considered whether, in order to get this Federal jurisdiction, no matter how desirable it may be, we would first have to get a constitutional amendment.

Judge SCHOEN. I doubt it. The Federal Government, having assumed jurisdiction over the naturalization of future citizens who come from foreign shores, it seems to me that there could not be any legal impediment to the Federal Government's taking jurisdiction of

its own future citizens, who are still useful and in a formative stage, and creating such legislation as will be for their benefit and will fit them better for the future duties of citizenship.

Judge RICKS. I must say that I think, with Judge Perrin, that if this move were taken we might just as well close up our State governments. I think the discussion has brought up the point effectively. There is one other point not fully covered, it seems to me, in this discussion, and that is relating to custody of children who may be termed dependent—whether the court should undertake to deal with the custody of children who are dependent.

JOSEPH L. MOSS, *Chief Probation Officer, Juvenile Court of Cook County, Chicago, Ill.* If the juvenile court represents the State, I think it is very proper that the question of custody of dependent children lacking normal guardianship should rest in the court. Provision for the support and care of children about whose custody there is no contention is hardly a debatable question. In my opinion, it is a question whether they should remain in the juvenile court, because there might be some other State bodies quite capable of taking care of those children—children, for instance, of a father, where the mother is dead, who is unable to provide for the care of the family. It seems to me some other State body beside the juvenile court might provide in such an emergency. But certainly in all cases where the question of the child's neglect or of the child's dependency arises it should be decided by a court.

Judge RICKS. I will ask Mr. Parsons to give us his view on this subject. I think he can clarify a point.

HERBERT C. PARSONS, *President National Probation Association.* I was just speaking with Judge Ricks on the question of continuing control or custody of the dependent child beyond the finding of dependency. It seems to me that it has been well demonstrated in one State, and after much discussion it is firmly settled in the opinion of the people of that State who have to do with these things, that the juvenile court does not exist for the continuing custody of dependent or even of delinquent children. In order to keep the juvenile court free from all the burdens of the community and the regulation of the conduct of the whole population for eternity, it seems to me to be necessary to put some of the possible duties that might be imposed upon it into other branches of the government. If there is anything that is separable, clearly so, it is the continuing custody of the child who has to be cared for beyond the time of the finding by the court, if it is the juvenile court or any other court. There exists in every State, I take it, the administrative power to control that child, and the turning over by the juvenile court to the administrative side—the executive side of the State government—of

the care and custody of the child during minority is not only working well in at least one State that I know, but it seems to have the great merit of relieving the juvenile court of a mere administrative duty and of making possible the discharge of its other duties with greater efficiency.

I want also to call attention to one of the things that Judge Sellers mentioned, and that those who are having to do with the drafting of juvenile laws ought to keep in mind—the horrible example she has told of the District of Columbia's requirements that the child should be found three times delinquent before it can even be argued that the parent is responsible for the delinquency. I don't see any virtue in "three times." I don't even see virtue in finding the child actually delinquent once. This was discussed very thoroughly in revising the juvenile law in Massachusetts in 1915, when the commission made up of judges and lawyers were studying this thing, and they said: "If it appears in the proceedings that the parents are responsible, or anybody else is responsible, for the delinquency of the child, why should there be any finding as to the child? If the culprit is the parent or guardian, or somebody else has contributed to the delinquency, then the proceedings against the child ought to be dropped at once." And we took that into the Massachusetts law, so that if in the development of a case the juvenile court finds that the real fact is not the delinquency of the child but the contribution of a parent or guardian or somebody else, to the wrong conduct, the child's case is simply dropped and the court proceeds against the parent or other contributor. I think that is an essential feature of the law.

Judge RICKS. Mr. Parsons's discussion brings to a close the discussion of that subject. We must now pass on to the second question for consideration this morning: "Where does the responsibility of the court begin?"

WHERE DOES THE RESPONSIBILITY OF THE COURT BEGIN?

Hon. HENRY S. HULBERT, *Judge of the Juvenile Division of the Probate Court of Wayne County, Detroit, Michigan.*

I have been asked to speak to you on the question of where the responsibility of the court begins. That heading has been divided into four rather pertinent points, and I will try to adhere just as closely to the topic as I may.

The points placed in issue are whether jurisdiction should begin immediately upon the arrest of the child, or at the stage where the child is brought into the detention home, or at the point where the court would naturally take jurisdiction because of the filing of an official complaint with the court. These three questions naturally

bring up the relationship of the court to the police department of its jurisdiction, the relationship of the court to the detention home, and the relationship of the court to the handling of complaints, with a view of saving as much as possible the bringing of children into the actual court.

I will make a little bit of background for what I have to say. I rather think I am a bit old-fashioned in some of my viewpoints. Long experience in the probate court before I took up the work of the juvenile court—which in our State is a branch of the probate court—gives me a very distinct respect for judicial procedure, and I am not one who feels that we can gloss it over in favor of a more social method. I believe that every step which is taken in the handling of children's cases should be done in its proper method and in due order, and that our records should be just as complete and just as full and just as regular as those of any other court; but I do not believe, and it is not my practice, that that procedure should be upon the surface or be placed in any way in evidence. It can be kept in the background; it is there only because of the fact that we have centuries of the old idea of court procedure, which we can not live down in a few years.

It is pretty generally the opinion that the juvenile court really is nothing more than a very enlarged parent, and when I use the word "court," I am using it in its very single sense of "justice." The juvenile court is perhaps neither more nor less than an institution whose job it is to take up the life of the child at the point where the child has failed. It is perhaps safe to say that the average child—and, of course, I can deal in the short time at my disposal only in generalities—comes into court only because the parent has completely failed to inculcate by training a distinct respect for the observance of law and discipline and authority and the existing social order. Father and mother must be a unit in the government of the child; and if through the child's early life the grandfather and grandmother, and maybe a big brother and big sister, are all to take their part from entirely different viewpoints in the government of that child, we will in the end get a youngster who has no respect for anybody or for any constituted authority, and we are sure, of course, to have that child in conflict with the law.

If the court or if the judge is simply an enlarged parent—I firmly believe that the judge is nothing more than the official head, so to speak, of a rather large family—he must live and work and stand shoulder to shoulder with his organization, with the police, with the schools, with his probation officers, and with his detention home—with all of the elements, in fact, that go to make up his official family, so to speak. Only so far as he does that, only so far as he assumes the full responsibility and brings to his official family en-

thusiasm, puts over his spirit and a distinct understanding of his policies and methods, and in return gets from them not only an enthusiastic but a very loyal concept of his method of work and procedure—so that the entire family, so to speak, is a unit in the handling of a child—will he really attain the results we are after. Now, that being so, the points that are here at issue are not difficult to decide.

I firmly believe that the police department of any jurisdiction should turn over to the juvenile court a sufficient number of its officers to work under the authority of the judge and in his immediate care and under his responsibility. If that is not so, the policemen who are working with children have the ordinary police viewpoint as to offenses against the law. Their idea will be that of credit for conviction; and that, of course, is the last idea that we have in the juvenile court. If they are a part of the court and court procedure, they as a member of that family will receive the inspiration and be imbued with the spirit of the judge who is acting, and their idea of the credit which is to accrue to them will not be for conviction but it will be for accomplishment in their particular district. I might use the same illustration that we use in matters of health. A city board of health would divide its city into districts and place nurses or health officers in charge of those districts; and surely the credit which they get for their accomplishment is not for the number of cases treated but rather for the resultant picture of the good health of that particular community. And it is just so with your policeman. If he really assumes his job as part and parcel of the court, with the spirit of the juvenile court, his idea of the credit which will come to him will be that of the clearing up of his district. Not only that, but he will very readily learn to distinguish between the matter of the offense and the matter of the individual or a neighborhood situation. And if he is at all a good scholar he will readily know and will readily be able to clear up a good many situations which may be rather serious, so far as the paper offense is concerned, and obtain complete satisfaction in his work, not only from the point of view of the injured individuals but also of those who may be called offenders. On the other hand, he would in all probability be able to bring into court a good many seemingly trivial affairs which upon paper would have no right to be there at all, because they have developed a neighborhood situation in which proper handling before the judge will result in a much better condition in that particular locality. I think that hours can frequently be well spent by any judge in clearing up a neighborhood problem, which may be—as is often the case in a family—brought about by very trivial things, indeed, but which in the large aspect

becomes very serious when we consider the discipline of an entire neighborhood.

Again, the relationship of the judge to the detention home is equally important, and I am also firmly of the belief that he must take over the entire responsibility for the operation, the spirit, and the understanding of that detention home. But I just as truly believe that the detention home which bears the same relation to the children of its district that the ordinary police station or jail bears to the adult is absolutely without any reason for existence and that it is a waste to spend money in its operation. If that detention home, through its contact with the judge and the inspiration which it gets from being directly responsible to him, is able to put into the life and training and character of the child while he is there a respect and understanding of constituted law and authority and obedience, the judge has a very much better chance afterward with the child.

The detention home is really the first place where a child who has grown up without respect for others, without understanding of obedience or authority, can get them; and it is the first place where the judge can with any degree of certainty obtain an understanding of the material, the real personal character, with which he has to deal. If the detention home is purely a place of custody for the purpose of holding the child until the trial, it can offer no contribution to the future of that child's life. If it is a place where that child can be allowed to develop and show his true character and disclose the material of which it is made, the judge can take up that case with a fair knowledge of what he can accomplish with the material that is before him.

The same thing is equally true, of course, of the probation force of the court, and perhaps in no department should the contact of the judge himself be closer than among his probation officers. He can not retire to some holy of holies and make just decisions of the cases brought before him. He must work with his officers. They must feel his spirit and his understanding, and they have to carry out his purposes with his inspiration. Their work is desperately hard. They are giving every bit of enthusiasm and personal magnetism that they have; and unless there is a source of supply from above, they may not last long in their work and give good results.

The judge should also come into close relationship with the various community interests, such as the schools. The judge and the superintendent of schools should be just as closely allied as it is possible for two men to be, and the whole school system should work with and be a part, so to speak, of the court procedure. Frankly, I appreciate that this program might be considered just as an ideal—for instance, as we find a socialistic program to be a very ideal theory and not

practical, perhaps. And yet it is vastly more practical than we may at first think; and it can be carried through, and it does make the court a real power in its community.

That leaves just one definite question: At what point in the procedure should the actual hold of the court over the child begin? If we take my view of the police department or the detention home, it does not need to begin in either of these two points, and I think it should not, because if their optimism and vision is true and in accordance with the judge, they will be able to eliminate a very great number of cases without any record whatever. It should begin, therefore, when it becomes necessary to file a definite complaint in the court and the child is made a part of the court record.

Hon. KATHRYN SELLERS, *Judge of the Juvenile Court of the District of Columbia.*

The question proposed really is, Where and when *should* the jurisdiction of the juvenile court begin?

As a matter of fact local law controls this matter.

In the District of Columbia, for instance, where the juvenile court is a criminal court, the court has no jurisdiction until an information has been sworn to by a complainant.

When a child is arrested the policeman takes the child to the station house, where the police captain, if the offense is not serious, may release the child to his parents to be brought to court when summoned, or he may require collateral to be deposited for the child, or he may send the child to the house of detention for women and children, which is under the control of the woman's bureau of the police department. Every morning a list of all children in the house is sent to the chief probation officer of the court. This list contains names of children held as fugitives, held for investigation, held on specific charges, and held for the court. It is only with the last two classes that the court is concerned. The court has no authority to take any action until the policeman making the arrest files the information; so that, if the policeman does not keep up his interest in the case a child may remain, and in known cases has remained, indefinitely in the house of detention.

In other words, the entire proceeding in the case is a "prosecution" and lies with the complainant and the police department. It may and does result in certain cases in children being arrested and detained indefinitely in the house of detention without being charged regularly with any crime, but with the word "investigation" marked against their names. The report of the chief of police for 1920 (p. 45) shows that 206 children under 17 years of age were that year held for investigation and released without a charge being filed

against them. The figures for such cases of detention during the last three years—1918, 1919, and 1920—are more or less startling. During that time 602 children under 17 years of age, 1,734 who were 17 to 20 years of age, inclusive, and 4,735 who were 21 years of age and over were held without being charged with an offense for periods ranging from a few hours to three weeks (the last being the period of detention in one case of which I have particular knowledge), and they were released without ever having come under the jurisdiction of a court.

Girls "suspected" by the woman's bureau of being lawbreakers may be required to go on "voluntary probation" to the police department and to report regularly to the woman's bureau at the house of detention, so long as that bureau may believe it necessary, under pain of having charges lodged against them which will bring their cases before the juvenile court. These methods are practiced with the best motives and intentions and, we believe, with only the interest of the girls at heart. But there is no manner of doubt that this is a clear invasion of the private rights of the child.

It should be noted that perhaps five times as many boys as girls come to court. Suppose the policeman, instead of arresting the boys, placed them on probation and required them to report each Sunday at the station house of their precinct. Would this be tolerated? Carry this plan on in its logical course, and the policeman instead of arresting men and women for lawbreaking, would require them to go on probation and report to the station house regularly, without the formality of court proceedings. You can see at once that such a situation would not be tolerated. No community would permit its boys to be so treated. Then why discriminate against the girls?

The whole scheme is wrong. Either a charge should be regularly made against all girls and boys arrested and their cases heard as soon as possible or the children should not be detained. And certainly no child should ever be put on probation except by a court.

Here we have a telling example of the working of an unsatisfactory and improper law designed for the welfare of juvenile offenders. This law, enacted in 1906, was the best law that could be had at the time. The most that could be done then was to separate the children from the adults and to form a police court where their cases would be heard apart from the adults.

The fault lies mainly in the basic idea of "prosecution" by the State through the police department as complainants, instead of the institution of an orderly inquiry concerning the facts of the complaint and an investigation of the circumstances surrounding the child at the time, followed by the issuance of whatever orders the court may deem proper for the correction and protection of the child.

I am firmly of the opinion that the interests of the child would best be served by giving the juvenile court such chancery jurisdiction as would make every child a potential ward of the court, so that if complaint is made against him or if he is taken into custody by the police officer as a fugitive, as homeless, or as a lawbreaker, the child becomes immediately an actual ward of the court to be cared for and protected.

General Discussion.

Judge Ricks. We have now heard two interesting points of view. We have 20 minutes for discussion.

Mr. Moss. The police must be taken into consideration in dealing with the lawbreaker, with persons who commit offenses. At the risk of being accused of trying to boost Chicago, I want to say something of our system, because I believe it has worked with entire satisfaction. In the early days of the court there was no provision for the appointment of probation officers. Some officers were supplied through the contributions of friends of the court. In addition, a number of police officers were assigned to the judge of the court, in the way that Judge Hulbert suggests, for assignment as the judge saw fit. Later, with the provision for the appointment of county probation officers, the duties of these police officers who assisted were changed. They remained, however, and now we have a specialization of work in a very interesting and satisfactory way. In each station of the city there are normally 100 men. One man of that number is assigned to look after the children's cases that come to the attention of the police of that precinct. He is known as the juvenile officer. He is commissioned a probation officer of the juvenile court. The police probation officer has his office at the juvenile court, and he reports to the chief probation officer. We have drawn the line very carefully between the police officers and the regular probation officers of the court, being careful to give no directions or assignment of duties to police officers which would not ordinarily fall within the province of a police officer. In doing that we have been able to keep the police officer. In a large city you will find the feeling on the part of the council, when expenses must be cut down, that all private appointments—appointments to institutions and associations and private details, etc.—should be eliminated, and the man should be put on active police work. The judge gives no direct orders to the police probation officer except through the officer in charge.

