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THE ORIGINS OF STATE INTERVENTION IN THE
CONTROL OF JUVENILE DELINQUENCY:
THE NEBRASKA EXPERIENCE, 1875-1905

A Thesis
Presented to the
Department of Criminal Justice
and the
Faculty of the Graduate College
University of Nebraska

In Partial Fulfillment
of the Requirements for the Degree
Master of Arts
University of Nebraska at Omaha

by
James L. Massey

August 1976

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THESIS ACCEPTANCE

Accepted for the faculty of the Graduate College, University of Nebraska, in partial fulfillment of the requirements for the degree Master of Arts, University of Nebraska at Omaha.

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ACKNOWLEDGMENTS

A debt of gratitude is owed to Sam Walker, Vince Webb, and Mike Gillespie for their having been helpful advisers and good friends. In this latter regard, their friendship has made graduate study at the University of Nebraska at Omaha rewarding in ways too numerous to mention.

Special thanks are extended to the staff of the State Archivist's Office at the Nebraska State Historical Society. This project would have been far more difficult to research without their assistance in locating valuable source material.

Finally, I wish to thank Irene Laier, who typed the final manuscript under rather rushed circumstances, and also my wife, Carolyn, for her assistance and encouragement throughout all stages of this thesis' preparation.

INTRODUCTION

The pages that follow trace the origins of Nebraska's experience in official state intervention in the control of juvenile delinquency. The focus is on the developmental stages of the Nebraska juvenile justice system, and is designed to inform the reader about the foundation upon which this system has been built, as well as the assumptions that were implicit in this activity. The early chapters provide a brief overview of efforts to define and prevent juvenile delinquency from colonial times to just prior to the onset of the American Civil War. It was in this period that some forms of youthful misbehavior gradually came to be dealt with by a state supported system of control and ceased to fall exclusively under the auspices of traditional family discipline. After the Civil War a movement began which consolidated on a national scale correctional efforts which had previously been the concern of individual states acting in relative isolation. This movement will be traced through the activities of the National Conference of Charities and Correction, which during the last quarter of the nineteenth century was unquestionably an organization of prime influence in virtually all areas of "child-saving".

Having provided this background, the discussion turns to the legislative history of delinquency control measures enacted in Nebraska beginning with the ratification of a

new state constitution in 1875, through the passage of the Juvenile Court Act of 1905. During this thirty year period, Nebraskans established all of the basic machinery necessary for the administration of juvenile justice. In the following and final chapter, the substance of this legislation is examined in regard to the ways in which these laws were put to practice in the activities of the State Industrial Schools at Kearney (boys), and at Geneva (girls). Their prevailing assumptions regarding delinquent behavior have been combined with a description of the routine of the institution, so as to enable the reader to compare both the theory and practice of early delinquency control.

The concluding remarks herein are directed at three elements which are thought to have informed the early development of the Nebraska juvenile justice system. The first of these is the process of bureaucratization that attended the growth of the system combined secondly, with the relative lack of innovation found in the area of substantive theory and practice. Lastly, the possibility that the system may have proved detrimental to the welfare of many of the youths, in contradiction to the assumption that it worked in their best interests, is also explored.

The juvenile laws enacted toward the end of the nineteenth century in Nebraska and elsewhere were, in theory, directed at promoting the well-being of juveniles through

the control of juvenile misbehavior. The great bulk of literature dealing with juvenile delinquency and the juvenile law has not, as a rule, been focused on a critique of these goals, or on the means employed to achieve them. Studies in the past have usually been aimed at describing the personality traits of individual "delinquents", or some facet of that person's social environment. They do not normally take into account the influence that the juvenile justice system itself plays in "creating" delinquency, or in underwriting popular images of what delinquency is all about. Newer studies have to some extent corrected and improved our understanding of youthful misbehavior by taking us beyond the level of analysis which merely studies the attributes of juveniles who form the aggregate of "adjudicated delinquents". Studies designed to uncover "hidden" delinquency, to weigh the impact of stigmatization, or construct a notion of delinquent behavior in terms of "drift", have all been oriented in this direction.

Another new approach to the study of delinquency has dealt with the problem historically, with emphasis on the early development of the institutions of the juvenile justice system (i.e. reform schools, systems of probation and parole, and the creation of the juvenile court). This perspective has led to the exhumation of the sources of many of the common assumptions associated with the etiology

of delinquency, and the modes of intervention which have characterized attempts to control it. These studies have revealed that much of what we have assumed about the so-called "child-saving" movement is erroneous, leading to the suspicion that many policies and programs developed over the years to control delinquency have been based on assumptions which provide something less than a sound foundation; especially in regard to the calculation of means (the use of state institutions), to ends (delinquency control).

Although this paper deals critically with a variety of elements found in the Nebraska child-saving experience, it is not intended to reflect a disregard for the intellectual seriousness and concern that the people of this era had for the problems with which they imagined themselves faced. Certainly, it is the responsibility of the writer to identify misconceptions where they appear to exist, but this should not lead to the conclusion that the policy-makers of this period could have done better if they had only been more sincere, less self-righteous, and generally more conscious of the effect that their work would have on the lives of those over whom they exerted influence.

The proper task of the historian is to build the nexus between the events of the past, their reasons for happening (to the extent that this can be ascertained), and demonstrate how, in spite of the advent of new knowledge, basic perspectives have in some ways changed very little. It is the belief

of this writer that in helping to establish portions of the legacy of the past, a more adequate understanding of elements that are at the root of current problems will emerge. This is the purpose of this paper.

Little is known about the origins of delinquency control measures in Nebraska. It is hoped that what follows will help illuminate how this development took place, the forces both national and local that influenced this development, and finally, it is hoped that an appreciation can be gained for the potential that an historical perspective holds for contributing to the solution of present problems regarding juvenile justice.

Youth and Deviance in America: The Historical Background

The term "juvenile delinquency" is often employed in common usage today, as if it were descriptive of an objective category of behavior discernible through concrete empirical observation. In reality, "delinquency" is a highly subjective, value-laden term, and inherently legalistic in character. Essentially, delinquency is no more, or no less, than those behavior patterns that are deducible from, and prohibited by delinquency laws. These laws, while found in rudimentary form as early as the fifteenth century in England, are relatively new to the United States, at least in any kind of systematic form. As an area of interest distinct from criminal behavior in general, crime engaged in by juveniles became a subject of concern at about the same time that penitentiaries began functioning as places of reform. In order to be able to place these developments in an historical context, we would do well to begin by examining briefly the nature of crime control measures as they were first practiced in early colonial America.

Crime Control in Early America

In colonial America communities tended to be small in size and quite isolated from their nearest neighbors. Social solidarity was maintained by adherence to rigid moral and ethical prescriptions, strengthened by the villages' insularity, and enforced through the threat of public shame.

Since a high premium was placed on the obligation of the citizen to maintain a position of respect within the community, the stocks and pillory, and more torturous methods such as branding and ear-cropping, played important roles in punitive schemes designed to publicly disgrace the offender in the eyes of the rest of the community.¹ In some instances fines were imposed when it was thought that the culprit would experience suffering from the loss of a portion of his property. This course could not be followed in every case however, as it would be impossible to fine someone who held little or no property against which the fine could be levied. In these cases whipping was often used, followed by banishment for those who were outsiders to the community.