Now, in detail, this is the way it works: If a boy is arrested on the street corner with a stolen automobile or for burglarizing a place a uniformed officer—the officer on that post—takes him to the station

and turns him over to the juvenile officer. In the absence of the juvenile officer at that minute the boy is sent by the commanding officer to the juvenile detention home or to his parents, as may seem proper under the circumstances. The juvenile officer is responsible from that minute for the boy; the arresting officer drops out of the case, except as he reports his information to this juvenile officer. The juvenile officer decides whether or not the child is to be kept in custody. If he is to be kept in custody he arranges for him to go to the juvenile detention home; then his responsibility for the detention of that child ceases. From that time on the parents must make application to the juvenile court for the release of that child. The arrest of the child, the detention of the child, is reported to the officer in charge, and we have on file at all times in the juvenile court a complete list of all children who are in detention, and why they are held. The juvenile officer, whether the child is in custody or not, tries to adjust the matter, if possible, without court hearing; but if it is necessary to have a court hearing he brings the matter into court by filing a petition, with the approval of the officer in charge, serving the summons and presenting the matter to the court. There are two exceptions to that. All dependent cases (and a great many dependent cases do come to the attention of the police), abandoned children, children neglected, children whose parents are arrested for some reason or other—these cases are immediately turned over with written report to the investigation division of the court proper. In delinquent girls' cases, the criminal part of the cases—that is, the statement of the specific offense—is presented to the court by the police probation officer, petition is filed, but the police probation officer turns over to the juvenile-court investigational division the investigation of the case. So that on all girls' cases there are two officers—a woman officer, who is responsible for the person of the child and the social history, including the home and schooling, and the police probation officer, who is responsible for saying under what circumstances the child was brought to the attention of the court. There is a decided advantage in having police probation officers, or police officers, tied up to the court. There is an absolute absence of that feeling that the police lock up the children and the juvenile court turns them away, because the police department states its case to the court. On the other hand, there is a decided socializing influence on the individual police probation officer; he almost immediately gets the point of view of the court and takes it back to the police station. I commend the system to other cities that are having difficulty with their police officers. The matter can not be worked, of course, except with the complete cooperation of the police department.

Judge RICKS. May we have several other short addresses on that subject? Mrs. Murdoch, of the Alabama State Board of Child Welfare, might give us her point of view.

Mrs. W. L. MURDOCH, *of Birmingham, Ala.* I think that is a very unfair advantage for a southerner to take of a southerner. I just wanted to ask a question. I would very much rather my question should be answered, and that I should take but a moment of your time, because I am here to learn. I would like to ask the last speaker what can be done about police where the courts, as they are all through the South, are county-wide courts. And I find in coming to the national conference that most of you are talking about great big cities of half a million population, and so large a percentage of us come from small places where our problems are not answered on the floor of this conference. Now, our courts are county wide, and I presume others are, too; and we could not have city policemen detailed to our juvenile courts, because the financial situation would prevent. I would like to ask, Do you mean by what you said that policemen should be detailed to a part of the court, or do you mean merely that kindly cooperation between the police staff and the juvenile court would bring about the best results for the probation officer in the discharge of his duties?

Judge HULBERT. I might answer that by saying that my own court in Detroit is a county-wide court and not a city court. I am a probate judge, and my jurisdiction extends throughout the county of Wayne and not simply over the city of Detroit. In any large jurisdiction where there is a large city, of course the great bulk of the work is in the city, and I spoke of the police viewpoint because of that fact. It is true that I say that the police should be attached to the court; but it is equally true that the same cooperation and spirit can be as easily carried outside the jurisdiction of the city to the ordinary police officers of the county, and you will get the same response from them as you will from the individual policeman. It is hardly a matter for the court judge to interest himself in the organization. I perhaps did not make myself clear. I may have very much befuddled the vision I wanted to put before you. I don't want to charge the judge with a tremendous amount of detail at all, but I do feel the judge must be head of his system. The inspiration must come from the judge, the head of the system, and he must use the system and permit the filtration of his ideas, if you please, down to the child in the community which he serves. He can not do it otherwise. The individual contact of the judge in any large jurisdiction with the individual child is very brief, and therefore he must get his spirit to the child through his official organization.

Judge RICKS. Is Mr. A. A. Antles, secretary of the State department of public welfare of Nebraska, here? We would be interested

in hearing from him as to how they handle this situation in Nebraska?

Mr. ANTLES. Mr. Chairman, I have been sitting here all yesterday afternoon and this forenoon while you have been discussing the juvenile courts, and I have heard you discuss the juvenile judges and probation officers; but I have not heard anybody mention the person who, in my judgment, in our State at least, has as much to do with the juvenile court as any of these, and perhaps all of them, and that is our county attorney. In the larger cities you do not have county attorneys to take care of your juvenile work, but in our State we have only twelve counties which have juvenile officers. You may think it is peculiar, and it is. We are trying to get a better system than that, but we must discuss the situation as we have it there. Our State is 410 miles long and 210 miles wide, and the one juvenile officer or director of our child-welfare bureau, in my department, must look after the whole situation in our State, except in those 12 counties. Each county judge is a judge of the juvenile court, and the director has counseled with thirty of those judges during the past year and also with thirty county attorneys. And they have handled from 1 to 174 children in each one of those courts. Now, the county attorney in our State, when an offense is committed, must give his sanction to the prosecution of the person; therefore we must take him into our confidence and teach him that he has a big job. Sometimes when a boy steals an automobile and he has a good chance to get a conviction, we have to teach the county attorney that the juvenile court should handle that child. And to get our county attorneys to realize that the children should come into our juvenile court is a big job, because they are looking for conviction, so that when they come up for reelection four years hence they can show what good county attorneys they are. The children are not to be thrown into jail, not to be sworn when they come before the juvenile judge; but they are to sit down before the long table and discuss with the judge the things they have committed and the home conditions. Then the judge is the one to decide what shall be done with that boy or girl. The county attorney is inclined to think that he must issue a warrant for that boy that must be served by the sheriff or the police department, and that he can not get a conviction unless the boy is in jail. That is a pretty hard thing to get out of his head, so we need in Nebraska some help along that line.

We find that there are less than a dozen counties in our State—probably half a dozen—where the county attorneys know what sort of blank to use in juvenile-court work; and our department is starting to furnish the county attorneys with them and to get their cooperation in bringing these cases before the juvenile court. We find

that when the cases are brought into the juvenile court the cooperation we get from those judges and courts is very satisfactory to us—although it is a hard job to get it, and we have a big work before us. I am sorry our director of child welfare could not be here, because I am getting a great deal of instruction from this discussion and from this work.

Judge RICKS. The subject of the discussion is the relation between the court and the police department, and the further question of where the control for the detention home should be—whether in the court, in the police department, or in some other department of the city or county. I know in Erie County, New York, we have one of the best developed and most efficient probation systems in the United States, and I think Mr. Murphy, of Buffalo, is qualified to give us a very valuable contribution on this subject.

JOSEPH P. MURPHY, *Chief Probation Officer, Erie County, N. Y.* On that question, as to where the control ought to be, it seems to me there is no doubt that it should be in the juvenile court. That is where we have it, and we would not consider it in any other place.

Judge RICKS. What is the relationship between your court and the police department? Are there any police officers under the control of the court or assigned to the court for duty?

Mr. MURPHY. There is only one, and that is in the adult part—a police officer who is assigned to supervise the serving of summonses and to supervise some of the persons convicted of adult contributory delinquency. There is a dual control between the judge and the police department.

Mr. HAUPT. In regard to Judge Hulbert's point about the influence of the juvenile court on communities, some time ago the judge called me to the bench, in regard to a very serious sex trouble of some girls under 15, and he said: "Haupt, go out there and clear up that mess; it is the worst thing I have run up against in the 15 years of my being on the bench." And it was a fearful condition, and I believe it has been cleared up by a community meeting, in which the parents were gotten together in the school building by the county superintendent of schools to discuss that whole matter from a pure and uplifting standpoint. I believe it accomplished a great deal of good, and that the judge can have a great influence in such ways. That is only one illustration out of very many.

Judge RICKS. The time for discussion is now up, and we will pass to the next topic: How far can court procedure be socialized without impairing individual rights? I know of no one we would rather hear on this subject than Judge Edward F. Waite, of the juvenile court of Minneapolis.

HOW FAR CAN COURT PROCEDURE BE SOCIALIZED WITHOUT IMPAIRING INDIVIDUAL RIGHTS?

Hon. EDWARD F. WAITE, *Judge of the Juvenile Court of Hennepin County, Minneapolis, Minn.*

What do we mean by "socializing" court procedure? Measuring time by standards appropriate to the development of human institutions, it may be said that until very recently the courts were concerned almost wholly with the adjustment of conflicting claims of individuals and groups against each other, and procedure was meticulously guarded to prevent unjust advantage for precisely the same reasons that dictated the details of the code duello. The modern tendency toward what is termed the socialization of the courts has produced new tribunals and evolved new functions of older ones, in which the aim is not so much the adjudication of private rights as the performance of what are conceived to be community obligations. This tendency chiefly interests the lawyer as it has enlarged the use of the police power to secure the general welfare. It interests the social worker chiefly as it brings directly and conveniently to his aid the judicial machinery through which alone, according to the tradition of free peoples, the State may exercise its ultimate authority in time of peace.

The working out of this tendency toward broader functions and a more human emphasis and aim has involved a more liberal procedure or method of transacting the business of the courts—or at least of certain courts in which the socializing process has made substantial headway. When a court is acting, not as an arbiter of private strife but as the medium of the State's performance of its sovereign duties as parens patriæ and promoter of the general welfare, it is natural that some of the safeguards of judicial contests should be laid aside. This corollary to the main tendency to which we have referred may be fitly styled the socialization of court procedure.

I assume that by "individual rights" in our subject is meant those personal rights recognized by the common law as adopted in the United States and established by constitutions, National and State.

On the basis of these definitions, let us consider the nine subdivisions of the general subject proposed by those who have prepared the program: (1) Exclusion of public, (2) representation by attorneys, (3) swearing of witnesses, (4) methods of taking testimony and conformity with rules of evidence, (5) weight of evidence, (6) jury trials, (7) investigation into circumstances of offense, (8) testimony of probation officers, and (9) use of referee in girls' cases.

The discussion will relate solely to so-called juvenile courts, and my contribution, in order to conform to the necessary time limit,

must be untechnical, summary, and suggestive. So far as I state legal principles I shall undertake to be correct according to interpretations that prevail in my own State—Minnesota. Even were my learning sufficient I could not differentiate here between the several States on points where they do not agree.

I have said "so-called juvenile courts" advisedly. I do not reflect upon those communities where the legislature has not made the radical change from the criminal to the noncriminal type of court in dealing with delinquent children. But has not the time come to reform our terminology in the interest of clear thinking? The court which must direct its procedure, even apparently, to doing something *to* a child because of what he *has done* is parted from the court which is avowedly concerned only with doing something *for* a child because of what he *is* and *needs* by a gulf too wide to be bridged by any humanity which the judge may introduce into his hearings, or by the habitual use of corrective rather than punitive methods after conviction. I suspect that the theory of the juvenile court which stresses the moving forward of the common-law age of criminal responsibility involves some bad psychology and is responsible for some bad law. Has not the time arrived when no tribunal should claim the title of juvenile court, implying in its origin and major application a jurisdiction and procedure founded wholly on the parental idea, without distinction in aim and essential method between delinquent, dependent, and neglected wards of the state, unless this is its real character? Let other courts be styled what they are—police or criminal courts for children.

But I should not be warranted in excluding courts of the latter sort from this discussion. Therefore, having thus filed my protest, I shall adopt the current nomenclature and refer to all children's courts as juvenile courts.

Another comment, to clear the ground: One often sees departure from those traditional safeguards of the individual which are familiar in Anglo-Saxon jurisprudence explained and justified by the parental attitude of the juvenile court. Some looseness prevails in this regard, even in the opinions of appellate courts. It should not be forgotten that the performance of judicial functions always involves two processes: The first, to determine whether jurisdiction assumed for the purpose of an inquiry should be retained for the application of a remedy; the second, application of the remedy. The first seeks the facts; the second applies the law to the facts as ascertained. Is it not obvious that the rights of the individual who holds the state at arm's length and says, "The matters charged are false; government has no call to interfere with me," should be more strictly regarded during the first process than the second, when his status as a person

with whom public interference is warranted has been established? Otherwise all that is necessary to justify a despotism is to make sure it intends to be benevolent.

Taking up now the suggested subtopics:

(1) *Exclusion of public.*—One who is accused of crime has a constitutional right to a public trial. As to what a public trial is, the courts have differed. If a juvenile court is organized as a criminal court for children, any child who comes before it charged with an offense is entitled to a public trial. If the court that deals with him is exercising chancery jurisdiction, no such constitutional right exists; and for the purposes of this discussion noncriminal courts with purely statutory jurisdiction over children will be classed, though not with technical exactness, as courts of chancery jurisdiction. To a mind "not warped," as somebody has said, "by study and practice of the law" it may seem absurd that the hearing in the case of Johnny Jones must be public if he is charged in a criminal court with stealing and need not be so if he is charged in a noncriminal court with being delinquent because he stole. I shall not now defend this seeming inconsistency. If it is constitutional law, it is binding on the courts and legislatures, and it can be changed only by constitutional amendments.

There is no constitutional right to a public hearing when dependency or neglect is the issue; and the court has no right to deny it in cases of "contributing," since here it acts always as a criminal court, whether or not it has also chancery jurisdiction.

Even when the right to a public trial exists, much discretion is allowed the judge in the matter of excluding idle onlookers in the interest of public decency or the good order of the court proceedings. Probably no reasonable exercise of this discretion would ever be questioned by or on behalf of a juvenile delinquent, for the protection of whose sensibilities and reputation it is commonly exercised. Indeed, all doubtful questions that have arisen in my own experience have had reference to *inclusion* rather than *exclusion*. I have sometimes found it puzzling to know how far it was just to children and their parents to permit their troubles to be heard even by qualified social observers who wished to use the clinical opportunities afforded by court sessions. The smaller the court room, by the way, the simpler the problem both ways.

(2) *Representation by attorneys.*—Here also the nature of the proceeding is the proper basis for distinctions. In prosecutions for crime, even of children, representation by counsel is a constitutional right. In noncriminal proceedings, however, courts of conciliation and small claims have made us familiar with the idea that legal rights are not necessarily violated by the elimination of attorneys. But is it not a moot question? Is not the experience of other judges

like my own—that in most cases it is easily possible to make the lawyer who comes into the juvenile court an ally of the court and interest him in securing the real welfare of those for whom he appears? The absence of antagonistic claims of personal rights makes this the more feasible. I refer, of course, to cases immediately involving children. In "contributing" cases appearance of counsel must be permitted, and in my judgment should be encouraged.

(3) *Swearing of witnesses.*—I fancy most judges exercise wide discretion in this regard and are not conscious of any danger to personal rights. I can hardly conceive that if desired by the parties concerned all witnesses would not be sworn. Sometimes essential facts are within the knowledge of a child so young that to put him on oath would seem unreasonable. An obvious corollary to this situation would be the conclusion that his testimony would be unreliable. This would be true in general; and yet skillful questioning by an impartial judge might elicit important and well-accredited truth. The discretion to determine the competency of a child to testify has always lain with the court. Would it be any violation of rights for the judge to determine also whether or not to administer the oath? I think not. The greater discretion includes the less.

(4) *Methods of taking testimony and conformity with rules of evidence.*—There can be no question of impairing rights in determining whether to receive testimony from the witness stand or the floor in front of the judge's table; or whether and to what extent the judge himself shall interrogate witnesses. These and others of like sort are questions of taste and convenience, and the preference of any person fit to act as judge ought to be a safe reliance. As between criminal and noncriminal proceedings interrogation by the court is much more limited in the former, according to usage in the United States.