The most severe punishment rendered in colonial America was death by hanging. Although a variety of offenses could draw this punishment, it was generally reserved for those who were found guilty of a second or third offense. This does not mean that it was only sparingly imposed. Religious considerations provided the view that criminal behavior was evidence of the depravity of sin. As such, the colonists were not hesitant to make a literal interpretation of the sentiment, "the wages of sin are death". From the transitory nature of pain associated with whipping or fines, to the permanence of death on the gallows, a noticeable void pervaded the middle ground of the colonial scheme of punishment. Absent was a consideration of measures of moderate severity;

the kind of punishment prisons were later to provide.

Though jails were commonly found throughout the colonies, they did not function as institutions of punishment and reform. The jails in this era served two purposes: (1) as a detention place for those awaiting trial or sentencing, or (2) as a holding facility for those unable to pay their debts. Even though they served in the interest of the prevailing system of justice, they were never considered as reformatories. Rothman has observed:

The colonists might have adopted a penitentiary system in order to reform the criminal, or to terrify him, or simply to confine him. They could have attempted to mold him into an obedient citizen, or frighten him into lawful conduct, or, at least, to prevent him, if for only a limited period, from injuring the community. But given their conception of deviant behavior and institutional organization, they did not believe that a jail could rehabilitate or intimidate or detain the offender. They placed little faith in the possibility of reform. Prevailing Calvinist doctrines that stressed the natural depravity of man and the powers of the devil hardly allowed such optimism. Since temptations to misconduct were not only omnipresent but practically irresistible, rehabilitation could not serve as the basis of a prison program.²

The existing conceptions of deviant behavior, and the nature of institutional organization, are attributed as primary factors inhibiting the use of jails as instruments of reform. The organizational factors alluded to were mainly the operation of most public institutions, including jails, on the model of the private household; a perspective taken from the belief that the family formed the basis of social organization. As such, the comfortable life of the family could

hardly be expected to deter the criminal from future wrongdoing, therefore, jails could serve but a limited purpose for those who dispensed colonial justice.

It was not until after the Revolution that Americans began to take a second look at the structure of their system of justice. They were largely influenced by ideas adopted from the European Enlightenment. A new view of the role of the institution in correctional policy soon evolved; a view that dominated public policy for almost 150 years. Only recently has the efficacy of this approach to punishment and reform been challenged.

New Directions: Penology in the Post-Revolutionary War Era

The period following the American Revolution saw changes not only in response to crime and deviant behavior, but in many other facets of American life as well. The strong religious foundation on which colonial society was based experienced severe challenge in the early nineteenth century; challenges arose from the new secularity found in the thought of Continental thinkers on the one hand, and by the upheaval wrought by westward expansion on the other.³ The concept of the insular community fully capable of tending its own affairs began to lose viability in this period, fading under the influence of the greater social mobility and rising expectations of the new America.

In the United States perspectives on crime changed

dramatically. With independence from Britain came a corresponding distrust for the criminal law which had been adopted from the British system.⁴ For those who studied these problems it was evident that the prevailing system of justice was neither humane, nor did it deter criminal behavior. The Enlightenment provided an alternative in criminal jurisprudence largely attributable to the writings of such scholars as Italian legal philosopher, Cesare Beccaria, and English philosopher, Jeremy Bentham. Beccaria in his On Crimes and Punishments, and Bentham in An Introduction to the Principles of Morals and Legislation, developed what has come to be known as the Classical School of Criminology.

A team of British criminologists has summarized classical theory as follows:

1. All men being by nature self-seeking are liable to commit crime.
2. There is a consensus in society as to the desirability of protecting private property and personal welfare.
3. In order to prevent a "war of all against all", men freely enter into a contract with the state to preserve the peace within the terms of this consensus.
4. Punishment must be used to deter the individual from violating the interests of others.
5. Punishment must be proportional to the interest violated by the crime. It must not be excessive of this neither must it be used for reformation; for this would encroach on the rights of the individual and transgress the social contract.
6. There should be as little law as possible, and its implementation should be closely delineated by due process.
7. The individual is responsible for his actions and is equal, no matter what his rank, in the eyes of the law. Mitigating circumstances or excuses are therefore inadmissible.⁵

American penologists embraced these assumptions, and in the years after the Revolution attempted to put them into practice. As part of this effort, prisons were built in various locations throughout the former colonies. Among the more notable of these were the Walnut Street Jail in Philadelphia, and Newgate Prison in New York City. These early prisons were expected to be able to furnish a more rational system of punishment, by making punishment for crime a certainty, with sentences adjusted in length so as to be commensurate with the seriousness of the offense. Something that was not anticipated however, was that these institutions should act as places of reform. Their value emerged from their ability to provide an alternative to corporal and capital punishment, along with the belief that they could deter crime. Reformation of the offender, if it occurred at all, was incidental to the regimen of these institutions.

Though the hope was that crime could be controlled by making the criminal law more rational, it became obvious as time progressed that this expectation was not being fulfilled. By the late 1820's a second reorientation in criminological thought was taking place. For the first time, theoretical studies were undertaken which focused on the character and social circumstances of individual offenders. Case studies such as those conducted by the inspectors of Auburn State Prison, New York produced data that was to form the essence of virtually all assumptions regarding crime for the

remainder of the nineteenth century.⁶ Contrary to prior Calvinist teaching, these studies suggested that men were not inherently depraved, but rather were born into the world innocent, and became corrupted by undesirable aspects of their social environment. A major conclusion drawn from these studies indicated that the individual learned social behavior in the family, and that homes tainted by drunkenness, vice and loose morals, also provided the conditions that led to lives of crime. To quote Rothman, "Family disorganization and community corruption, an extreme definition of the powers of vice and acute sense of the threat of disorder were standard elements in the discussions" of the nature of criminal behavior.⁷

These discussions set the stage for the belief that the problem of crime could be solved if family life were improved. It was also realized however, that this was at best, an idealistic, long range solution. What was needed in the interim was some way to create an environment in which the lessons of the "good family" could be taught to those who had not had the opportunity to benefit from a proper home life. The notion soon developed that prisons could meet this need by functioning as places of reformation. In regard to the offender, the idea was to "remove him from the family and community and place him in an artificially created and therefore corruption-free environment. Here he could learn all the vital lessons. . . while protected from the

temptations of vice."⁸

Child-Saving in the Mid-Nineteenth Century

The assumptions of the emerging penology also included concern about the misbehavior of youth. New York, Boston, and Philadelphia⁹ established new institutions for the reform of juveniles in 1825 and 1826. Known as "Houses of Refuge" these institutions were the prototype for future reformatories built during the mid-nineteenth century. The purpose of these institutions, to quote from a latter day child-saver, was to meet "the necessity of securing control of the classes needing reformation...".¹⁰ Specifically, hard work, orderliness, and subordination to authority were the keys to reform.

Often times the clientele of the Houses of Refuge were an odd assortment of children. On the one hand these were the dependent and neglected children of the "dangerous classes",¹¹ who, though having committed no statutory offense, were still considered a threat in terms of the likelihood that they would engage in future criminal activity. The other group were the "juvenile criminals", those guilty of criminal behavior yet still thought tractable to the methods of reform. There was little confusion however on one point: the belief that parental neglect was the nemesis that had to be overcome.

In order to properly apply their program, it thus became

necessary to negate as much as possible the authority of natural parents, and fill that vacuum with their own authority. In time their efforts as a lobby proved successful as various state legislatures passed laws granting the institutions the power to act in loco parentis.¹²

. . . refuge managers sought to strengthen by legal means the parental power of their institutions, in order to rebut claims that they were illegally depriving children of their liberty, or cruelly separating them from natural parents. Because refuges received children who had been convicted in state and local courts, the legal definition of insitutional parental power also defined the parental power of the state (parens patriae).¹³

With authority consolidated in their hands, refuge managers turned their attention to the internal operation of the institution, developing a preoccupation with discipline and obedience. Much of the routine within institutions was based on the belief that the child in custody, being young, was impressionable and not yet set in a fixed pattern of irreversible criminal behavior. It was thought that through obedience, children could learn the middle-class values of neatness, diligence, punctuality, and thrift.¹⁴

These lessons were to be taught in a variety of ways, but in no instance was punishment to be spared if the daily routine were threatened.¹⁵ And while refuge managers were not hesitant to use corporal punishment, they found that toilsome labor could be used, not so much to develop usable work skills, as to maintain discipline, along with providing income to help meet institutional expenses. Similarly,

education often consisted of learning acceptable modes of behavior with academic subjects being of secondary importance. Ultimately, as Mennel suggests, "What these youths needed the managers argued, was an inflexible routine built around the workshop and the schoolroom, impressing them with the importance of personal cleanliness, sobriety, frugality, and industry. In this scheme, pious and orderly conduct by an individual child signified the success of the reformatory methods; good behavior meant everything, noble thoughts little."¹⁶

In time, excessively brutal disciplinary methods came to impinge on the reputation of these institutions, and led to their decline beginning in the 1840's. "The [Boston] Common Council", writes Mennel, "Attempted to close it [Boston House of Reformation] in 1841 by transferring more tractable delinquents to the Boylston School, a city institution for dependent children. Incurable children were to be sent to the Boston House of Correction - that is, to jail."¹⁷ Gradually these "refuges" were replaced by state institutions. The emergence of these new institutions was accompanied by the rise of a new philanthropic lobby - the National Conference of Charities and Correction - which has maintained organizational continuity to the present day. Its influence will be discussed in detail later on.

The importance of these early refuges and the working assumptions of their founders cannot be overstated. In this

initial group of institution-builders we see the first group whose exclusive concern was on controlling youthful misbehavior. They assumed that they could provide, via the mechanism of institutionalization, the type of positive home life found lacking in disreputable and negligent families. Hence, we find in elementary form the basis for virtually every idea that latter day child-savers were to seize upon. Although numerous technical adjustments made future philanthropists a group distinct from their predecessors, all the early basic assumptions were carried forth intact; a fact that was never more evident, as we shall see, than in the institutions built in Nebraska half a century later.

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The Emergence of the National Conference of Charities and Correction

Beginning in the years prior to the American Civil War and extending for some time afterward, emphasis in the child-saving movement began to reflect a greater concern for a "preventive" rather than the "correctional" approach to delinquency control. The assumption that the family was the basic institution of social control remained intact, but strategies to promote its influence for dependent and delinquent children changed. "Placing-out", the practice of removing children from unfavorable environments by sending them to live on farms or in rural communities, became popular. Generally, the practice was to find suitable homes located in rural areas a considerable distance from the child's home.

Hastings H. Hart in 1884 described one instance of the practice of a premier child-placing agency, the New York Children's Aid Society, as follows:

A representative of the society first visits the town where the distribution is to be made, and secures three leading citizens to act as a volunteer committee, pass upon applications for children, and take general charge of the matter. A notice is published in local newspapers inviting applications and announcing the day of arrival and distribution. I was myself a witness of the distribution of forty children in Nobles County, Minnesota, by my honored friend, Agent James Mathews The children arrived . . . and were taken directly from the train to the court house, where a large crowd was gathered. Mr. Mathews set the children, one by one, before the company, . . . and gave a brief account of each. Applicants for children were then admitted in order behind the railing, and rapidly made their selections. Then, if the child gave assent, the bargain was concluded on the spot In little more than three hours, nearly all of those forty children were disposed of.¹⁸

Placing-out was an extraordinarily informal process. After the child had been placed, the Society retained authority over his or her care, with the ongoing responsibility to clothe, feed, educate, and provide for the moral upbringing of the child left to the applicant. Seldom, if ever, was this agreement made in writing.

Two factors prevented placing-out from becoming a universal panacea for dealing with troublesome children. In the first instance, it became increasingly clear as the practice developed, that exploitation of child labor was taking place in numerous instances. Too often the child would be taken to a farm in the early spring, in time to contribute his labor to the planting of crops, only to be asked to leave

after the harvest was completed in late fall.¹⁹ The second factor revolves around the fact that only those children who were thought amenable to rural living were involved in the placing-out program. Those who were too old, or incorrigible, were still institutionalized.

In response to this continuing need for institutions, new ones emerged under the administration of municipal and state governments. In an effort to coordinate the programs of these new institutions, reform school administrators met to exchange views in 1857, at the Convention of Managers and Superintendents of Houses of Refuge and Schools of Reform. "At these conventions", writes Mennel, "reform school officials digressed endlessly on inmate classification, placing-out, discipline, and other topics of administrative concern."²⁰ The Civil War forced an end to this series of meetings, with similar endeavors not attempted until a number of years later.

Organized efforts to improve the administration of reform schools and houses of refuge within individual states began in 1863, when Massachusetts established a state charity board whose duty it was to inspect reform schools and other charitable institutions. By 1882, nine other states had established similar boards.

In 1872 the charity boards of three states, Wisconsin, Illinois, and Michigan met in Chicago for the purpose of discussing various mutual concerns, and sharing insights regarding charities and correction. This was the first

formal meeting of any group of state boards of charity in the United States, and may be regarded as the predecessor of what developed into perhaps the most influential correctional lobby of its time - the National Conference of Charities and Correction. According to Andrew E. Elmore, recalling the formative years of the Conference, "These conferences [of state boards] had attracted so much attention that the Social Science Association in their call for a meeting to be held in New York on the evening of May 19, 1874, invited the State Boards of Charities in the several states to send delegates, and hold a conference in connection therewith."²¹ Delegates from a number of states did attend this convention making it the First National Conference. Four years later, the Conference became an independent body by disassociating itself from the Social Science Association.

As the years progressed these conferences became a matter of serious and wide-ranging deliberation, as the Preface to the 1884 Proceedings well attests:

Among the topics which command the earnest study of those who have thus far taken part in the deliberations of the Conference may be mentioned the following: The condition and needs and the best methods of caring for the insane, the idiotic, the deaf, and the blind; the problem of pauperism and the principles upon which relief should be granted, both in and out of almshouses; the prison question, in all its bearings; the prevention of pauperism and of crime by suitable and effective measures for the care of neglected, exposed, and abandoned children; the organization of charity in cities; pauper emigration; the statistics of crime and misfortune; and the history of charitable enterprises in several states.²²

Certainly the members of the Conference were not persons of limited goals and ambitions. Their interests ranged across the entire gamut of charitable and correctional work, making them unique from similar, but less comprehensive, organizations which had preceded them.