More serious questions arise in respect to conformity with the rules of evidence. Speaking generally, rules of evidence throughout the United States are the rules of the English common law, variously modified by local statutes, and uniform in their application to all courts deriving authority from the same source—the State or the Nation. I do not happen to know of any legislative rule of evidence peculiar to juvenile courts, except a Minnesota statute permitting findings upon the written reports of official investigators with like effect as upon testimony received in open court, in "county allowance" or "mothers' pension" cases. Rules of ancient origin, approved or at least tolerated by the community for generations, encountered by the citizen whenever he resorts to other legal forums to assert or defend his rights, should not be lightly set aside in juvenile courts. The only safe practice is to observe them. If hearsay, for

example, has not been found justly admissible in civil disputes and criminal trials, it is no better in juvenile-court proceedings. Exceptions should be made when appropriate, and informal short cuts will often be found agreeable to all concerned; but the exception should always be recognized as an exception. No judge on any bench has need to be more thoroughly grounded in the principles of evidence and more constantly mindful of them than the judge of a juvenile court. The boy against whom it is proposed to make an official record of misconduct, involving possible curtailment of his freedom at the behest of strangers, has a right to be found delinquent only according to law. The father, however, unworthy, who faces a judicial proceeding, the event of which may be to say to him, "This child of your loins is henceforth *not* your child; the State takes him from you as finally as though by the hand of death"—that father may rightfully demand that the tie of blood shall be cut only by the sword of constitutional justice. Surely, those substantial rules of evidence which would protect the boy if the State called its interference "punishment" instead of "protection," and would safeguard the father in the possession of his dog, should apply to issues which may involve the right of the boy to liberty within the family relationship and the right of the father to his child. The greater the conceded discretion of the judge, the freer he is from the vigilance of lawyers, the less likely he is to have his mistakes corrected on appeal, so much the more careful should he be to base every judicial conclusion on evidence proper to be received in any court of justice. Otherwise the State's parental power which he embodies is prostituted; the interpreter of the law degenerates into the oriental kadi, and the juvenile court falls into suspicion and disrepute.

(5) *Weight of evidence.*—Shall the standard be preponderance of evidence or proof beyond a reasonable doubt? The latter, surely, whenever the proceeding is a criminal one; the former—technically, at least—in dependency and neglect cases. I say "technically," for while a jury would be so instructed, it is certain that the average juror, regardless of instructions, will require something more than a mere tipping of the balance before he will agree to a verdict that may separate protesting parents from their child. And when, as in most cases, the duty to pass upon disputed facts falls to the fallible intelligence of a single person, any judge who realizes his responsibility will insist upon clear proof.

When delinquency cases are heard in noncriminal courts I suppose the true rule to be preponderance of evidence. But here I, at least, must plead guilty to judicial legislation, and I suspect I am not alone in this. When we have minimized the stigma of an adjudication of delinquency in every way that kindly ingenuity may devise, it re-

mains true that in the mind of the child, his family, and his acquaintances who know about it, it is practically equivalent to conviction of a criminal offense. In the face of this fact legal theory should give way, and no less evidence should be required than if the hearing were a criminal trial. In the rare instances when I have juries in the juvenile court I instruct them to this effect, and I apply the same test to my own mind in reaching judicial conclusions.

(6) *Jury trials.*—It appears to be well settled that in none of the cases heard in noncriminal juvenile courts is there a constitutional right to trial by jury. In Minnesota, when juvenile-court functions are exercised by the district court, which is the court of general jurisdiction, a jury trial may be demanded. This, however, is a privilege granted, rather than a right confirmed, by the legislature; and the privilege is rarely claimed. Doubtless this situation is typical. When, however, the court is so organized that a child is prosecuted for a criminal violation of a State law, I think it is generally understood that a jury must be called unless specifically waived. The same is true in "contributing" cases, especially when, as in Minnesota, the act or omission is made a misdemeanor.

(7) *Investigation into circumstances of offense.*—If there is a question here it must be as to the use to be made of information obtained rather than as to the propriety of a preliminary investigation through agents of the court. The value of such an investigation in suggesting inquiry at the hearing is obvious. But when there are issues of fact to be tried it seems to me equally plain that statements made to an investigator out of court should have no standing as evidence when they are disputed by parties in interest, who by the implication of their denial demand the same right to be confronted with the witnesses against them that is freely recognized in other judicial proceedings. Without attempting a discussion of "due process of law," considerations of public policy seem conclusive. The undisciplined minds of the juveniles and most of the parents who come before the court can not make clear distinctions between proceedings that are really friendly and paternal and those that are hostile, when the results may be alike in depriving them of liberty of action, which they had before they came into court and are unwilling to surrender. Public opinion, too, looks askance upon any abandonment of traditional barriers against governmental interference with the citizen. However wise the judge and kind his purpose, he must have regard for both the individual and the community sense of justice; and Americans have an ingrained conviction that nothing, however well meant, ought to be forced upon them on the basis of information obtained behind their backs.

Let it be observed that I am now discussing policy rather than constitutional rights. As respects noncriminal proceedings, I am

not prepared to set limits to the power of the legislature to enlarge and adapt to modern condition the ancient methods of official inquisition. Prof. Wigmore speaks of an increasing need "for the more liberal recognition of an authority such as would make admissible various sorts of reports dealing with matters seldom disputable and only provable otherwise at disproportionate inconvenience and cost." "This policy," he says, "when judiciously employed, greatly facilitates the production of evidence without introducing loose methods."[4]

It is probable that as socialization of the courts proceeds the tendency toward the use of this form of evidence will grow stronger; but popular prejudices must be reckoned with, and procedural convenience will be dearly bought if the cost be impairment of the general confidence in the administration of justice.

When, however, the adjudication is made the situation changes. It has been lawfully determined that the facts warrant the interference of the court. The nature and extent of that interference is discretionary with the judge within the limits set by the law. In exercising his discretion he may rely upon anything that brings conviction to his mind, and the parties concerned have no legal right to question the sources of his information. Here official investigation is a proper and valuable aid, whether made before or after the adjudication.

(8) *Testimony of probation officers.*—No legal right seems to be involved; the question is rather one of expediency. In my judgment the probation officer should not appear as a hostile factor in court proceedings. The friendly relations with child and family that are essential to his corrective and constructive work would thus be jeopardized in advance. Should adverse information after probation is ordered be disclosed to the court? By all means, if it is important. No confidences should be received on condition of concealment. The probation officer is the eyes and ears of the court. What he sees and hears is a part of the court's knowledge of the case, and ought to be so regarded by all concerned.

(9) *Use of referee in girls' cases.*—Once more a distinction must be made between criminal and noncriminal proceedings. Probably no one would suggest the reference of a criminal case against an adult. Then why of a criminal case against a juvenile? But in noncriminal matters, masters in chancery and statutory referees have familiarized us with the idea of delegation by the court of some part of its judicial authority. I think there is no constitutional reason why a court exercising chancery powers as a juvenile court may not be authorized to appoint a referee, not only to examine and recommend but to hear and determine. Masters of discipline

[4] Wigmore on Evidence, Vol. III, sec. 1672.

in Colorado, juvenile commissioners in North Dakota, and referees in California and New Mexico are instances where statutes have expressly authorized such procedure. Other examples are referees in girls' cases. I have never heard a suggestion that rights were thus violated. On the contrary, girls and their parents are likely to deem it an advantage to have both inquiry and action in a woman's hands. Doubtless it is the experience of every man who acts as judge in cases of sex delinquency on the part of girls, that even if he has not the assistance of an official referee, a woman probation officer relieves him of embarassing investigation and virtually determines the appropriate action.

If our discussion has any value, we may state three general conclusions:

1. In criminal proceedings the child has before conviction all the legal rights of the adult. Here the field of socialization is practically limited to treatment of the child after conviction.
2. In noncriminal proceedings there may be either with or without express legislative authorization, according to the nature of the court, the broad latitude customarily exercised by courts of chancery jurisdiction, this being appropriate and necessary to the full use of parental functions. Here no constitutional provisions relating to criminal prosecutions apply, and socialization of procedure may have wide scope. There are limits, however, of which the judge should never be unmindful.
3. In adopting this broader practice, courts should have regard to the popular sense of justice, even when it is not supported by established principles of constitutional law.

Do not these conclusions point toward wider powers, freer action, better and more thoroughly socialized judges for the true juvenile court, and speedy evolution of the criminal court for children into the broader type? This process spells, I think, the liberal development of the family court idea.

Furthermore, while they seem to me in no wise at variance with the growing tendency toward transfer to the public schools of administrative details after adjudication, do they not negative conclusively the assumption by any other agency than a court of justice of the task of adjudicating disputed facts?

Hon. SAMUEL D. LEVY, *Justice of the Children's Court of the City of New York.*[5]

The subject assigned to me is one of intense interest, and I make bold to say of vital interest to the citizens of the land. It has been my viewpoint in my daily task as justice of one of the most important

[5] Read by title.

children's courts in this country to assume that the children brought into court because of improper guardianship or delinquency were the wards of the court as well as of the State. I have acted on the principle that neither they nor their parents or guardians, nor the procedure of the court, nor the judgments to be rendered, nor the decisions to be made are to be treated from the standpoint of legal technicality or strictissimi juris, but from a broad social standpoint, which leads the court to take into sympathetic consideration the unsocial conditions, the bad environment or bad associations, and the congenital or inherited handicaps of poor mentality or physical defects. The causative factors which were the urge to bring the child into court are primarily to be considered, and not the immediate act alleged in the complaint or information; and upon careful and thorough analysis, such proximate or primary cause being ascertained, it is for the court so to decide the matter that social conditions will be bettered and improved by its judgment or decision.

Indeed, legal procedure is not to be considered, except so far as it is a mere guide or help in the administration of justice, but by no means as a controlling factor. The commitment of a child to a protectory or reformatory or other similar institution is not to be thought of—even though the delinquency complained of is an act that if committed by an adult would be characterized as larceny, burglary, pickpocketing, assault, or other felony—if by placing the child in a proper social position he would be uplifted, improved, rehabilitated, reformed, and redeemed, and made an asset to the community. For it must be obvious to any one having any large experience with atypical children, that the children of poverty conditions, of tender years, with immatured mentality, can not knowingly commit these delinquencies (or crimes); that because of their immaturity these children can not have the "intent" which the statute contemplates when it proscribes crimes, and that comparatively few children are ingrained criminals, although some appear to be. But both experience and observation have taught me that what appears to be a hardened child, a child with criminalistic traits, is very often found to be an "ungraded" child and one who was always mentally defective. Hence the extreme care necessarily required to place the child, after analytical diagnosis, in its proper niche and to deal with it not as a criminal but as a child in need of the care and protection of the state—and that ofttimes means in need of the sympathetic interest and wise counsel of the judge of the juvenile court. The more the court and its procedure is socialized, the more will substantial justice be meted out and the child be helped as probably he was never helped before. With such a judicial attitude toward the child and his guardians a

successful prognosis may be hoped for in nine cases out of ten, and individual rights are not only not impaired, but are greatly strengthened by such procedure.

Judge RICKS. In the absence of Dr. Miriam Van Waters, referee of the Juvenile Court of Los Angeles County, we are going to have Miss Shontz, who was the first referee of that court, read the paper prepared by Dr. Van Waters.

MIRIAM VAN WATERS, PH. D., *Referee of the Juvenile Court of Los Angeles County, Calif.*

The Socialization of Juvenile-Court Procedure.

The juvenile court of California, first established by legislative enactment in 1903, now operates under statutes amended in 1915 substantially as follows: [6] A judge of the superior court is chosen by his fellow judges to sit as a juvenile-court judge. Jurisdiction extends to persons under 21 years of age. (Under certain conditions, persons between the ages of 18 and 21 charged with felony are dealt with by the crminal courts.) The law formulates no definition of delinquency or dependency, but enumerates 14 specific conditions under which a child may be brought before the court. These conditions embrace the range of offenses, behavior difficulties, and physical, mental, and social handicaps which cause or tend to cause a child to need the protection and guardianship of the State. The juvenile court has jurisdiction over adults criminally liable for contributing to certain of the above conditions.

Proceedings are begun by petition filed with the clerk of the superior court by any reputable person, who on information and belief alleges that a child comes within the provisions of the law. The attendance of the child and his parents is secured by citation; a warrant may be issued if citation seems likely to be ineffectual. Attendance of witnesses is secured by subpœna.

The law states: "In no case shall an order adjudging a person to be a ward of the juvenile court be deemed to be a conviction of crime." [7] Any order made by the court may be changed, modified, or set aside as to the judge may seem meet and proper. Provision for an appeal from judgment is made. The keynote to the act is found in section 24, entitled "Construction": "This act shall be liberally construed, to the end that its purposes may be carried out, to wit, that the care, custody, and discipline of a ward of the juvenile court, as defined in this act, shall approximate as nearly as may be that which should be given by his parents."

[6] Calif., 1915, c. 631.

[7] Ibid., sec. 5.

California—in counties of the first class, that is to say, Los Angeles—and New Mexico are the only States that specifically provide by law for the appointment of a woman referee to hear cases of girls and young boys brought before the court. The referee has the usual power of referees in chancery cases, hears the testimony of witnesses, and certifies to the judge of the juvenile court findings upon the case, together with recommendation as to the judgment or order to be made.

Such, in brief, is the legal background of the juvenile court in Los Angeles. Since the enactment of 1915 all cases of girls under 21 and of boys under 13 have been privately heard in the detention home by a woman referee. Socialization of procedure has been the rule, and if the number of cases appealed is a test, the plan has been successful; for during the four and a half years when Orfa Jean Shontz, the first woman referee to be appointed, heard these cases, over 6,000 matters were before the court, and but one appeal was taken from her findings and recommendations—and in that case her finding was upheld.

Socialization—what do we mean by this term as applied to juvenile-court procedure? I take it to mean the process by which the purpose and goal of the juvenile court is best attained; that method which best frees the spirit of the juvenile court and permits it to serve the social ideal it was created to express.

Briefly, then, we must call to mind its origin. The juvenile court sprang into being in response to the demand of a civic conscience freshly awake to the horror of treating children as criminals. In theory this court is parental, a court of guardianship—not a criminal or quasi-criminal court, but a court where the paramount issue is the welfare of the child. Rooted in the ancient Anglo-Saxon concept of the king as the "ultimate guardian of all his subjects, who by reason of helplessness of any sort could not adequately care for themselves," the juvenile court is the modern outgrowth of the power of parens patriae administered in England through the courts of chancery—as students of the juvenile-court movement, notably Judge Edward F. Waite, have so ably pointed out.[8]

That simple folk looked to the courts of equity for remedy against the rigors of the common law is expressed as early as 1321: Aubyn de Clyton, complaining of a gross and outrageous trespass, petitions the court of equity on the ground that "the said Johan and Phillip hold their heads so high and are so threatening that the said Aubyn does not dare contest with them at the common law."[9] Desire for socialization here mingles with a touching confidence in its attainability.

[8] Waite, Edward F.: The Origin and Development of the Minnesota Juvenile Court, p. 3.
[9] Henderson's Chancery Practice, p. 121.

While the legal basis of the juvenile court is rooted in equity, two fundamental modern ideas concerning the child—one biological, the other social—have united in the formation of the juvenile court.

Biology teaches us that the child is a being quite different from an adult. His way of feeling and his response are governed by natural laws; his behavior is an adjustment to life, ruled by cause and effect. *The whole being of the child is sacred to growth.* And throughout the period of growth, during the whole course of his immaturity, he is held to be plastic, capable of infinite modification. Unless this modern concept of the child is mastered we can not understand the principle of the juvenile court.