Officially, the Conference went to great lengths to project an image of political neutrality. Repeatedly, officers of the Conference maintained that there was no attempt in any of the Conference's activities to influence legislative or executive bodies. They claimed that their efforts were noble, but nonetheless, non-political attempts to promote philanthropic endeavors, through the frank exchange of ideas among its members. It would be naive however to accept this official position of the Conference, and in so doing neglect to see the dual roles that most of the Conference members played. In innumerable instances, the conferees' service to the cause of philanthropy was not limited to a casual interest in charity through Conference membership. Most members had, in fact, a professional interest in the Conference by virtue of leadership in private charitable organizations, as managers of state institutions, or as members of state charity boards. Nebraska, for example, sent five delegates to the Conference held in Nashville in 1894, all of whom were professional charity workers.

While it would be difficult to draw a direct connection between the work of the Conference and any given piece of

subsequent legislation, it would be equally difficult to argue that the Conference did not have considerable impact on much of the social legislation enacted during the late nineteenth century.²³ The Conference was non-political in the sense that it did not engage in the endorsement of political platforms or candidates. It was highly political however, as an instrument for the promulgation of ideas on what ought to be obtained in the arena of charities and corrections. In Nebraska, John T. Mallalieu, Superintendent of the State Industrial School at Kearney (and a Conference member) for years acted as a lobbyist in behalf of the Industrial School. Ideas advanced before the Conference were often found in literature authored by Mallalieu, and was designed to attract the attention of the state's governor, legislature, and commissioners of public lands and buildings. Specific examples of this will be cited in the next chapter.

Superficially, the agenda of the child-saving element within the Conference was to provide a platform for the exchange of ideas between persons who had an interest in promoting the well-being of dependent, neglected, and delinquent children through charitable enterprise. Behind this facade, however, lay an entirely different set of concerns. This is not to suggest that the Conference was not a forum for the exchange of ideas, rather, it is the substance of these ideas that are of interest. According to Platt:

The child savers were not concerned with championing the rights of the poor against exploitation by the ruling classes but rather with integrating the poor

into the established social order and protecting "respectable" citizens from the "dangerous classes" The child savers regarded the children of the urban poor with a mixture of paternalism and contempt evident in their references to the "dangerous classes".²⁴

At its base, the Conference was quite conservative in nature, despite the liberal overtones that some of their concerns seemed to engender. Innumerable aphorisms articulated in Conference circles were indicative of entrenched conservatism, along with several working assumptions which bear this out. Among these are: (1) the belief in the essential evil nature of undisciplined humanity,²⁵ (2) that this "class" of people constitute a distinct threat to the well-being of society at large, (3) that poor immigrants, and paupers in general form the membership of this "class", (4) that this "class" can be dissolved, or at least controlled, by the state assuming the responsibility of "saving" their children through the influence of "moral training", and (5) that being from the ordinary "common" stock, training in manual vocations would suffice in making them worthwhile members of society.

The writing of the child-savers was informed by numerous references to the dubious nature of men lacking moral discipline. These accounts ranged from the theory that men were weak or strong in direct relation to their moral upbringing as youths, to the belief that hereditary factors could put some individuals beyond help of the child-savers. On

occasion, as in the case of comments by Yale University Professor, W. H. Brewer, the tone of the discussion seems to have almost bordered on the fanatical:

Children are savages. In the better classes we educate them out of that We teach them as to what is right and what is wrong, and train them as to hold their savage instinct in subjection The very matter of training children into morality, training their consciences, training them in citizenship, is a duty which grows out of the very laws of nature.²⁶

Some children though, were evidently beyond help.

Eight years prior to Professor Brewer, Dr. I. N. Kerlin of the Pennsylvania Institute for Feeble-Minded Children advanced before the Conference ideas based on his reading of Lombroso, Garofolo, and Ferri.²⁷ He came to the conclusion that some children were beyond help owing to a genetic inability to develop even rudimentary moral sensibility. He labeled this group "moral imbeciles". In reading Kerlin's description of this class it becomes apparent that he believes that this form of "moral perversion" is a hereditary trait, and that the community "has a right to demand that he shall not scathe our common stock with permanent taint in blood or morale".²⁸

Naturally, not all child-savers interpreted the threat of juvenile misbehavior as ardently as did Professor Brewer and Dr. Kerlin. There can be little doubt however, of the unanimity of the belief that social disorder grew out of the ranks of indigents and paupers, and that lacking the benefits

of an education in middle-class morality, there could be little hope for the future success of poor children. As one observer noted in 1898:

The primary line of endeavor must certainly be with neglected and evil-associated children. No student of penology will deny that while . . . doctors, lawyers, and preachers, may find their way into prisons, they are mainly tenanted by the offspring of the slums, the recruiting ground and training place of all sorts of vice.²⁹

It became obvious to Conference members that protection of the social order required an attack on poverty. Unfortunately, the child-savers seldom looked to the systemic causes of poverty, preferring instead, to attribute the cause to some element found to adhere in the person of the pauper. William Ryan observed in his critique of poverty programs in the 1960's a similar orientation toward social problems which he called "blaming the victim". The net effect of this ideology results in a unique type of shell game. Ryan sees a situation where the social worker can

concentrate his charitable interest on the defects of the victim, condemn the vague social and environmental stresses that produced the defect (some time ago), and ignore the continuing effect of victimizing social forces (right now). It is a brilliant ideology for justifying a perverse form of social action designed to change not society, as one might expect, but rather society's victim.³⁰

No group suffered more than European immigrants from the victim-blaming climate of the late nineteenth century. While poverty was seen to be a condition of other groups as well, the immigrant became the scapegoat for the ills of

expanding urban society. This theme found a popular following within the Conference as members embraced these popular stereotypes. A key figure in the child-saving movement, William P. Letchworth, remarked:

The unrestricted facilities afforded for transferring irksome burdens have caused the shipment from various localities in Europe of large numbers of helpless and utterly broken-down paupers, as also many incorrigible criminals to our shores. . . .

The result of this abuse of a natural privilege in times past is now traced in some of the defective offspring of foreign stock in our poorhouses. The abnormally large number of idiotic and weak-minded young women who have not sufficient intellect to protect themselves from the baser of the opposite sex is largely attributable to unrestricted pauper immigration.³¹

The children of seemingly dim-witted European immigrants were viewed as tending to be equally simple-minded, the end result being the necessity of either turning back the immigrant tide, or demanding that the state intervene in the moral and educational development of the pauper in order to stabilize a condition that might otherwise become epidemic.

The moral and technical training of dependent and delinquent children took on proportions of a moral crusade. The Conference was presented with a deluge of papers emphasizing the importance of "proper" moral training and work incentives. As a rule, "moral" training was taken to mean instruction in "proper" conduct and behavior. "Incentives to reform" were calculated in Conference circles to appeal more to the self-interest of the individual, than to his higher moral instincts. In institutions around the country, badge systems, deprivation,

of privileges, and diets of bread and water were seen as examples of "moral training". One reform school superintendent was even led to exclaim, "There is no doubt but money given as a reward may be made a strong incentive to reform."³²

When attempts were made to inculcate "principles" in children, the suggestion commonly made called for the state to assume religious training of youths as part of its responsibility as a foster parent.³³ Whether moral training was ever given more than mere lip service in practice is a matter of conjecture, but this never deterred Conference participants from transmitting volumes of platitudinous prose.

. . . Right living comes from daily training in right thinking. The virtues of order, obedience, cleanliness, modesty, truth, honor, affection, and whatever enters into manly and womanly nobility of character, grow, like the good seed of the parable, in the good soil, under the genial sunshine, watered by gentle showers.

. . . The great Creator who made man in his own image, did so by planting in each soul the germs of righteousness It lies with those who have the charge of young lives to foster the good, to repress the evil, and to aid in saving for themselves, the world, and God, multitudes of worthy and noble men and women.³⁴

In a practical framework, the child-savers were interested in developing "manual" work skills in the children of the poor. Generally, these programs consisted of teaching one set of work skills to boys, and another to girls. For the boys the training was intended to provide skills with which they would be able to secure future employment. The girls were taught sewing, ironing, cooking, etc., the so-called "domestic skills" which were calculated in theory to provide

them with traits which would allow them to live lives of "future usefulness".

In 1890, the Conference Committee on Juvenile Delinquency, presented a paper on "Industries for Reform Schools" based on a questionnaire sent to several reformatory managers asking them to respond to questions regarding industrial training within their respective institutions. A category of "general industries" was developed to include tasks which were found to be common in "nearly all fully developed reformatories". In most cases these "industries" were limited to menial tasks ranging from washing and ironing, to "caring for stock". In virtually all instances the enterprises undertaken were, "limited to the needs of the institution". Much of the "training" that went on appears to have been directed toward meeting the day to day obligations attending institutional life; or, as in many cases, projects were conducted in an effort to raise revenue to make the institutions as financially self-sufficient as possible.

Some institutions did conduct training programs in a sincere effort to provide boys with saleable work skills. Reform schools taught printing, telegraphy, and carpentry, among other trades. Even these programs had their problems though, as it became obvious that simply having the "skills" would not be sufficient to find and keep a job. In some instances, the requirement of even the smallest capital investment could act to prevent a boy from plying the trade he

had been taught. Committee Chairman, T. J. Charlton, in praising the instruction given in blacksmithing at some schools, was still somewhat critical when he observed, ". . . there is a drawback to a boy following even this trade, as it requires considerable outlay to establish and carry on a blacksmith shop".³⁵ Superintendent Caldwell of the Louisville [Kentucky] Industrial School saw yet another problem:

We have today, practically, no apprentice system. By the action of trade unions and labor-leagues, our apprentice laws are a dead letter. Foreign tradesmen may come to our shores and be admitted to all the rights and privileges of these unions, but the young men of America will find the doors closed to them.³⁶

Training for girls posed less of a problem. This training almost always consisted in development of "domestic skills". At first this might appear to be appropriate, considering Victorian perspectives on the role of women as homemakers and mothers. Motherhood though, was an incongruous ideal to the child-savers, when it was offered as a future vocation for delinquent girls. Their sentimental image of motherhood did not square well with the image of the "female juvenile tramp". Considering their interest in eliminating, or at least controlling the "dangerous classes", they could hardly be expected to proclaim the virtues of motherhood to girls, who in their view, were clearly not worthy of the vocation. Employment as maids, on the other hand, fit well into the general program of training the poor.

Mrs. Fannie French Morse, Superintendent of the

Massachusetts Industrial School for Girls, expressed the dominant view:

. . . Let all the educational processes have for their end domestic training. There are exceptions, but most of our girls go out as domestic helpers Teach her the honor of skill in housewifely duties. See that it be made a thing sought for to have earned the privilege of entering the kitchen department. In the sewing room, the kitchen, the laundry, keep to the homely arrangement of every-day life, such as will be found in the ordinary family. A girl who has known only the mangle in the ironing room, steam inventions in the laundries, or the mysteries of the modern bakeries, will not prove a satisfactory helper to Mrs. H. who needs a deft hand in the daily routine of her little family.³⁴

This passage reveals an important assumption upon which Conference writers based their programs. The unstated belief is that dependent and delinquent children are qualitatively inferior to children of the "better classes". Training in what Platt calls, "middle-class values and lower-class skill" never posed a problem for the child-savers.³⁸ Obedience, and in some cases the glories of servitude,³⁹ were not only preached as ideals, but in fact were supported by "training" designed to relegate the child to a life of menial labor.

It is not the condescending attitude of the child-savers that is of sole concern. The dedication of this group to the control of the "dangerous classes" is also noteworthy. An exaggerated definition of "philanthropy" would be required to justify the view that the work of the Conference was primarily designed to function in the interest of the poor. If it functioned in this regard at all, it did so only by coincidence. There can be no question that the problem of

poverty was the singularly most significant issue before the Conference. In the final analysis however, it was not the plight of the poor which motivated and inspired Conference members, but the fear that if the ranks of the poor were not held in check, the culture of poverty would spread like a plague throughout the whole of society, contaminating the world of the "better classes".⁴⁰

Implicit in the thought of the child-savers was another factor of prime historical significance: the belief in the value of large scale organization in dealing with social problems. As the years progressed, ideas emanating from the Conference reflected an increasing commitment to the bureaucratic ethos. Efforts in this regard ranged from an interest in creating boards of charities and correction in all states in order to guarantee comprehensive administration of charitable enterprises, to efforts to elevate social work to professional status and incorporate it within a system of civil service. In short, the bureaucratic mentality permeated virtually every aspect of the Conference's work.

The legislative history of child-saving in Nebraska reflected a commitment to the processes of organization on a smaller scale, similar to that found at the national level. Nebraskans engaged in the creation of a state juvenile justice system borrowed heavily from the ideas promulgated by the National Conference of Charities and Correction. These included the belief that undisciplined individuals posed a

threat to society; that social control ought to begin with the proper moral training of children; and that especially in the case of children living in unsatisfactory social environments, a state apparatus should be created which would provide such training.

Nebraskans followed the lead of the National Conference in their attempt at the rational organization of large scale efforts to control juvenile misbehavior. Here as elsewhere, the process of bureaucratization evident in the late nineteenth and early twentieth centuries is important historically, for it, more than any other factor attending the work of the child-savers, explains the character of the then burgeoning juvenile justice system.

Creation of the Nebraska Juvenile Justice System

In 1875, via constitutional mandate, Nebraska empowered the state legislature to appropriate funds for the construction of a state reform school. Over the thirty years that followed, not only were two reforms schools established, but also all the basic legal machinery necessary for a coordinated attack on the problem of juvenile delinquency. This chapter is designed to trace these formative years of the juvenile justice system in Nebraska from the point where official concern for the juvenile delinquency problem was first expressed in 1875, through 1905, the year in which a juvenile court act was passed by the state legislature. The intent is to construct an image of child-saving in Nebraska by reference to the legal history of the movement. Focus on the legislative development of Nebraska juvenile justice is of interest, for as shall be seen, it clearly demonstrates that the rise of juvenile justice institutions in Nebraska was well-organized and systematic, and not the product of mere circumstance.