The second fundamental idea is that of the child as an asset to the State. The child *is* an *asset*, greater than all his faults. It is the duty of the State in the interests of its own self-preservation to take care of the child when parents have failed him. The juvenile-court law formulated by the Legislature of Illinois in 1899 [10] was an expression of these principles, and the machinery created to express and to enforce these principles harked back to the ancient usage of Anglo-Saxon jurisprudence. It is well to stress this point for the benefit of certain lawyers who think, or appear to think, the juvenile court a kind of modern, benevolent mushroom foisted on the body of the law by social uplifters.

In our discussion of rights in the juvenile court the main right to be considered is the right of the child—his primary right to shelter, protection, and proper guardianship. The first requirement in socialization is a method for getting the whole truth about the child.

Analogy here brings the court close to the spirit of the clinic. The physician searches for every detail that bears on the condition of the patient. The physician demands all the facts, because he believes it is only *good* that can follow to his patient. The patient is privileged to expect *good*, but only on condition that he reveal all the facts and submit himself utterly. He is freed from fear because the aim of the examination is his own welfare.

Quite contrary is the spirit of legal action. The defendant is hemmed about with elaborate safeguards against improper questions. The right of a witness not to incriminate himself, his right to the secrecy of certain inviolate privileged relations and communications, all the rules of evidence that exclude certain kinds of truth from the ear of the court as improper, have grown up with a view to protect the individual from the power of the State to inflict penalty upon him. Fear of injustice, dread of punishment—these are the human emotions expressed vividly in the dry phrasing of the rules of evidence, just as in the folk saying: "Only the rich can afford justice; only the poor can not escape it."

[10] Ill. Laws, 1899, p. 131.

The juvenile court, on the other hand, can demand the whole truth because it has the power to save, to protect, and to remedy. Its orders or judgments are not penal, but parental. Its object in determining truth is not *incrimination*, but the gaining of that understanding which must precede constructive discipline. In a socialized procedure no useful evidence should be excluded from the court. Each relevant fact should be admissible, but we should adhere closely to that body of the rules of evidence that applies a test to truth. Hearsay, incompetent evidence, opinion, gossip, bias, prejudice, trends of hostile neighborhood feeling—all these sources of error should be ruled out of the juvenile court as rigidly as from any other court. If socialization of court procedure means letting down the bars, so that social workers can dispense with good case work or can substitute their fears and prejudices for the presentation of real evidence, heaven forbid any increase in socialization! No; the test of truth in the juvenile court should be definite, scientific, carefully scrutinized.

The second principle in socialization is cooperation. In order to secure the welfare of a human being it is necessary that he assent. Compulsory uplift is difficult, if not socially impossible. To the clinic the patient comes because he feels sick, to the court the young person comes because he must. It is the business of the social worker to make him "feel sick"; that is to say, he should be impressed with the social seriousness of the situation. The child should be made to feel penitent, but charging him with guilt is not the best way to accomplish this result. Such a course places him on the defensive; it is a challenge, and his mind leaps to the encounter.

"What are you charged with, Jim?" asked the matron in a detention home of a small boy. "Soda water. See? I am charged with soda water. I stole a case of it." His flippancy disappeared in court, however, under the following procedure: "Who earns the living in your home?" "Mother." "How?" "She scrubs floors, but she is in the hospital now." "Who cooks?" "My little sister." "What do you do to help?" "Nothing." "Do you cause them trouble?" "Yes; I steal—some." There were tears.

Your response depends on where you place your emphasis.

How change of emphasis from procedure designed to incriminate and to convict to procedure socialized and aiming at welfare—how this change of emphasis leads to change in the attitude of the child is seen nowhere more clearly than in the treatment of young girl sex offenders. Los Angeles is the honey-pot of movie-dreaming youth.

One girl of eighteen was recently before me on a police complaint of soliciting. She lived in Detroit and had lodged in half a dozen jails en route. Arraigned in the police court of Los Angeles, she was transferred to the juvenile court. She was plainly bored. Well she knew she could not be convicted of anything more serious than vagrancy. This quiet room, this woman sitting as judge,

these women who sat as clerk, reporter, and bailiff—why, it was all child's play!

"Why are you here?" she was asked. "Well, they can't *prove* anything on me. No one ever saw me take a cent, and I had my clothes on." "You are not accused of anything here, save that you are a person under the age of 21 with no parental control and in danger of leading an immoral life, and should the court find it necessary for your protection you can be held until you are 21."

It was a bewildered young person. Gone were the old words to lean on—"bail," "guilty or not guilty," "fine," "30 days," etc.; gone were the smiling policeman, the friendly detectives. She was just a girl, stranded; a prodigal daughter, not a defendant. Yet this court impressed her with the power it had to compel obedience. She told her story. She submitted to discipline. What prosecution could not do, cooperation secured in half an hour.

So, too, in matters pertaining to the custody of children. Parents accustomed to regard the child as private property are perplexed at a view which places the welfare of the child first. A girl of 11 had been neglected at home. Parents—two sets of step-parents—flanked by the in-laws, flung mutual charges ranging from blasphemy to incest. "This is not a domestic arena," they were told, "only one issue is here to-day—what can you suggest for the welfare of this child?" When it was made clear to them that the child herself had the paramount right, that parental selfishness must give way, their attitude changed gradually and instead of demanding a property right they agreed that none of them were fit to have her.

A third principle in socialization is the dynamic idea back of the juvenile court. In legal action the sentence, or judgment, is final. The game is lost or won; the finality of doomsday is not more irrevocable. But the juvenile court's decisions are like youth itself, capable of being modified, meeting each to-morrow afresh, adjusting perpetually to life. The courts have held unfitness temporary. What does that mean? It means eternal chance for the erring parent; it means reconstructed lives.

Jennie, a girl of 23, formerly a ward of the juvenile court, was married to a soldier and was the mother of a 3-year-old boy. The husband had sought unsuccessfully in the divorce court and in the criminal court to deprive her of the custody of the child on the ground of her unfitness. Nothing could be *proved* against this mother, and yet one look at the child—thin and pale, with sad eyes—supported the belief that he needed care. The matter came into the juvenile court. Jennie resisted any attempt to incriminate her. "*Your child*—has he had a chance?"—not the question, had she been guilty of misconduct, but, "Your little boy, is he all right?" Brushing aside her attorney, "No, no; I have neglected him." Then followed her statement of her unfitness, with a plea for a chance to prove fitness. In six months she had won back her baby, whom she had given up voluntarily. She had cooperated in a plan of constructive child welfare.

A fatal blow to socialization, however, is the attempt to use evidence secured in the juvenile court as the basis of other legal action. Jennie's husband, after her rehabilitation, tried to use her statements

made in the juvenile court as evidence against her in the divorce court. He was unsuccessful. Twenty-seven States[11] have safeguarding provisions against using evidence gained in the juvenile court against the child in other proceedings. But this protection should be extended to parents who in good faith, for the purposes of child welfare, give evidence against themselves.

Is the concept of socialization antagonistic to legal principles? What is law? In a discussion of this matter reviewed in the Reports of the American Bar Association[12] the definition of Blackstone and Austin of the law as a "command" or "body of commands" proceeding from the supreme power of a State is criticized. "The law is something more than the mere formal rules which have been declared in constitutions and statutes and applied in precedents. * * * The real social force is made up of the principles of the social organism; the expressed laws are but rules of operation." Lord Coke, certainly no sympathizer with looseness, said: "The principles of natural rights are perfect and immutable, but the condition of human law is ever changing and there is nothing in it which can stand forever. Human laws are born, live, and die." One of Wendell Phillips's epigrams was this: "Ideas strangle statutes."

From an anthropological view—that is to say, from a human view—the law is a culture product of the human race. Its majesty is derived only from the human spirit, and it is subject to change and growth just as any other organism. This highly complex, apparently adamantine, structure is indeed changing, and if we read aright the spirit of the times it is changing quite in the spirit of the modern American family; it is following the lead of its youngest offspring, the juvenile-court movement.

To sum up: Socialization of the juvenile-court procedure depends on the clear, firm grasp of the principles of equity. The court is one of guardianship, not a penal court. Nothing that the child says can incriminate him in this court, because the object of the court is his welfare. Socialization involves getting at the whole truth; nothing that is true and relevant should be excluded. Socialization involves cooperation, constructive discipline, and the dynamic concept as expressed in the principle that an order in this court may be modified as life conditions are modified.

The chief obstacles to socialization of juvenile-court procedure are lingering shreds of penal terminology and criminal-law usage. Obsolete thinking and unclear thinking are obstacles. Socialization implies that judges and court officials are to be experts—experts in scientific training and in the art of human relations.

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[11] Children's Bureau: A Summary of Juvenile Court Legislation in the United States, by Sophonisba P. Breckenridge and Helen R. Jeter. Bureau publication No. 70, Legal series No. 5. Washington, D. C., 1921, p. 41.

[12] 1902, vol. 25, p. 445.

GENERAL DISCUSSION.

Judge RICKS. We now have 15 minutes for this topic. I am going to ask Judge Hoffman, of Cincinnati, to lead off in the discussion.

Judge HOFFMAN. I assure you that I agree with all that has been said concerning this phase of the juvenile-court problem. I don't want it understood that I hold in any way that we ought not in every way to protect the rights of the citizen. As it is generally stated, the dearest and tenderest rights of parents are involved, and can not be ignored. The parents have a right to be heard in a court before it is determined whether or not their child shall be taken from them. As Judge Waite said, the guardianship may pass from the parent to the State. It was decided in the State of Ohio in two cases that the State has power to stretch forth its arms and have that child under its guardianship and to care for the child. If the child were injured in the street, if a child were in distress with any ailment other than that of delinquency, there would be very little said of a duty of an adjudicating court to receive evidence as to whether or not we should aid and assist that particular child. There is, however, a slight distinction in reference to delinquency. It is then that we deprive the parents of the right to look after their child. Therefore in all those cases they should be heard.

The Supreme Court of the State of Iowa says that if a child be taken—and this was before the juvenile-court act was passed—no one can interfere with the State, so far as the child is concerned; but that the parents would have the right of a writ of habeas corpus in order to adjudicate their rights. In that case the court would determine what is best for the welfare of the child. The juvenile-court law came along and said that thereafter it would not be necessary to institute a suit in habeas corpus, but that the rights of the parents would be adjudicated in the juvenile court. And therefore, so far as this law is concerned, I think it proper and right. I state again that you will find the solution, at last, probably resting in the administration and in the personnel of those who administered the law—the socially minded judge will have no difficulty with the law in any way. I am interested more particularly in caring for that great body of boys and girls in reference to whom there is no question whatever on the part of the parents or on the part of the child or upon the part of the State. We want to care for those children, not send them to institutions—penal institutions—when it is not necessary to do so.

Permit me to say a word in reference to just one other point—the statutes relating to contributing to delinquency. I agree with Judge Waite and the others that, so far as those cases are concerned, the defendants are entitled to all the safeguards of the Constitution and the laws, providing that they may have a trial according to the ordi-

nary procedure which prevails in the criminal courts. Our statute provides for cases of contributing to delinquency. And I will say to the judges who have any scruples upon that point that we have never felt that it was an infraction upon the work of the juvenile court to repose the power of trying those cases in the juvenile court. They are tried separate and apart from all other cases, and we have no difficulty whatever in disposing of them. We have no indictment by the grand jury; an affidavit is filed, and the case is tried upon affidavit and by jury. Felony cases are tried by jury, unless the jury is waived and the case is tried according to the ordinary procedure.

Judge RICKS. I should like to hear a few words from Miss Bartelme, referee of the juvenile court of Chicago, on the topic now under discussion.

Miss BARTELME. I don't know that I have anything to say; I have just been listening this morning and learning a great deal and feel very happy in the thought that our juvenile courts are handled from the standpoint indicated by the judges as they have spoken.

So far as the referee is concerned, I do feel that the work is a very individual one, and must necessarily be so. I believe we should all work toward the feeling on the part of the public that the delinquent girl is just as hopeful a case as the delinquent boy, and that we should not constantly be hearing from the mother and from the officers who are handling the cases: "Of course, it is such a hopeless thing to work with the girl." It is not at all hopeless if you work aright.

Mr. WALKER. That was a very splendid paper that we heard from Judge Waite, dealing with procedure, practice, and the other things; but we also have to take into consideration public sentiment. I will say that our real outpost in Philadelphia is the work of our referees. We hear a great deal said about probation of girls' cases. Fortunately, there has been legislation upon the subject in various districts. I wrote to the different jurisdictions where they have a law under which they may use referees, to determine the kind of practice they may use. You may not realize that in the Philadelphia court 78 per cent—and that is quite a high percentage—of the cases that come under the juvenile court are settled or determined by probation officers and referees. Now, if that is so, we must have public sentiment back of the practice. We have been having the referees in those girls' and boys' cases since 1915, and public sentiment seems very much in favor of it. When we get a lawyer, he comes from the State courts or police court and wonders what we are doing. We explain the practice, and he asks, "What are your legal grounds for this?" "Oh," we say, "we just have a little clause which reads something like this: 'It shall not be necessary to detain a child at

the house of detention if in the judgment of the probation officer, now or hereafter to be appointed under the law, it may be disposed of otherwise.' Therefore, we have assumed a very broad judicial determination." I don't know how far it would go if they carried it to the appellate court. However, we have had it for five years. For instance, an officer to-day brings in a boy for breaking a window. He is taken before the referee in boys' cases; the owner of the place whose window was broken is there. The parents are willing to pay this man for the broken window. It is done right there. The decision is sent in to the judge, and he approves the action of the referee. In girls' cases the practice is quite similar. The referee is practically the outpost in our socialization; and we have public sentiment with us.

Judge RICKS. I want to ask Mrs. Baldwin if she will give us a few minutes' discussion on this.

Mrs. E. F. BALDWIN, *Chairman of the Probation Committee of the Juvenile Court, San Francisco.* I came to listen and to learn. I have been very much pleased to know and to hear what I have heard to-day. There are one or two thoughts that I may be able to give you from the procedure in San Francisco. In regard to the prosecution of contributing to delinquency of minors, this information is placed in the hands of our district attorney, and over a period of seven years we have secured the cooperation of the district attorney's office to such a degree that one of his deputies is assigned to juvenile-court work exclusively. Also we have a woman deputy from his office located with us, and she has an office in our detention home. She works with the girls and obtains the information necessary. Thus we have the closest cooperation; but cooperation is not secured by simply asking for it. You have to work for it, and proceed along educational lines, and get the cooperation of your public—get them into the spirit of the work, so that they understand what you are trying to do and what your needs are. Another point in cooperation is that with our police department. We have no police assigned to our department, but special meetings are called, and our chief probation officer tells them the problems of the court. We have helped the police department to prepare blanks to hand to the parents of boys who may be on the way to the juvenile court—the police are not yet ready to take them up, but the parents are given notice that the boy should be kept at home. I can not say that in all our districts the police cooperate in the spirit of the juvenile court to the extent of keeping the boys out of court by just such neighborhood supervision, but they do so in many of them. We have secured that cooperation by long effort and by educational methods.

Judge RICKS. Is Judge Bradford, of Salt Lake City, here? We will be glad to have a few words from you, Judge Bradford.

Hon. C. R. BRADFORD, *Judge of the Juvenile Court of the Third Judicial District, Salt Lake City, Utah.* I am greatly pleased, ladies and gentlemen, to be with you. This is the first opportunity I have had, since becoming judge or becoming connected with the juvenile-court work in Salt Lake City, to attend any of your conventions. I have been very much interested, since arriving here, in all of the papers. I think from what has been said that Utah has a very good juvenile-court law. Utah is divided into eight judicial districts. Each judicial district has a judge and a chief probation officer, and such other probation officers and assistants as are needed. In Salt Lake City we have the chief probation officer, who covers three counties; then Salt Lake City furnishes a woman probation officer, and Salt Lake County furnishes a man. We have a clerical force in addition to these. Otherwise we work through the police department, sheriff's forces, town marshals, and all other agencies engaged in matters of juvenile-court concern, and through school superintendents and school officers. The churches have rendered a very valuable assistance. Some of them have furnished paid probation officers. We have been able to accomplish a great deal through the church officers. One of the churches of the State has inaugurated a policy which has assisted us very materially in dealing with matters of delinquency and dependency. They have what they call a parents' class that meets every Sunday morning in the various ward divisions of the church, and into these classes are invited doctors, lawyers, and experts in all lines. Juvenile-court officers are invited in and rotate through the various wards—of which in Salt Lake City there are over fifty—to discuss problems that apply not only to delinquency but to welfare, dependency, etc., of children. A woman who is engaged in civic welfare explains the particular value of foods, the doctors cover medical matters, and the lawyers the law; and we find that these classes have been very effective in accomplishing a great deal of good.

Mr. PARSONS. The conference has been asked to name a committee or to suggest to Miss Lathrop a committee of twelve persons, to be appointed by the Federal Children's Bureau as a committee on standardization of juvenile courts. It was decided last night that these twelve persons should be chosen by the committee on children's courts, a standing committee of the National Probation Association. I am going to ask that the members of the committee on children's

courts who are here meet immediately at the close of this session in the anteroom near the registration desk. The members of that committee are Judge Frederick P. Cabot, Charles L. Chute, Bernard J. Fagan, Dr. H. H. Hart, Joseph L. Moss, Rev. John O'Grady, Herbert C. Parsons, Judge James Hoge Ricks, Judge Kathryn Sellers, and Arthur W. Towne.

THIRD SESSION—JUNE 22—AFTERNOON.

Chairman: Hon. HERBERT C. PARSONS, *President of the National Probation Association, Boston, Mass.*

Mr. PARSONS. The program for the session this afternoon includes, first, the question, How Can a Program for Physical and Mental Examinations be Applied in Small Cities or Rural Communities? Then there are two other subjects, Adjusting Treatment to Individual Needs and The Scope of Work of a Committee on Juvenile-Court Standards—the consummation of the entire discussion which we have had in the sessions jointly held by the National Probation Association and the Children's Bureau. Opportunity will be given for general discussion at the close of the reading of each paper.

For the discussion of "How Can a Program for Physical and Mental Examinations be Applied in Small Cities or Rural Communities?" I have the pleasure of presenting to you the director of the division of child welfare, State board of charities and public welfare of North Carolina, Mrs. Clarence A. Johnson.

THE ORGANIZATION OF COUNTY JUVENILE COURTS IN A RURAL STATE.

MRS. CLARENCE A. JOHNSON,[1] *Director of the Division of Child Welfare of the North Carolina State Board of Charities and Public Welfare.*

North Carolina has gone seriously and thoughtfully into the problem of caring for her dependent, neglected, and delinquent children through the promotion of a State-wide program of child welfare, planned for the protection and care of this class of her population. This program is the result of the establishment of certain administrative agencies and the provision for adequate legal authority consequent on social legislation enacted in 1917 and supplemented in 1919. The general assemblies of these years reorganized the old board of charities, serving in an advisory capacity, into the present board of charities and public welfare, with executive authority, and provided for county boards of public welfare, county superintendents of public welfare, and county juvenile courts.

The county juvenile court, with the superintendent of public welfare acting as chief probation officer, provides a necessary part of

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the machinery for the promotion of the child-welfare program. In this article I have been asked to discuss the organization of these county courts, particularly from a rural viewpoint, and to emphasize what may reasonably be expected in the way of providing physical and mental examinations of children who come under the supervision of the court.

If it is advisable to consider the necessity for juvenile courts in rural communities and to test their efficiency from a more or less rural point of view, North Carolina presents a situation that should be interesting and illuminating. It is distinctly a rural State, for the largest city has a population of 48,000, and there are only seven towns that could be considered small cities—that is, with populations of between 25,000 and 50,000. Sixty of the one hundred counties have no town with as many as 500 people. Seventy-nine out of every hundred people in North Carolina live in the open country, and people engaged in farming outnumber 2 to 1 those engaged in all other occupations. Three counties have no railroads, and only a small part of seven other counties have railroad service. Offsetting these apparent handicaps to any plan calling for a State-wide organization are two most helpful conditions in the governmental and racial situation. The county is the unit of work in any State-wide plan; the county officials are the powers that be. And there is a stable, all-American population with less than half of 1 per cent of the people foreign born.

This information is necessary in order to make clear the background for juvenile-court work in North Carolina as it is being organized at the present time, and a brief review of the methods of handling juvenile delinquents and dependents prior to 1917. We find that delinquent children were tried under the criminal code, frequently held in jails, sentenced to chain gangs, and occasionally to the penitentiary. There was but one institution for juvenile delinquents, a reformatory for white boys to which children were sent by court commitment. Dependent children were charges of the county clerks of the courts. One child-placing society and nineteen orphanages, which received children largely through surrender, were available for caring for the dependent child.

These same clerks of the courts—of which there are 100, one in each county of North Carolina—are now by virtue of their office required by the juvenile-court act of 1917 to act as judges of the juvenile court, which has jurisdiction over dependent, neglected, and delinquent children under 16 years of age. There is no choice in the matter, so far as the clerk himself is concerned; if he is clerk of the superior court in his county he is judge of the juvenile court and must accept the obligations this fact entails. Compensation for his services

as judge is determined by the board of county commissioners. Towns of 10,000 inhabitants or more must maintain a juvenile court separate from the county, with a judge appointed by the governing bodies of such cities, unless arrangements are made with the county commissioners whereby the city and county maintain a juvenile court at joint expense. Towns of more than 5,000 may, if advisable, set up and maintain a separate juvenile court.[2]

Taking into consideration the fact that clerks of the court in North Carolina have always had certain responsibilities in regard to dependent children, the present law seems the natural result of a process of social development; nevertheless, the legislature of 1917 gave these clerks of the courts a big order to fill when they imposed upon them their present responsibility, with little previous experience to help them and no equipment other than an office in the county courthouse.

The county superintendent of public welfare, whose appointment was provided for by the same legislature, acts as chief probation officer for the county and chief school-attendance officer, and is responsible for the enforcement of the child-labor law. While it would seem that any one of these three enumerated duties would provide sufficient responsibility for one executive officer, combining them under one head has proved advantageous to the children in many ways, as it has brought under the supervision of the superintendent of public welfare and the county juvenile courts many children whom these agencies would not otherwise have reached. As a result of the past two years' experience, it is evident that juvenile-court work, school-attendance work, and child labor are closely related, and we are almost ready to say that it would be unwise to separate the administrative agency responsible for the three. Bear in mind that the majority of children handled are neglected and dependent rather than delinquent.

To those accustomed to dealing with well-organized courts, with their various ramifications and correlative social agencies, North Carolina methods will seem crude and elementary. On the other hand, the encouraging thing is the fact that the problems of the juvenile delinquent and dependent are receiving more and more thoughtful consideration, the public is being educated; and as the juvenile court becomes a popular county institution, court officials can hope to improve gradually the quality and thoroughness of the work and to acquire equipment in the way of detention homes, more trained probation officers, and clinical facilities.

Flexner and Baldwin, in Juvenile Courts and Probation,[3] suggest the requirements of a court organized on sound principles. These

[2] N. C. Laws 1919, ch. 97.

[3] See Flexner, Bernard, and Baldwin, Roger N.: Juvenile Courts and Probation. The Century Co., New York, 1914, p. ix.

principles I will discuss in relation to the county juvenile courts in North Carolina, as the best means of showing what is being done.

(1) *The proceedings must not be criminal, as under the criminal law, but civil, as found in the chancery or equity practice.* The law establishing juvenile courts in North Carolina answers this requirement.

(2) *The court must be presided over by a judge with a sufficiently long tenure of office to become thoroughly familiar with the work.* The judges of the North Carolina juvenile courts have been discussed to some extent in this paper, and the statement has been made that few, if any, of them had any experience in this line before taking up the work in 1917. They have probably done as well as, or better than, any unit of 100 men holding public office who could have been selected. It must also be considered that they are elected clerks of the courts with no emphasis on the fact that they must serve as judges of the juvenile courts and no requirement that qualifications for this office shall be considered in their selection. Quite a number could be mentioned who, on account of their personality, sincerity of purpose, and intelligent way of dealing with the children, are doing fine constructive work. The pity of it is that the clerk of the court is one of the busiest of county officials, and even though he has the interest of the juvenile-court work at heart, the time he can give to it is necessarily limited.

(3) *When children are detained it must not be in a jail, but in an entirely separate place of detention. The court system at every point must protect and educate the children with whom the court deals.* In carrying out this requirement the juvenile-court work has been seriously handicapped; there are practically no detention homes available in the State, and as substitutes county homes, jails, and any usable quarters have been taken advantage of when temporary care of the child away from his home is necessary or when he has no home. In one town where the juvenile court is getting under way splendidly, regardless of handicaps, several rooms in the city administration building have been set apart as detention rooms for white boys. Said the superintendent of public welfare, when the writer visited his office recently: "This is too lonesome a place for kids to stay in by themselves, so when I have to keep them here I sleep on this cot in the hall outside the door of the detention rooms." Detention under these circumstances can not be for observational or educational purposes and is justifiable only as a recourse in cases of necessity.

The need for detention homes would seem to be so obvious that the indispensable financial support for their establishment would be forthcoming. In our two years' experience that has not been the case, partly as a result of the depressed financial condition and the

inclination of governing bodies to retrench whenever possible. Consequently there is a very decided feeling on the part of the juvenile-court officials that with the establishment of county courts detention homes should be made mandatory.

(4) *There must be a sufficient number of probation officers, paid out of the public treasury, appointed on merit and because of peculiar qualifications for the work. A limited number of volunteer probation officers may be utilized, assuming as a matter of course that their work is supervised by paid officers and that they are held to a strict accountability for their probationers.* Needless to say, the probation work is insufficient and limited in its scope. In many counties the superintendent of public welfare has no assistant. He or she, as the case may be, is responsible for the entire field of work and has not the time to develop personal relationships with the probationers or to supervise them as carefully as is requisite for constructive educational probation work. The volunteer probation officers have the opportunity of doing really more intensive work than the paid superintendents, for they usually take one probationer and devote all their efforts to him.

(5) *The probation office must be conducted in a systematic and businesslike manner, so as to insure efficient treatment of each individual case.* This system and efficiency depends upon the training and ability of the superintendent or the officer in charge. In addition, there must be certain facilities for giving the child proper physical and mental care; for regardless of how thoroughly the court is convinced of the necessity for such care, unless the proper agencies are available knowledge is practically useless. In those counties having health departments organized under the direction of, or working under a cooperative agreement with, the State board of health, physical examination and follow-up treatment of the child is always to be had. The health officer has his office in the county courthouse, where the juvenile court is conducted; and if there is a county clinic it is usually in or near the courthouse, so that physical care of the child is immediately available.

Citation of an illustrative case, recently handled by a juvenile court in a county whose largest town numbers less than four thousand, may be interesting:

A man with his four children was summoned before the juvenile court, charged with violating the school-attendance law and with neglect. An examination of the children by the health officer disclosed the fact that two of them had goiter, one an infected limb, and all were undernourished. Further investigation proved the father morally and mentally unfit to care for the children. A foster home was found for them and the father ordered to pay a small amount from his limited wages for their support. In the meantime, all the children were under treatment by the health officer, and the boy with the infected limb had an operation in the county hospital.

This county hospital, incidentally, was established partly as a result of the work of the county superintendent of public welfare, as he was able to prove the need for such an institution by the deplorable physical conditions found in both his adult and his juvenile cases. In this same county, through the cooperation of the State board of health, the county health officer, and the superintendent of public welfare, 125 children had tonsils and adenoids removed. At the time this was done there were no hospital or clinical facilities in the county, and since many of the children came from remote mountain homes where there were no sanitary conveniences, it was necessary to outfit an emergency hospital. The room selected for it was in the courthouse—a room where dust and trash had accumulated since the Civil War, but which was cleaned and scrubbed and fumigated by a committee from the woman's club cooperating with the board of public welfare. Here the children were first examined for defects and later operated on.

An excerpt from the report of the superintendent of public welfare of the largest town in the State says:

> We have access to the city venereal clinic, where examinations are made and daily treatments are given. We have access to the city tuberculosis clinic and the office of the county physician. In addition to the public health officers and clinics of the city and county, the offices of practically all our specialists are open to our court without charge, examinations are made, operations are performed, and treatment given in numerous cases.

In counties having no whole-time health officer, superintendents of public welfare may act in lieu of the health officer, in arranging for both dental and tonsil and adenoid clinics, and the State board of health will supply the entire personnel for these clinics, including nurses, operators, anesthetists, etc., and furnish equipment for emergency hospitals.

In several counties, the superintendents of public welfare, acting as probation officers and as school attendance officers, have been brought to see the need of such clinics, and have taken the initiative in arranging for them. In many instances they have first to persuade the parents to allow the children to come to the clinics.

Facilities for giving children mental examinations or for studying the exceptional or problematical child are lacking, greatly to the restriction of the usefulness of the juvenile-court work. The State Training School for Mental Defectives and the Central Hospital for the Insane have had out-patient clinics for the benefit of the juvenile courts; but since both of these institutions are overcrowded, it has not been possible to leave children at either place for observation for any length of time—which limits the usefulness of the work. The State board of welfare is conscious of the great need for really adequate means of giving mental examinations and psychiatric treatment to

numbers of children, and in cooperation with the two institutions mentioned is working out a plan to develop and enlarge the scope of their out-patient clinics. This plan will entail a program of institutional extension service, thereby carrying clinical facilities for mental examination to the courts instead of having patients brought for that purpose to the institutions.

GENERAL DISCUSSION.

Mr. PARSONS. Mrs. Johnson's story of the development of the work in North Carolina gives us a good basis for discussion—perhaps there must be a confession of comparative failure in other States which are without any corresponding development of facilities for the study of cases mentally and physically in connection with the juvenile-court work. It moves us all to great admiration that North Carolina is able to tell a story of such accomplishment within a relatively short period of time. Now, the purpose of the discussion is, as you will see, to lead to suggestions as to how a program of mental and physical examination can be put across in relatively rural communities.

RALPH S. BARROW, *State Superintendent, Alabama Children's Aid Society.* What we have done in Alabama is only a very modest beginning in applying health and mental standards to the rural counties of the State. I can hardly say that we have even made a beginning.

We have in Alabama a problem similar to the problem that has just been presented to you from North Carolina, because our State, I think, is in a way a replica of North Carolina. We have only a few large towns. Ours is, as a whole, a rural State, mostly agricultural, and we have in Alabama the same difficulty in applying any sort of mental and physical standards to our children in the rural communities.

The plan of Alabama is in one or two ways dissimilar to that of North Carolina. We have machinery something like their machinery—a machine with a State department over it, and then with the county unit; but the county unit is not a piece of mandatory machinery. It is a machine that is ready to be brought into motion on the responsibility and urging of the county itself. To-day I believe that only seven of our counties have been organized to meet the responsibility that has been given to them and the opportunity that has been given to them by this piece of State machinery.

In each one of our counties we have given the job of the juvenile court over to our probate judge rather than to the clerk, who was mentioned as the one who has the responsibility in North Carolina; and then we have centered our board of public welfare—correspond-

ing somewhat to the one that has been described—around this juvenile court, and we have called it a juvenile-court advisory board for that county. This juvenile advisory board is brought into being in any one of the counties, as I have said, when the county feels that it is ready to carry forward the program on an earnest basis, and it is the job of the State department of child welfare to spread the education, to create the sentiment, and to strike into being these county units. When I have said that only seven counties are organized, you may know just how little of the way we have proceeded—not only with the particular topic that is up for discussion now, but with all the provisions for child welfare that are contemplated in the machinery that we have there lying dormant.