Early Developments

In 1872 the sheriff of Douglas County, Nebraska traveled from Omaha to the state capitol in Lincoln as an escort for a group of prisoners destined for the state prison. Among the prisoners was a fourteen year old boy convicted of larceny who had been sentenced to two years in the penitentiary. Sheriff

Henry Grebe did not particularly care for the idea of sending the boy to the state prison, and some years later he recalled, ". . . it seemed to me a horrible thing to place him among a lot of hardened criminals."¹ Unfortunately, the sheriff had little choice in the matter as the penitentiary was the only place the convicted boy could be sent.

This experience made a lasting impression on Sheriff Grebe. Three years later, as a delegate to the Nebraska State Constitutional Convention held in May and June of 1875, he introduced a proposal which eventually became the first precept in Nebraska law aimed specifically at the problem of juvenile crime. Partially motivated by his 1872 experience with the young boy, and partially by his observation of the development of juvenile justice in Illinois,² Grebe's proposal called for a constitutional provision authorizing the State Legislature to appropriate funds for the construction of a reform school. The first reading of his proposal at the Convention came on May 18, 1875. After much debate and a number of minor changes, the provision was adopted and included in Section Twelve of the new constitution - the section that dealt with education affairs.³ It became official when the entire constitution was ratified by Nebraska voters on November 1, 1875.⁴

Although Grebe's proposal became part of the Constitution of 1875, it did not do so without opposition from some convention delegates. Already, in this early period in Nebraska's

history, rural-urban conflict was evident as the delegates from Nebraska's western counties argued that youthful misbehavior was a problem primarily of concern only to citizens of Eastern Nebraska in general, and Omaha in particular. Their belief was that if Omahans needed to provide special facilities for the discipline of delinquent youth, then it should be their responsibility to deal with the problem locally, not seek support from the citizens of Western Nebraska, or attempt to involve the entire state in a regional problem. Fortunately, those who supported the reform school provision received support from D. A. Abbott of Hall County (Grand Island), one of the Convention's most influential delegates. Armed with the conviction, "that there are bad children everywhere", he eventually managed to convince enough delegates of the value of the provision to win its approval.

Editorial comment regarding the reform school provision of the new constitution was generally favorable. The Lincoln State Journal commented that

The proposition in the new constitution for the establishment of a Reform School will very naturally excite discussion as to what such a school should be. Massachusetts has been foremost in maintaining such institutions, and perhaps has quite as good an example of such schools as have yet been originated Our own conviction is that such a school is very desirable in our State, and would have a most welcome influence on the coming generations.⁵

Although Nebraskans had, with the passage of the new Constitution, taken notice of the problem of youthful crime

and delinquency, it would still be necessary for the Legislature to appropriate the funds to actually build a reform school. Unlike the Unicameral of today, the Nebraska Legislature during this era consisted of both a Senate and House of Representatives which convened once every two years. The first opportunity the Legislature had to take up the matter of establishing a reform school came with the legislative session of 1877.

Nebraska in 1877 was in the process of recovering from a period of economic depression. The times dictated fiscal restraint in the affairs of government, and new projects requiring large expenditures were not popularly supported. State officials were nevertheless aware of the problem of incarcerating younger inmates at the state prison with those who were older, and assumed to be more hardened in their ways. Governor Garber told the Legislature that, "the younger class of criminals" had been separated from the "more vicious and hardened". The Governor went on to suggest that it would be possible to remodel a portion of the existing prison structure so as to allow for a reform school "which could be conducted by the same officers, and put in operation at small expense".⁶ The Legislature did not act on the Governor's recommendation however, and the 1877 legislative session ended without the passage of a reform school law.

The 1879 session of the Legislature brought not only a

change in the orientation of the Legislature, but of the Governor as well. This session saw Governor Garber, in his address to the Legislature, lend whole-hearted support to the notion of building a separate juvenile reformatory. Of primary concern to the Governor was the problem of confining juveniles with older offenders.

During the past four years there have been thirty-two boys between the ages of 14 and 20 years confined in our state prison The influence of association with older and confirmed criminals, together with the stigma that forever follows the convicted felon must certainly imbue the mind with ideas that ought not obtain among good citizens.⁷

The Governor went on to urge the Legislature to consider appropriating money to build a reform school "as part of the public penal system" similar to the model developed in Massachusetts.

This reference to the Massachusetts system is significant for the influence of that reformatory system on the Nebraska experience. Opened in 1848, the Massachusetts Reform School at Westborough, later known as the Lyman School, was the first state reform school in the nation. Numerous operational features of this school became common facets of most later schools built on the Westborough model. Among the more noteworthy characteristics of the Massachusetts system may be listed the following:

1. The operation of the school on the "cottage" or family plan.
2. The division of the daily routine into two segments; half devoted to scholastic learning, the other half to the inculcation of work skills.

3. The integration of military drill (complete with uniforms and arms) into the institutional regimen.
4. The commitment of youths to the institution for the duration of minority, tempered by a "credit system" that provided for early release, but nonetheless resulted in long sentences in actual practice. 8

It is important to note that these practices were emulated in many parts of the country where new reform schools were being built. Understanding this, we can see a certain logic underlying the form taken by the first delinquency control act enacted in Nebraska.

As stated earlier, a reform school bill was passed by the Nebraska Legislature in 1879. The bill was entitled, "An Act to Locate the Nebraska State Reform School for Juvenile Offenders, and to Create a Reform School Fund for the Purpose of Defraying the Expenses of Said Institution."⁹ Actually, four separate pieces of legislation relating to the construction of a reform school were introduced in the House, but only House Roll #23 survived the hearings of the House Special Committee on the Reform School.¹⁰

There was relatively little debate over the need for a reform school law, but considerable controversy arose regarding where the school should be located. The principal contenders were Omaha and Kearney. When the bill was read out of the special reform school committee, it was recommended that the school be located at Kearney. On a vote taken on February 19, 1879, the House agreed to the provision to locate the reform school in that city, and passed the bill in its

entirety by a vote of 61 to 16 two days later. In the Senate, passage of the bill was delayed until the final day of the legislative session, and was then passed 21 to 5, amended to locate the school in Omaha. The final evening session of the Legislature was anything but tranquil. When returned to the House, the Senate amendment was rejected, giving the appearance that the entire bill would not be engrossed and signed. Fortunately, on its subsequent return to the Senate, that body withdrew the amendment for fear that to do otherwise would destroy any chance for the bill to become law.

One observer commenting on the activity during the closing hours of the session noted some interesting chicanery surrounding the final signing of the reform school bill.

. . . the bill providing for the establishment and location of the reform school passed during the closing hours of the session. The time of the engrossing clerks was fully occupied in the engrossment of certain appropriation bills, and the two houses were simply waiting until these most important bills were ready for the signatures of the proper officers, when adjournment would immediately take place. As a matter of fact, the hour for final adjournment would have passed, except that the clocks had been turned back an hour and stopped. At this critical time when it seemed that all efforts in the matter of securing this important measure would prove of no avail because the clerks could not have time to engross the bill as required by law. Mr. F. G. Keens, [a private citizen from Kearney] took the bill, hastily engrossed the same and personally saw that it reached the proper officers for their signature.¹¹

On February 27, 1879, Governor Albinus Nance signed the bill and Nebraskans had secured their first reform school law.