I don't know that I can give anything showing that we have gone any distance at all along the road, except in these seven counties. Alabama's machine was only created two years ago, and you people know better than I do that it takes two years at least to get under way. It took almost a year to get our State department, which is represented by Mrs. Bush, really organized, and with a staff that she could depend on. And that staff is not yet complete. We haven't yet in Alabama the man that we feel can get to the heart of the problem and organize these juvenile courts so that they will do the work and really begin to plow up the field. We haven't the man that we feel can fill that place, and we are still looking for him. I think I should say that for the child-welfare department of the State.

The work in which I am serving is the work of the private children's aid society, which is doing the child-care job. As the juvenile courts in the counties develop their work and reveal the children who should be cared for, outside of their own home, they are given to the care of the Alabama Children's Aid Society, as the Statewide child-caring agency, and the Alabama Children's Aid Society is pioneering in the field of home-finding and child-placing in Alabama.

Heretofore all of the permanent custodial care in Alabama was done by our orphanages, but we are getting away from that old-time and rather rigid form of care into the newer and more adjustable, and—as you all agree—more forward-looking form of care in family homes.

Mr. ANTLES. I have been listening with very much interest to the discussion of the papers, and to the papers themselves, but they seem more than anything else to take in congested districts. I come from a district that is very widely scattered, and it is necessary for us to use very crude means in order to gather the information needed in our juvenile court and in our child-welfare work.

Under a recent law passed by our legislature it is necessary for all children of school age in our State of Nebraska to be given a

physical examination each year. The law, peculiarly enough, says the school-teacher must make the physical examination—you may laugh about that if you want to—that is what it is. I am not here to praise our State for the things she has done, but I am here to get ideas to take back home and see if we can not do better. I have an idea that some of you folks are laughing at Nebraska for requiring that, when you have no physical examination whatever of the many thousands of your children in your own home State. Cooperation in our State is the only watchword that we have for doing the little work that we are able to do along these lines, and in order to get that done we must cooperate with the health bureau, with the child-welfare bureau, with the division of child hygiene, and with the State superintendent of education. We must all work together or we can not get anywhere. We started out last year.

We must have the physical examination of these children. We must know for propaganda purposes the exact situation of the children in the State so far as their physical and mental conditions are concerned, and also their playground conditions. We therefore cooperated with the State superintendent of education in order to get him to send out a circular letter to each teacher in the State so that we might get back the necessary information. The letter from the State superintendent went to a great number of teachers, and we were able to get back about 40 per cent of answers to the questionnaire. Thus we have the necessary propaganda material to place before the next legislature in order to get more funds to carry on our work.

We found out the number of mentally defective school children among those examined by the teachers. Of course, the teachers can not tell much about it, that is true, but they can tell something. If a child has adenoids so that he can scarcely talk, or has throat trouble so that he can not swallow, or if he can not hear or see they know there is something wrong, and they send that information. Therefore we are trying to cooperate to get physical and mental examinations started. The propaganda was pretty good, for the last legislature gave us quite a boost in the line of supplying us with things we really need. We were able to secure a considerable increase in our budget for the child-welfare work of the State; we were able to get a considerable increase in our budget for the health of children in the State; we were able to secure a director of child hygiene, which we never had before. So I think cooperation spells success.

Cooperation is the watchword that will spell success if you will work in your community and inform your community, especially in widely scattered territory; you have to cooperate where a great territory must be covered—cooperate with the health bureau, the child-welfare bureau, the vital-statistics bureau, the hygiene bureau, and

everything else that you have in the State. Get them all to sing the praises of child-welfare work and probation work, and you will get along a good deal better.

G. CROFT WILLIAMS, *Secretary State Board of Public Welfare, South Carolina.* It was very interesting to hear Mrs. Johnson tell about the work in North Carolina, a sister State of ours. I am going to take the liberty of breaking this discussion just long enough to tell a little story, and I am sure that you will appreciate it.

Many years ago, when it was undecided where the boundary line was between North and South Carolina, the governors had appointed a commission to survey that line. Before the line was run there was an old lady who was very fond of her North Carolina home. She had paid taxes all of her life to North Carolina and considered herself a North Carolinian, but when the survey was made the line was run north of her home and she was placed in South Carolina, and she said: "Oh, Lawd, I can not live down there, it is too unhealthy."

In South Carolina our probate judges are our juvenile judges. I think if you are going to use any judge as a juvenile judge other than a judge that does juvenile work alone the best judge would be the probate judge. He does not come fresh from a criminal court. He does not have the idea of the recorder to get as many as possible into the toils of the law. He comes there with an idea of protecting women and children, as the probate court was organized to do.

In South Carolina all our probate courts are juvenile courts. The consequence is we have gotten very good results, so far as the courts are concerned. I know that a great many of our juvenile judges hold that the judge is nine-tenths of the court and that the social worker is one-tenth. It is natural for the juvenile judge to feel that way, but it seems to me that in a good juvenile court the judge is one-tenth of the court and the social workers nine-tenths, because we are looking at treatment and not at administration. So now in our State the great trouble is not that the judges do pretty much as they desire to do, but it is to get adequate social help. In the city of Charleston we have a juvenile commission supported by the city. This commission has done remarkable work in looking after the children and when necessary in carrying them through the juvenile court.

We found out that these probate judges stay year after year in their offices. They are elected, and they are willing to take advice, because the juvenile work carries them into a field that they are not familiar with. You take the ordinary judge, he is never conscious of being fallible—he is an infallible creature—you can never advise him. That is the ordinary judge. Now, the probate judge is open to advice. When it comes to the handling of children—he was not elected to do that—he does not feel especially qualified to do it and

is usually open to all kinds of training. And we have gotten very good results from our probate judges—much better results than we expected to get.

When it comes to the physical and mental handling of the children we have to do that largely from the center. I mean that when it comes to the handling of the psychological examination and things like that they have to be carried on by our central office. We do all the child-placing in the State, and we also control all of the State juvenile institutions, besides having the supervision of all delinquent, dependent, and defective children in the State. We also have to license annually all child-caring institutions and all charitable institutions in the State.

By that means we in South Carolina are able, without any very strong local organization—we need strong local organization—to carry on some kind of a program for the betterment of children, and thus far we have done quite a bit for children. I am sure that we have helped child life on a great deal. We have had a great deal to contend with, a great deal of inertia, a good deal of ignorance, but with all that the steps that we have taken have proved of great assistance.

Our State is largely a rural State; 72 per cent of our population is rural. We have only two cities of over 25,000 inhabitants and only about four cities of over 20,000 inhabitants. So we have got along as best we could, and our probate-judge system has proved so useful that recently, when we wanted to set up, if possible, a more effective system, we decided that we would put work on the probation office and on social workers, rather than make changes in the system of probate-court judges.

ELMER SCOTT, *Executive Secretary, Civic Federation, of Dallas, Tex.* I am going to refer you to the United States census and to a map of the United States for our size, population, and statistics. I am going to speak specifically for a moment on the subject of juvenile courts, not as a judge nor as a probation officer, but simply as a layman and citizen, and if I use any language that is untechnical, please overlook it, because I don't know the language.

The question is: How can the program for physical and mental examination be applied in small cities and rural communities? Now, I am assuming when you speak of a rural community that it includes the county as a unit, because if there is no city of any magnitude in a district where there is a juvenile court, if there is such a situation, then the rural community would be the county as a whole.

In Dallas we sought two years ago to develop a psychopathic clinic in conjunction with the juvenile court, and we did it, not as a definite proposition, but as an experiment. An organization that had some little vision persuaded the judge and the commissioners that it might

be established for three months for the purpose of experimenting. Experimentation was carried on in this way: We had, fortunately, in Texas a very excellent psychologist at the Girls' Industrial Training School, who came down to Dallas once a week. We also had two or three men who were competent in mental diseases and who gave their services once a week. Clinics were carried on two or three months, to the intense satisfaction of the juvenile court and the probation officers, who without exception looked forward to having the thing financed so it would be permanent. And then came a thunderstorm between the county judge and the county commissioner, and there wasn't any possibility of getting anything across with the county commissioners and police department. But we did not give up. Just because we were blown up, we came down and lit on our feet.

Now, what was the result? After the storm came an earthquake. The earthquake was the decease of the county judge who was in favor of this clinic, and then came the election of the same county commissioners. They did not care whether the clinic was put in or not. But I want to tell you something that will interest you. I think that one fault of social workers is to think that social vision does not exist when it is really only quiescent; in other words, there is social vision, but not social understanding, and the thing is to arouse that social vision into a social understanding; and out of the social understanding comes a belief in social method. It is simply a sequence or process in the nonsocial mind—not antisocial mind; and I think we call political officers frequently antisocial when they are nonsocial.

The fine thing after all is that to-day the very person who did the psychological work in connection with that experimental clinic two years ago is the head of the record division in the juvenile court, in the probation office. And we believe this—that if we want to get any program that carries with it the need of a new social method, the basis of that program is an accurate record of things, as best you can get them. And therefore we are laying the foundation in the juvenile court—I simply as a layman on the outside, a sort of father adviser—and we are making records in the juvenile court to the end that there will be a social vision and social awakening as to the nature of these things.

I want to tell you this, that within four months from to-day the record system that is being put in skillfully and scientifically, and with the initiative of this apparently nonsocial county judge, is going to prove the necessity of the very thing that we experimented with two years ago and feel we fell down on. That is what I mean. I believe it is an educational process; I believe it is a process of going about the matter sincerely, patiently, and actively and not superimposing some new, high-brow stuff on a lot of people who have no more conception of what psychopathy is than I have, perhaps. In other

words, you can go down to your cook and you can say to her that you want the culinary department to be taken care of—and she will look at you in blank amazement. But if you tell her you want the cooking well done, she understands you perfectly well. So we have to do it that way in connection with psychopathy.

Mr. PARSONS. It is perfectly evident that you can call upon this gathering of people at random and get something worth while. I wish we could go on with the discussion in this matter. I don't like to leave you with the idea that down South is the only outdoors country. There are rural sections of some other States besides North and South Carolina and Texas and the States lying between them, but we haven't time to discuss the topic any further.

We are now to turn to the general topic of adjusting treatment to individual needs. I personally had the satisfaction and education a few weeks ago to deliberately, and I think quite thoroughly, examine the work that was done in the Philadelphia municipal court, under Dr. Robinson's direction. From that experience and observation I am ready to say I don't believe there is anybody better fitted at this moment to speak from the standpoint of his own experience in an administrative capacity in organization than is Dr. Robinson on this matter of the individual application of treatment, the treatment of the individual need.

ADJUSTING TREATMENT TO INDIVIDUAL NEEDS.

LOUIS N. ROBINSON, PH. D., *Chief Probation Officer of the Municipal Court of Philadelphia, Pa.*

With its usual understanding of the perplexities as well as the peculiarities of speakers, the Federal Children's Bureau outlined my address quite thoroughly, leaving to me merely the filling in of details. Summarizing the advice of the bureau, I find that I am called upon to speak on three topics: (*a*) The organization of a probation staff, (*b*) the handling of cases by the probation staff, and (*c*) institutional facilities which are needed by a juvenile court to supplement the work of its probation staff.

It should be recognized at the outset that, with reference to each of these three topics, "circumstances alter cases." Among some of the conditioning "circumstances" are the number of cases that come before the court, the extent to which the court allows the probation staff to assist in the handling of cases, whether the juvenile court is part of a larger court handling other family problems (as does the Municipal Court of Philadelphia), the development of private philanthropic child agencies, and the general atmosphere of the court itself—whether, for example, it is striving earnestly to develop its

technique and to make old laws work in new ways, or whether it is content merely to do what under the law it is compelled to do. As just one example of many that might be adduced, illustrating in this instance the effect of the size of the court on the organization of the probation staff, let us consider for a moment the position of the chief probation officer.

The various kinds of work that may fall on a probation staff may be roughly grouped as follows:

A. INSIDE WORK—
(1) Taking of complaints in delinquency and neglected child cases and of requests for relief in dependency cases.
(2) Planning for the disposal of the cases.
(3) Sifting out of cases for the court.
(4) Presenting of cases to the court.
(5) Supervision of the work of probation officers, including the reading of records.
(6) Maintaining relations with outside agencies and institutions.
(7) The preparation of a report.
(8) Planning forms and records for use of staff.

B. FIELD WORK.
(1) Investigation of cases, including medical and psychological work.
(2) Adjusting complaints in the field.
(3) Supervision of cases on probation.

In a small court the chief probation officer, aside from his title and pay may have no different function to perform than that of the ordinary probation officer, most or at least a large part of the tasks mentioned under the heading "inside work" being carried on by the judge himself. On the other hand, in a larger court the judge may find his time fully taken up in hearing cases and in rendering decisions thereon, leaving to the probation officer all the inside duties. In the latter case we must distinguish between that form of organization in which the chief probation officer is the only office official, aside from stenographers and clerks, carrying all the tasks that I have designated as inside jobs, and that other form of organization where a staff of office assistants, supervisors, complaint clerks, referees, court representatives, statisticians, etc., has been built up to relieve the chief probation officer of much of the detail of administration. In a court having jurisdiction over many kinds of cases—such as domestic relations, streetwalkers, misdemeanants, and certain classes of felonies—as does the municipal court of Philadelphia, the chief probation officer of the entire court must of necessity assume a part of the duties which in a separate juvenile court would be borne by the chief probation officer of the juvenile court alone. Manifestly, one can see from a discussion of the varying position of the chief probation officer alone that it would be impossible in a paper

of this length to discuss in any detail the topics which I have been asked to take up. I shall therefore limit my paper to a discussion of a few of the problems of organization, work, and institutional needs.

The organization of a probation staff.—In organizing a probation staff, it has seemed to me that the charity organization societies have many features which might well be copied in toto. I believe that the principle of one worker carrying the case from the beginning is a good one, and therefore I disapprove of dividing the staff into investigating and supervising groups. Even in cases of neglect, where this separation is especially urged, there seems to be no good reason for it, as the probation officer is usually looked upon as an impartial third person who will listen to both sides. However, unless the court sits each day, and it is possible to develop each probation officer to the point where he can present a case clearly and concisely to the court, it is doubtful if this principle can be entirely adhered to when it comes to bringing the cases before the court. It may well be that some one person, either the chief probation officer or some probation officer especially well equipped for the work should take upon his shoulders the task of preparing a summary of the case, and of handling the case in the courtroom. As a matter of fact, I believe that private agencies would have better results with their court cases if they would develop an especially equipped representative to present their cases to the court. In our juvenile court all the large placing-out agencies for children have representatives present at the court hearings, and those same representatives also make all the contacts with probation officers on individual cases.

The principle of charity organization societies of careful supervision of the work of each individual case worker is also a sine qua non of good probation work, but I doubt whether it is advisable to organize local offices. General administrative reasons, contact of supervisors with each other and with the court, and the strictly legal machinery of the court will probably operate against the setting up of local offices. But the need for supervisors is not affected by the centralizing of the offices. The city of Philadelphia has been divided into five districts, with a supervisor for each district. Each supervisor has 10 or 11 probation workers under her. It would probably make for better work if there were more districts and fewer probation officers to each supervisor, as our supervisors take the complaints and do much routine administrative work, as well as reading the records. We have taken another leaf out of the charity organization society's book and given to each supervisor a stenographer to assist her in keeping track of the daily work, to take and to answer calls that come in over the telephone, and to transcribe under the direction of the supervisor summaries of cases committed to agencies or insti-

tutions. This secretary is in addition to the stenographers who take dictation from probation officers.