Perhaps the most interesting feature respecting the appropriation for the reform school centered around the

requirement that the citizens of Kearney "donate to the State of Nebraska a tract of good, arable land containing not less than 320 acres, upon which to locate said institution . . .".¹² If Kearney did not provide the necessary land by July 1, 1879, the law required that the Board of Public Lands and Buildings designate a new location in a community that would be willing to donate the land. Apparently some of the western Nebraskan resistance to the notion of a reform school dating from four years earlier had largely subsided. Kearney citizens purchased 320 acres of land at the price of \$100.00 per acre, and voted bonds for \$3,200.00 to pay for the land. The exact reason for the zeal of Kearney residents to secure the location of the reform school in their community, be it commitment to the ideal of juvenile reform, or the hope for local, long-term economic gain (in the spirit of local boosterism), suffice it to say they were willing to match one-third of the funds provided by the state in order to place the new reform school in the Kearney area.

The actual construction of the school began shortly after the tract of land had been deeded to the state, and by July of 1881 the institution was ready for occupancy. Interestingly, the 1879 law included provisions relating not only to the actual construction and maintenance of the reform school, but also carried provisions that set the legal process by which youths would be committed to the Kearney reform school. In spite of this, the Nebraska Legislature of 1881 enacted a second reform

school act which superseded the 1879 law.¹³ The purpose of this bill was to provide "for the government and maintenance of the state reform school at Kearney and the punishment and education therein of juvenile offenders . . .".¹⁴ In all substantive areas the new law was a verbatim duplicate of the 1879 law. Since this second piece of legislation became law in March of 1881, well before the Kearney school received its first "inmate", it is this later law and not the original reform school act that was binding on the activities of the school from its opening day.

The purpose of the new reform school was expressed in that part of the law which made the Board of Public Lands and Buildings responsible for the administration of the institution.

The board shall cause the boys and girls under their control to be instructed in correct principles of morality, and in such branches of useful knowledge as are adapted to their age and capacity, and in some regular course of labor as is best suited to their age, strength, disposition and capacity, and as may seem best adapted to secure the reformation and future benefit of the boys and girls.¹⁵

Obviously, references such as "correct principles of morality", "branches of useful knowledge", and "regular course of labor", are not very helpful in describing precisely what the regimen of the institution was supposed to be. It is clear to see, however, that there was an underlying belief that a correlation existed between reformation and the inculcation of desirable attitudes pertaining to industrious and productive living. Senator Bassett of Gibbon noted for example:

If we were to ask in a general way what causes juveniles to be sent to this school, the most fruitful source of reply would be "idleness", "nothing to do", "were not taught to labor". Idleness is a vice and leads directly to poverty and crime. . . . While labor causes exertion, and is in a measure more or less foreign to our natures, yet a child can be so taught to labor, to profitably occupy his time, that it becomes a sort of second nature, and to labor a source of pleasure

With ample provision by the state for carrying out the provision of the law in regard to "courses of labor" in connection with this school it will be found that the framers of the law "builded far better than they knew".¹⁶

Later we will see in more detail how the managers of Kearney went about the task of teaching trades and developing within the children the proper respect for the work ethic.

Another important feature of the reform school law was the part that outlined the process by which juveniles would be committed to the institution. The law did not extend to all cases involving minors, or to all offenses. It stipulated that only children under the age of 16, not charged with murder or manslaughter, were subject to commitment to Kearney. In any other instance where a youth was convicted of a crime, or "of being a disorderly person", the courts could order a commitment to Kearney.¹⁷ Once committed, the child remained in the custody of reform school officials until reaching the age of majority (21) or until he or she was "reformed or legally discharged."¹⁸ Unlike adult criminal court, if the child was committed to the reform school, the judge was not to "enter judgment", that is, even though the child was committed until majority, he did not receive a sentence as such. Additionally, a provision existed which held,

"The discharge of any boy or girl so reformed, or having arrived at the age of majority, shall be a complete release of all penalties incurred by conviction of the offense for which he or she was committed."¹⁹ This provision released the youthful offender from the legal stigmatization that often resulted from criminal conviction, such as loss of certain civil rights or employment opportunities.

The 1881 law, as the first of its kind designed specifically for the control of youthful misbehavior, contained a number of interesting nuances. Among these was the "disorderly person" clause, a catch-all category which paved the way for the later development of "status" offenses - that category of misdeeds for which only a minor can be charged. Included in this group are truancy, running away from home, incorrigibility and the like. As long as these offenses were subsumed under the general category of disorderly conduct however, they were still treated as criminal misconduct; the distinctive legal meaning of "delinquency" had not yet evolved. One of the reasons for this was that while it was true that under the 1881 law children were normally not incarcerated with adult offenders, they were still prosecuted in a criminal court proceeding, and the requirement remained respecting a determination of guilt or innocence. Later, with the advent of the juvenile court, cases were heard in a separate "juvenile courtroom". These "hearings" were informal, non-adversarial proceedings designed to discover what course of action should be taken in

order to advance the best interests of the child. With emphasis on the welfare of the child, an interest in his culpability regarding the alleged offense subsided. It was thought that a concentrated effort to determine the guilt or innocence of the child would work at cross-purposes with the aim of the juvenile court, which was to shelter the child, and not to punish. As a legal device, the label "delinquent" was used to describe the adjudicated status of children found to be in need of special supervision. All of this however, was several years away in terms of the content of the 1881 reform school law.

Throughout the entire decade of the 1880's, sentiment regarding the Kearney institution was favorable. Each Nebraska governor during the decade, Albinus Nance, 1879-1883, James W. Dawes, 1883-1887, and John M. Thayer, 1887-1891, urged support for the purpose and goals of the institution, and the need for proper legislative support. According to Governor Nance,

The tendency of the reform school to repress and prevent the commission of crime is indisputable, and if supported on a liberal scale it will prevent large expenditures for the punishment of hardened criminals. If viewed only from a humane standpoint the school should have every encouragement, as it enables the state to rescue a large number of children from vicious surroundings and gives them the advantages of a good education together with well established habits of industry.²⁰

In response to the urging of the various governors, the Legislature enthusiastically supported the reform school with numerous appropriations for new construction, improvement, and repairs. After the completion of the original building in 1881,

the institution grew in size to include six cottages, an "industrial" building, and various other miscellaneous industries (boiler room, laundry, bakery, etc.). In all, the Legislature passed at least one appropriation for the school during each of its sessions throughout the 1880's. By the end of the decade, appropriations for expansion had reached the healthy sum of \$230,390.²¹

In spite of the rapid growth of the physical plant, by 1890 the school was showing signs of overcrowding. Of special concern was the large number of girls within the inmate population. Since the girls were all housed in one building, there appeared to be the alternative of either building another new cottage, or the building of a separate reformatory for girls in a different location. Kearney Superintendent, John T. Mallalieu, in his biennial report for the period ending November 30, 1890, strongly recommended following the latter course. In his report Mallalieu cited the fact that the overcrowding of the girls had become a near hopeless situation. Already the girls were being kept in the largest cottage at the institution, but owing to the fact that their numbers had doubled in the two years covered by the report, even this cottage was no longer adequate. Nor was the overcrowding of the girls without its influence on the rest of the institution.