The work of a probation staff.—While it is customary to speak of the work of a probation staff as consisting of the investigating and the supervising of cases, attention should be called to two other tasks of genuine importance, namely (*a*) the taking of complaints or petitions in dependency and (*b*) the working out and recommending of plans to the court for the disposal of cases.

With us the complaints or petitions in dependency now go direct to the five supervisors of districts. They listen to the stories and decide whether to try to persuade the individual to drop the matter or to refer to another agency, public or private, or to file a petition immediately, or to send a probation officer out to investigate the situation. All sorts of petty complaints come in to the supervisors, many of which can be settled either by the supervisor in the office or by the probation officer in the field. The case may be one where the parents are responsible people willing to settle for the damage that their child has caused, and capable of giving to him better oversight now that they know what he is doing. Or the case may be one of neighborhood quarrels between children, where little blame can be attached to any one child. Sometimes it means referring the case to the bureau of compulsory education. In dependency cases family relief agencies must be called in to help, since the only remedy that the court can offer will mean the placing of the child or children in a foster home or in an institution. Often purely civil cases come in, and these are promptly referred to the "small claims division" of the court. Sometimes it is advisable to bring the case before the referees—four probation officers, two men and two women—who sift out cases daily, sitting at the juvenile house of detention. Altogether, there is a large amount of work of this kind, which takes up time and requires a full knowledge of the social resources of the city, as well as patience and tact.

In working out plans to lay before the court for the disposal of cases, a probation staff may perform a very valuable and time-saving service for a court. Particularly is this true in a court with jurisdiction over dependency as well as delinquency and neglect cases. For example, the probation officer has time to get in touch with placing-out agencies or with child-caring institutions, and on the basis of her findings suggests to the court a plan for the placing of the child which allows for all the contingencies in the case. Or take an example from the delinquent side. In Philadelphia there is a private agency which makes a specialty of placing difficult children. Its resources are such that it can handle but few. However, it is decidedly worth while to find out if this agency can find a place for some particular child that is about to come before the court. If

informed in time an agent of this society comes to the probation office and the supervisor, probation officer, and agent of the society go over the case together to determine whether or not the agency can take the child. Or let us take yet another example of a delinquent case. As already indicated, four of our probation officers, two of whom are the superintendent and the assistant superintendent of the juvenile house of detention, act as referees, hearing all arrest cases and disposing of the minor ones not subject to commitment. Their decisions for discharge or probation are approved automatically by the court. Many other examples might be given of this kind of work which can be done by a well-organized probation staff. It may be interesting to note in passing that over seven in every ten cases brought to the attention of the juvenile division of the municipal court of Philadelphia were settled by the probation department without bringing the cases into court.

In 1920 the arrest and complaint cases in juvenile delinquency, neglect, and dependency brought to the attention of the juvenile division, and which were within the jurisdiction of the juvenile division and were disposed of before the close of the year, numbered 8,757. Of this number, 6,273, or 71.6 per cent, were adjusted before the close of the year by the probation department.

Going back to the problem of investigation, let us consider first the problem of physical and mental examinations. It seems to me that in the case of delinquent children, we should keep firmly in mind that our main problem is one of conduct, and that however important it is that the child's physical well-being be looked after, we must yet remember that the real task which we have to accomplish is to bring about a better adjustment of the child's relations to the people about him. Speaking generally, it seems to me that the task is one for the psychiatrist and the psychologist, with incidental help from the regular physician—not the reverse, as sometimes happens.

Should all children coming into the court be examined? I would say that all those placed on probation, or likely to be sent to institutions or to child-placing agencies, should be examined. In our Philadelphia court, all who go to institutions or to agencies are examined, and a medical report accompanies each child to the institution or the agency. I believe that there is entirely too much "doctoring" of children by probation officers on the basis of inadequate diagnosis. In supervising a child on probation, the probation officer is dealing with the most complex thing in existence—a child's personality—and I frankly do not believe that most probation officers are adequately equipped to do this supervising wisely or well. Ideally, there should be, first, a social investigation; second, a mental examination, with the examiner conversant with all the facts learned by the probation officer, rather than sitting along with the judge and

having his first look at the child in court; third, a physical examination; and, fourth, a conference of all concerned, with the supervisor and chief probation officer sitting in. Only then should the probation officer begin his or her task. To rush into a home and tell the mother that Johnny must now behave because he is on probation, and to run in again in a week or in a month to see if Johnny is still holding his own, is a procedure about as capable of accomplishing wished-for results as setting a pick and shovel man to repair a Swiss watch. I realize that we must be patient and grow into good work; that psychiatrists, psychologists, physicians, and good probation officers are not to be had for the asking, and that the public is not yet educated to an understanding of the task which it has begun. And if it were not for the fact that the human animal has already stood the shock of all kind of experimenting during the centuries of life on this planet, I would, I fear, lie awake nights trembling over the young lives that might be ruined by well-meant efforts of probation officers. If we are to do good work, the instruction and education of probation officers must never cease. In Philadelphia we are doing something along this line. We have regular monthly lectures by noted men to all the probation officers, and each district has held several meetings with the physicians and psychiatrists in charge of the medical work of the court.

In supervising cases placed on probation, I think it is essential to realize how slight after all is, and must be, the contact between probationer and probation officer. A visit a week is perhaps as much as we can ordinarily expect. Supposing that to last twenty minutes or even an hour, what is 1 hour in 24, or rather in 168, when other influences are beating in on the child constantly all the remaining hours of the week. A friend of mine to whom I made this remark replied: "Yes, that is so; but the influences that can be set in motion by the probation officer during the one brief visit a week may be far-reaching and produce an effect throughout the week, not for the one hour only. What about clubs which may be opened to the boy? Schools that can be told how to assist? Parents who may be advised how to deal with the child? And all the other agencies that can be called upon for aid in the cause of better boyhood and girlhood?" I admit the possibilities; but I insist that this is a much more delicate and subtle task than it has usually been admitted to be, and should be undertaken only after the most careful diagnosis of the child and his surroundings. If this work could be accomplished in a routine fashion by routine people, if there were always agencies capable of helping a child, if good influences in general were so easily marshaled, then we ought to be thoroughly ashamed of ourselves for having a juvenile court and all its paraphernalia at all.

Except in plain cases of feeble-mindedness and insanity and where home conditions are impossible of improvement, I feel that it is right to give every child a chance on probation, although, of course, if there were institutions made to fit the various types of children, I would probably wish to modify this statement. For example, if, when summer time came and the schools closed Boy Scout camps could be opened for the boys who get into trouble, it might be best not to place the boy on probation at all but to send him to the camp. If camp life is good for the rich boy, I can see no reason why we should not approve of it for the poor—for it is usually the poorer classes of children who come before the courts. In Philadelphia practically all children, with the exception of those noted, are given an opportunity to make good on probation before being sent to an institution or turned over to a child-placing agency. One other question in regard to supervision of children on probation: Who is to do the medical work which is necessary? In my opinion, it should be part of the task of the probation officer to carry out the instructions of the examining physician. An additional worker usually makes trouble, often giving contrary advice to that which the probation officer gives, and making arrangements for the child which conflict with those of the regular probation officer having the case under supervision. Parodying the English slogan of some years ago, "One man, one vote," it would be well to put on our banner the watchword, "One child, one case worker." With the exception of prenatal work and that with tuberculosis and venereal diseases, for which we have special facilities, the medical work in our court is attended to by the regular probation officers, who report, however, to the medical department what they have accomplished.

Institutional needs.—A probation staff, even though large and well organized, does not do away with the necessity of institutions to round out the work of a juvenile court.

What should be the institutional facilities at the disposal of a juvenile court? I would say, first, a detention house. We are all agreed that children who come before a juvenile court ought never to be held in jail. The Boston court over which Judge Cabot presides is admirably served by the Children's Aid Society, but Suffolk County as a whole still suffers from the lack of adequate detention facilities for children. Considering the development of private philanthropic agencies, or rather the lack of them throughout the country, it seems to me that it would be well to work for detention houses in nearly every place where a juvenile court has been established. It must not be forgotten, however, that it is not necessary to hold a very large percentage of children at all, as they can in the great proportion of cases be safely allowed to return to the custody of their parents. Dr. Healy finds no difficulty in examining the

children, although he has no detention house in which to observe them.

I believe, too, that industrial schools for certain types of boys and girls will continue to remain a necessity. True, the more we develop an adequate placing-out service, either by public or private agencies, the less will be the need for such schools. One may envision hundreds of foster homes where all the elements of child training have been so carefully cultivated that troublesome boys and girls may be placed in them directly without ever having had any preliminary training in an institution. We shall probably have to go through the institutional stage. When it becomes an easy matter to find good homes to which paroled children may be sent from institutions, it will be time enough to talk about eliminating entirely the institutional step.

Mention has already been made of summer camps for boys, on the theory that what is good for the sons of the rich might prove good for the sons of the poor. It would add too much to the length of this paper to go into any details concerning such a camp, but it might be well to read in William George's book on the Junior Republic [4] how the George Junior Republic grew out of such a camp and why it was advisable to get away from the theory of a place where everything should be given to the boy without any effort on his part. There is, of course, no reason why this idea of a summer camp should not be aplicable to girls also.

We in Philadelphia have felt the need of supervised boarding homes for both boys and girls of working age. We have one such home for boys in the Elliott House. The boys all hold positions and pay a reasonable price for their board and lodging. It is a real home for the boys, something which many of them never had. There should, in our opinion, be a similar one for girls.

There should be, as there very often is not, a sufficient number of institutions for defective children needing custodial care. In Pennsylvania, for example, we are laboring under the handicap of lack of institutional facilities for feeble-minded children. There is continuously a large number of children on the waiting list, and we have been compelled to work out a makeshift arrangement with the city departments of public health and welfare to care for these.

Typical, perhaps, of the situation elsewhere is the movement in Philadelphia, fostered largely by schoolmen, for the establishment of a boarding parental school. Not long ago I heard a well-known worker in the children's field say that the parental-school idea was entirely out of accord with modern ideas for the care of children. Perhaps he is right, but some concession should probably be

[4] George, William R.: The Junior Republic; its history and ideals. Appleton and Co., 1909.

made to those who on account of the present state of public intelligence see no way of solving their troublesome problems for the present, at least, except through the parental school. Without much hope of further intensive work with children in school classes, with a totally inadequate staff in the bureau of compulsory education, with a full realization that probation can solve the problem only in part—nagged and annoyed by the number of truants—it is no wonder that schoolmen have taken the stand that a boarding school controlled by educational authorities would be far better than sending a child to the ordinary industrial school or reformatory or letting these uncontrollable children run the streets. Personally, I hope that special day schools and special work in the school and in the home, plus good probation work, will solve the problem of the truant; but I am not at all certain but that there will be a remnant for whom detention in a parental school might not be decidedly advantageous. There will always be a conflict in aims between those who are looking ahead, deciding what should be the goal, and those who are burdened with the task of doing the work of the present. We must not create obstacles for future progress, but we must not be blind to the very real problem of those who carry the burden of the day.

I have not touched upon the institutional needs of a court handling dependent children, or whether there is any need for such institutions. That subject brings up so many questions that there would not be time to present them even in brief.

In closing my remarks, I feel that it may not be out of place to call attention to the fact that each juvenile court rests in a political and social bed, not of roses but usually of thorns; and the direction of progress that one court may find it advisable to take may not be the direction in which another court has moved. There are many currents of thought—religious, political, and social—that must be taken into account in planning how to attain the goal. What is possible in one city or county may not be possible in some other city or county. If we keep our mind on the one question—the good of the child—and do not turn down the means that God has placed in *our* hands to accomplish it, we shall progress.

JESSE P. SMITH, *Chief Probation Officer of the Juvenile Court of St. Louis, Mo.*

The first juvenile court of St. Louis convened in the old Four Courts Building on May 4, 1903, the result of a law passed by the State legislature, which went into effect March 23 of the same year. The movement was first inaugurated by a committee of women from the Humanity Club, and the court was established as a protest

against existing judicial methods of dealing with children. Children had been kept in police cells and jails in company with the worst offenders. The natural result was that they were educated in crime, and when discharged were well fitted to become the expert criminals and outlaws who have crowded our jails and penitentiaries. The State had thus educated innocent children in crime, and the harvest was great.

The principle of our law is that no child under 17 years of age shall be considered or treated as a criminal; that a child under this age shall not be convicted, imprisoned, or punished as a criminal. It recognizes, of course, the fact that such children may do acts which in older persons would be crimes properly punishable by the State, but it provides that a child under the age mentioned shall not be handled so as to leave a stain of criminality, or be brought even temporarily into the companionship of men and women whose lives are vicious and criminal.

The juvenile court is a division of the circuit court and is presided over by a judge of that court, appointed in general term. We have 20 probation officers—9 men and 11 women—whose appointment is made on a basis of merit after a public competitive examination. The chief probation officer is in charge of the work; 14 officers supervise the children; 2 make investigations; 3 serve as office assistants.

Investigations.—An investigation of the home, family conditions, environment, habits, associates, and school and employment records is made for each child before the hearing. This work has been specialized and is in the hands of a man probation officer for the boys and a woman probation officer for the delinquent girls and neglected children. The information which is obtained from the child, parents, relatives, and any school or agency to which the child may be known, is typewritten on blanks for that purpose and placed before the judge.

Supervision.—The probation officers accomplish the supervision of delinquent boys, both by written reports of parents and teachers brought to the office by the boys themselves and by visits to the homes. The boys employed make their reports in the evening, the office being open on Tuesday, Wednesday, and Thursday evenings until 9 o'clock. Children out of town report by letter. The frequency of reports and visits depends largely on the cooperation between the officers and parents, also on the child's progress in school. The delinquent girls are supervised by women and are usually visited in their homes. The girls may be required to call on the officer at her home, but never at the probation office. All neglected children are supervised by visits to their homes. Two colored probation officers, a man and a woman, have charge of the colored children.

When a delinquent child who is a ward of the court has failed to improve, and the officer in charge believes that a change of environment or institutional training is needed, he makes out a special report showing what he has done for the child since the last hearing, the cause of the present trouble, and the recommendations for treatment. This report, along with a petition charging violation of probation or parole, is presented to the chief probation officer for consideration. If he approves, he files the petition with the clerk; and the child, with the parents or guardians, is summoned into court. The report is handed to the judge, together with the daily record cards showing the child's progress from week to week after each report or visit. This, in a measure, is an indication of the efficiency of a probation system. The policy of the court has been to keep children in their homes, so far as possible, and out of institutions.

If the home of a neglected child can not be improved, the officer in charge files a change of custody application, recommending the name of the person or the institution willing to receive him. The child and his parents or guardian, together with the person recommended to assume the child's custody, are summoned into court for the hearing.

On the recommendation of a probation officer, the supervision of a ward may be terminated by an order of court. The child, if not at school or work, is brought into court and is formally discharged by the judge. If the child can not appear, notice of his discharge is given by the probation officer who has had him under supervision. The average length of the period of supervision is from 10 to 12 months, though some children are kept on probation for years as a protection to them.

Volunteers.—The volunteer probation officer, receiving children from the judge and responsible to him for their progress, is seldom resorted to in St. Louis. The whole responsibility for the child's welfare is placed in the hands of a paid probation officer, who in some instances may avail himself of the services of a volunteer, although ultimately he is responsible for the child.

While the court has not favored the use of volunteer probation officers, yet it has realized that much assistance could be afforded the regular probation force by men and women who would take an interest in unfortunate families and devote some of their time to the work of assisting and improving the conditions of the children coming before the juvenile court. It has, therefore, welcomed and encouraged the formation of the Big Brothers, Big Sisters, and other associations. These organizations not only render valuable and efficient services in helping families and children, so as to make the in-

tervention of the court unnecessary, but they are in a position to render further valuable services in the cases of boys paroled from the Missouri Reformatory and of girls paroled from the State Industrial Home for Girls, or from other institutions. Furthermore, the members of these organizations aid in solving some of the home problems by evincing not only a friendly interest in the child but in the grown members of the family as well. A representative of the Catholic Church and a representative of the Federation of Protestant Churches attend all sessions of the juvenile court.

Department of hygiene.—The hygiene clinic in connection with the juvenile court was established at the Children's Building in 1918, through the aid of Dr. James Stewart, director of hygiene for the St. Louis board of education. Before this time the juvenile court had to depend upon the volunteer aid of several public-spirited physicians. A physician from the staff of inspectors of hygiene in the public schools was placed in charge of the clinic, and was assisted by one of the school nurses. The physician is at the Children's Building every afternoon, Wednesday mornings, and sometimes for an hour on one or two other mornings. The duties of the physician in charge of the clinic is to take nose and throat cultures of every child upon entering the Children's Building, to make a complete physical examination of every new case, to treat all children who become ill while in detention and to examine all girls suspected of immorality, disease, or pregnancy. Cultures are again taken of every child committed to any institution, and they are examined for any skin or other disease in order to give the institution a "clearance card," which guarantees the child to be free of any contagious, infectious, or venereal disease. The physician also pays special attention to the examination for any physical or mental defect which may be the cause of the child's delinquency, and if any such defect is found he makes his recommendation to the court for the special treatment to remedy the defect. Cases that demand unusual attention for mentality are sent to specialists who are qualified to pass on them.

GENERAL DISCUSSION.

Mr. PARSONS. We shall probably have to limit to 10 or 12 minutes at the most the discussion of these two interesting papers, introducing many topics for discussion, because we want some time to devote to the matter which is the culmination of the whole of these sessions that we have been having in cooperation with the Children's Bureau.

Now, in the few minutes that we have, let us make any short contributions of any ideas that may be presented here in regard to methods of supervision, with emphasis especially on the conditions

in rural communities. Judge Sellers, couldn't you tell us a little bit about case supervision in your court as a standard?

Judge SELLERS. I have a very strong feeling that many of the people here have thought that our discussion has run too much to the larger problems, problems of the larger courts, and that we really ought to have some discussion that would be helpful to the people who are working in small communities.

In Washington we have about 400,000 population, and we have, I think, about 1,000 children and adults on probation.

I am a strong believer in case supervision. I think two heads are always better than one, and if you have three and four heads you get that much out of it.

About two years ago we appointed the assistant chief probation officer as case supervisor. We have about 10 probation officers. Miss Duckwall is a person admirably fitted for this work, and she supervises the work of the probation officers. That means she knows about all of the cases and that she picks up, when it is called to her attention, the discussion of any particular case.

I think that this supervision is a good thing for the probation officer, a good thing for the court. When about two years ago I first mentioned having this supervision I was visiting a court, and the chief probation officer said, "We have the utmost confidence in our probation officers, and we would not want to think for a moment that every probation officer would not handle his case in the proper way." I said, "That is not the question; that is beside the mark; these cases are difficult, and we want to do the right thing and help the probation officer." And I personally want to know about every child that comes before me, whom I have got to commit or deal with at all; I want to know about that case. I don't want that case passed before me by somebody else's saying, "This is all right," and O. K. it. I should not like the responsibility of a position of that kind. I don't want a boy brought before me until I have had a chance to talk with the person who is handling that boy. I have the utmost confidence in the probation officers and believe what they say. And I am willing to take an hour every morning to discuss these cases with the probation officers, in view of the one case in which I may be able to suggest something that may help.

Miss MAY E. DEANE, *Probation Officer, Juvenile Court of Kalamazoo, Mich.* We have a rural community, a county with one city, and we have the assistance of every able-bodied person. We have a very able corps of psychologists and psychiatrists and physicians from the State hospital, who are paid by the State and are working with us. They are doing some clinic work in other rural counties. And I want to say for them that no boys or girls are committed for any

offense until this corps of officers has examined them carefully, mentally and physically, and sometimes more than once; and the family history is studied, and we see not only what the child has done but why he has done it. We depend upon these psychologists to show us this.

Miss CAMPBELL, *of Kalamazoo, Mich.* It will take a very few minutes to tell what we do. We have our headquarters at the hospital at Kalamazoo, and we conduct four monthly clinics. There is need for more work, but we lack time and help to do that. We have many patients who are brought in from small country towns and from rural school districts; they are brought in by school boards or by physicians, and many of them are sent in by the poor officers. We are very careful that we never condemn a child as a fit subject for an institution until we are sure that it is the last resort for that child, and each child is given very careful physical examination. We do not depend on any one examination as final, and a child frequently reports to the clinic month after month, for possibly a year, in the hope that advice to the child himself or to parents may help him solve his problem.

Mr. PARSONS. If we were going to take time for discussion of supervision of cases in the comparatively rural courts we would want someone to tell us about the organization of the community to help in that supervision.

My observation in the work in Massachusetts in the smaller courts is that the successful probation officer succeeds in organizing his community to a very great assistance in the supervision of his cases.

Something has been said here about the probation committee cooperating with the court, and I wonder if Mrs. Baldwin, of San Francisco, will tell us about the value of the probation committee in its cooperation with the court in the supervision of cases. We want to know what the probation committee is for and what it does.

Mrs. BALDWIN. I was going to say that I felt myself greatly in the minority, Mr. Parsons, as representing a probation committee. I know a great many people do wonder about what a probation committee is and what it is for. When we wanted the law in California way back in 1901 we were closely following Chicago and we formed a committee representative of the various charitable and child-caring agencies that would be interested in having such a law. That committee was composed of 21 persons, and in the drawing of the law we provided for this probation committtee to take charge of the detention home and to employ the probation officer. But, of course, when you first have a law, you can get the law but can not get the salary, and the probation committee was originally formed to provide salary as well.

For two years these women furnished the salary of our first probation officer. Two years later we got the salary from the legislature and got another provision in the law providing for a committee of seven—which, of course, was a more workable committee. It was originally representative of the various interests concerned in child-caring institutions and representative, as you may say, of the public.

When there is a vacancy upon that committee the appointment is made by the superior judge, upon recommendation of the committee—so in a measure we are like library boards, self-perpetuating. We have charge of the detention home. We seem to be a medium through which the judge and the work of the court may reach the public, and through which the public interest in the care of the child is expressed to the board.

Perhaps we do not fulfill our obligation quite as well as we might, but still we do try to keep in touch. We have a committee on relationships and a committee on legislation. When we decide that salaries need to be increased we are the ones who go before the supervisors or go up to the State Legislature to arrange about that. We are representative of the larger community interest. We are just about the same committee that started out; we have the same judge. In some places in California we do not agree that that is the best way. However, we have found that our work is going on, and we try to keep up with the rest of the community and with the rest of the country.

Mr. PARSONS. Is the probation committee common in California, and is it the ordinary form of organization?

Mrs. BALDWIN. It is the ordinary form of organization. I would not say that other probation committees are quite as active as our committee. You must have a secretary—the probation officer. Both the detention home and the probation work should be in his hands, and he is the man who keeps this committee going. You can not have a committee unless you have a good secretary—a good probation officer—and keep him busy and let him know the needs of the work.

Miss LUNDBERG. The San Francisco probation committee has not only done a fine piece of work, with Mrs. Baldwin as its chairman for a number of years, but it has been demonstrating the possibilities of a referee for girls' cases. Mrs. Baldwin has given her services as referee for the past two years.

Mr. MOSS. Is the committee recognized in the law?

Mrs. BALDWIN. Yes, it is; the committee has to make recommendations; the committee selects the officers, holding specific examinations, and recommending appointments.

Mr. PARSONS. This naturally leads us, if we were going to take up one other phase of this organization, to the probation commission—

an institution which exists, I think, in only two States, New York and Massachusetts. To get either Mr. Chute or myself talking on that subject would absorb the rest of the afternoon and the rest of the evening.

CHARLES L. CHUTE, *Secretary of the National Probation Association.* I understand that in the State of California there is a great deal of interest in establishing State supervision. In addition to their committees there seems to be need of State supervision and coordination of the work, and I have had considerable correspondence from people in San Francisco and Los Angeles who are interested in getting a State supervised system similar to ours of New York. A great many other States feel the need of more than local organization and development, and I believe that one thing is coming; and our association wants to make that one of its principal lines of attack—the development of State commissions or bureaus or departments to promote socialized courts and also of State associations of probation workers.

COMMITTEE ON JUVENILE COURT STANDARDS.

GENERAL DISCUSSION.

Mr. PARSONS. As the final feature of the program of these conferences, held by joint action of the Federal Children's Bureau and the National Probation Association, we come to a brief discussion of a committee on juvenile court standards.

I doubt if I need say to this group that for a long time there has been developing in the Children's Bureau the idea of standardized work in juvenile courts. You are familiar with the surveys that have been made, with the publications that have been issued, and there will be a good deal to say in addition to what you already know, I am sure, in regard to the interest that the Children's Bureau has taken in connection with the courts, developing standards which might have wide application in juvenile-court work. Now, the whole scheme of this conference of the past day and a half has been along the line of what the Children's Bureau has undertaken, and we are really here to express on the part of the National Probation Association a purpose to go on with the Children's Bureau.

Let us make as effective as possible all our resources in the work that it has undertaken.

I am going to ask Miss Lenroot, of the Children's Bureau, to make a brief statement in regard to this, and I shall then ask you to contribute to the discussion; the committee will then be announced which has been recommended by your committee to serve the Children's Bureau in carrying on the work of standardization of juvenile-court methods.

KATHARINE F. LENROOT, *of the Children's Bureau.* The Children's Bureau and the committee which will be appointed on recommendation of this conference will look for suggestions from you as to the scope of the committee's work.

The papers and discussions of the last day and a half have outlined quite completely most of the phases of work which the committee will have to consider, but for the purpose of opening this discussion I wish to summarize very briefly some of the points that seem to us of importance in this connection. All these questions will be considered, we hope, just as much from the point of view of the rural community and small town as from that of the larger city.

The committee will probably consist of twelve members. The work is so comprehensive that it will be necessary for the committee to divide into several subcommittees for the detailed consideration of the subjects before it; after these subcommittees have reported, the entire committee should go over the field. Probably four subcommittees would form a good working group.

The first subcommittee might deal with the jurisdiction and procedure of the juvenile court, including the ages of the children over which the court should have jurisdiction, the classes of cases, and the extent of jurisdiction—whether the juvenile court should have complete jurisdiction over all offenses, no matter how serious, or whether it should be limited, as it is now in some States. The questions of dependency jurisdiction and jurisdiction over contributing cases, nonsupport and desertion, children whose custody is in controversy, the adoption of children, and adults offending against children would probably come within the scope of this subcommittee. With regard to the court system, there is the question of whether an independent court is the best or whether some existing court system is preferable. Probably no one rule can be laid down, because practice must vary in different localities. The first subcommittee might also consider the method of election of the judge, his qualifications, the method of hearings, the formality or informality of court procedure, the use of referees, the evidence, and all those things so splendidly outlined in the papers given here to-day. The disposition of cases would come within the field of this subcommittee. What facilities must the court have at its disposal and how far should the jurisdiction of the court continue beyond the first adjudication in different classes of cases?

A second subcommittee might deal with the entire question of the process before hearing, the point at which the court should take jurisdiction, what should be done with the children who are arrested, what types of detention facilities are needed, and under what management the detention home should be.

A third subcommittee might consider the whole question of social investigation and physical and mental examinations.

The fourth subcommittee would have the whole field of probation, including the organization of the probation staff, from the point of view both of preliminary work and of investigation and supervision; the question of assignment of cases and case supervision; the constructive plan which should be formed at the beginning of each case placed on probation; the methods of keeping in touch with the children, their reporting, and home visits; the cooperation with the schools and with recreational and other social agencies; the length of probation; the records and reports which would show the results accomplished.

Mr. PARSONS. The opportunity is given us to make suggestions as to the work that may be done by the Children's Bureau in its carrying on of this work of standardizing the juvenile courts. If any member of this group can offer any addition to the list of topics that Miss Lenroot has suggested, now is the opportunity. For myself it seems to be inclusive, but I dare say there are some here who can see omissions in that list; and if so, I will be glad to hear from them. There may be something some one wishes to say here in encouragement of the work which the Children's Bureau has undertaken and the possibility of standardization. Is there a possibility of standardization so far as rural courts are concerned? Do we feel that the Children's Bureau is engaged in a hopeful or quite a hopeless task?

Mrs. BALDWIN. I have often said in California that the great value of the work in our State was its variety. We gain from each other's experience in all of this work. From what we have been doing in our own locality for these years it seems to me that the time has now come when we can put the things that are of value to us into this scheme of unifying and building up the work, giving our own experiences to other localities, and also developing a real system. The period of probation has about expired, and we are ready to go on with a definite program.

Mr. PARSONS. That is a very encouraging word. Unless there is some further discussion on the work I want to read the names of the persons who have been suggested by the committee for appointment by the Children's Bureau to the committee on juvenile-court standards if Miss Lathrop sees fit to appoint them as the committee of the bureau to carry on this work of standardization of juvenile-court methods.

Judge Charles W. Hoffman, Hamilton County Court of Domestic Relations, Cincinnati, Ohio.

Judge Kathryn Sellers, Juvenile Court of the District of Columbia.

Judge Henry S. Hulbert, Juvenile Division of the Probate Court of Wayne County, Detroit, Mich.

Dr. Miriam Van Waters, referee of the Juvenile Court of Los Angeles County, Calif.

Bernard Fagan, chief probation officer of the Children's Court of New York City.

Joseph L. Moss, chief probation officer of the Juvenile Court, Cook County, Chicago, Ill.

Herbert C. Parsons, secretary of the Massachusetts Probation Commission.

Charles L. Chute, secretary of the National Probation Association.

Dr. William Healy, director of the Judge Baker Foundation, Boston.

Dr. V. V. Anderson, associate medical director of the National Committee for Mental Hygiene.

Henry W. Thurston, of the New York School for Social Work, New York City.

Ralph S. Barrow, State superintendent of the Alabama Children's Aid Society.

This list of 12 names, if there is no objection, will be given to the Children's Bureau as a suggestion for this committee.

There is one thing that has marked a very great step in the progress of the National Probation Association during the past year. We seem to have come out of a state of indefiniteness into an effective working organization. We are realizing the ambition and the hope of the years among those who have been vitally interested in probation work as represented in the National Probation Association, by at least having a secretary who from now on is going to devote his entire time to its interests. We want to make this work a very real and vital means, beyond anything yet attained, for carrying over the entire United States the gospel of individual dealing with people who go through our courts.

Great achievements have come in the way of laws that have been written, but a survey in the most hopeful mood of what has been actually attained in this way is still a bit discouraging and disconcerting. The officers of the association, acting with prudence and care to carry out what they believe is your wish, have undertaken to organize the work much more definitely, and they have started out to get all the means that are necessary in order to carry the purpose of this organization far beyond anything that has been attained in the past. I think it has a very bright prospect, and that we have gotten our feet on the ground and are there with the purpose of making a record run of achievements in the immediate future.

I want, for the officers of the association, to express the immense satisfaction that has come to us in the very large attendance, the

largest we have ever had at a conference, and in the sustained interest which under conditions not altogether delightful has shown itself in attendance at the meetings all the way along, and in the perfectly splendid interest that has been shown in what I am bound to say was the most remarkable succession of uplifting, practical, and helpful addresses that we ever had at any of our meetings.

[Adjournment.]

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