Under our present system the school rooms for the boys are in their family buildings. The different principals are therefore duplicating to a large extent each other's work. If the girls vacated the main building it could be used (in addition to offices,

library, etc.), as a graded school building. More efficient work would thus be done, inasmuch as the inmates could be classified and graded, and a regular course of instruction from the primary to the high school department could be adopted and carried out.²²

Overcrowding was not the only factor raised by Mallalieu in support of his contention that a separate school was necessary for reformatory work to be conducted in the best atmosphere possible. His thoughts were oriented toward the immiscibility of the sexes, especially in the instance where delinquency was the common bond between the boys and girls.

No one except those who have had the experience can imagine the embarrassment and drawbacks connected with a mixed school. While the sexes are kept separate, yet their thoughts are induced in an improper channel. The disadvantageous effects of a mixed school are very noticeable after the girls leave the institution. If a boy sees a girl who has been in the school he is liable to call attention to the fact, and from that time her difficulties begin. No matter how well she has been doing, or how hard she has been trying to conceal her identity, the finger of contempt and scorn is pointed at her by unmerciful beings. In a separate institution there would be none of this contingent embarrassment.²³

No doubt there was a modicum of truth to the superintendent's comments, yet even if his point were granted, exaggerated as it appears to be, there would still seem to be some question whether the potential for stigmatization could be overcome by building a separate institution.

The Legislature, nonetheless, accepted Superintendent Mallalieu's analysis, and during the 1891 session it passed a bill appropriating funds for the construction of a new industrial school for girls.²⁴ The bill consisted of an

appropriation of \$40,000 for the erection of a cottage, boiler room, laundry, barn and "outbuildings". In a manner similar to that which lead to the construction of the first reform school at Kearney, this bill held the city of Geneva (the city in which the school was to be located) responsible for donating 40 acres of land along with providing water and sewage service. Most other provisions of the bill were modeled after the provisions of the 1881 reform school law.

One important area of departure in the later bill was the special provisions outlining the instruction of inmates. The bill stated that the girls were to be instructed in the principles of morality, self-government, domestic duties, and such other branches of knowledge as are taught in the public schools of the state."²⁵ Still, for the most part, the Legislature in drafting this bill followed the format used to establish the Kearney school.

On March 15, 1892, the Geneva school was officially opened. Lizzie M. Donahey, principal of the "Girl's Department" at Kearney, marked the departure of the girls with proper sentimentality.

The old school room will no longer resound with the voices that so often have mingled in merry laughter, or united in the usual singing; the halls will echo no more to the sound of footsteps so accustomed to pass and repass in the daily routine of work, study, and pleasure-even the old garden plot will miss the watchful care which eagerly awaited the coming of the first cherished bud in seasons gone by-these shall knew them no more. So, with eager looking forward to the new home, they yet wave a regretful farewell to the old.²⁶

Retrenchment and Reform

In the period following the construction of the Geneva Girl's School, appropriations for the support of the reform schools were reduced drastically. Throughout the middle years of the 1890's, Nebraskans were occupied with the fight against incessant drought on the one hand, and a general economic depression, which affected the entire nation between 1893 and 1897, on the other. The attitudes of Nebraska governors, which had previously echoed sentiments of liberal support for state institutions began to express new themes. Three of these themes were: (1) the need to reestablish frugality in state government in order to lessen the chance for fraud and dishonesty to develop, (2) the need for general reform of the management of some state institutions, and (3) the desire to increase the authority of the governor over the management of state institutions.

Interest in pursuing austerity in public expenditures evolved out of an 1893 scandal concerning the fraudulent use of funds appropriated for construction at the state prison.²⁷ Believing that the scandal was attributable in part to excessive spending, Governor Lorenzo Crouse declared, "A close appropriation enjoins the practice of economy. A too liberal one invites extravagance and permits fraud and dishonesty."²⁸ As a consequence, the Legislature responded by freezing

new construction, reducing appropriation for institutional operating expenses, and reducing the salaries of institutional managers and employees.²⁹

Earlier it was mentioned that some charitable institutions funded by the state were managed by private "societies". Two of these were the Women's Associated Charities of Nebraska which managed the Nebraska Industrial Home,³⁰ and the Society for the Friendless which administered the Home of the Friendless. This management scheme was patterned after the arrangement which had existed in the governing of some public institutions in the East. Under this plan the actual operation of the institution, the determination of institutional regimen, and the establishment of fiscal priorities were all delegated to the societies. The money for their operation, however, came from legislative appropriation.

In line with the new mood of fiscal conservatism in official channels, this somewhat anomalous managerial arrangement came under critical scrutiny. As early as 1893 Governor James Boyd called for the reform of the management of these institutions. The belief was that without direct control of the budgets of these institutions there existed a correlative inability of the state to control its own budget. "On the way in which these institutions are conducted," wrote Governor Crouse in 1895, "depends to a great extent the expense of the state."³¹

In 1895 the Legislature finally took steps to place the administration of the Industrial Home and the Home for the Friendless in the control of the state.³² The provisions of these acts were quite simple. They removed the control of the two institutions from the hands of the private "societies" and placed it under the auspices of an officially appointed state board.³³

The passage of these bills met with some opposition. As the vote on the bill concerning the Industrial Home was being taken, Senator J. B. Conaway from York supported his vote against it by sending an explanatory note to the President of the Senate.

I believe that Senate File #61 which dissolves the Woman's Board of Associated Charities, so far as the Milford Home is concerned, is a measure which does injustice and is in defiance of the noble purpose for which this home was founded and defeats the very object for which the worthy women of our state have labored and done so much for the unfortunate, penitent women and girls.³⁴

Likewise, when the vote was taken on the bill to reorganize the management of the Home for the Friendless, the Society for the Friendless found a friend and defender in Senator Conaway.

I am opposed to the passage of House Roll #491 from the fact that I believe this will work a detriment to the government of that institution and the purposes for which it was intended, and offers a rebuke to the righteous women who have and still labor for the poor and friendless, and gives but little encouragement for women to labor in such benevolent enterprise....³⁵

The righteous indignation of Senator Conaway was to no avail

however, as both measures became law, ending the administration of public institutions in Nebraska by private corporations.

Another item raised by Governor Crouse in 1895, and later to become the subject of corrective legislation dealt with the appointment powers of the governor. Again, proper fiscal control was at issue with the governor pressing the argument that such a goal could best be achieved by centralized administration. Naturally, this would require the consolidation of the power of appointment in the hands of the state's Chief Executive. The Legislature responded by passing two bills in the 1897 session which affected the appointment of administrators to the Industrial Schools at Kearney and Geneva.³⁶ Departing from prior practice, the power to appoint the school superintendents was taken from the Board of Public Lands and Buildings, and granted to the Governor. Additionally, the governor was empowered to appoint the assistant superintendent and the matron, based on the nomination of the superintendent. All other employee appointments were left to the discretion of the respective institution's superintendent. The power to prescribe rules and regulations governing the institutions and to fix salaries not controlled by statute remained with the Board of Public Lands and Buildings, but now required the approval of the Governor.

This flurry of legislative activity occurring in

Nebraska in 1897, aimed at improving the administration of state institutions, was indicative of a national trend with similar earmarkings. Historian Robert H. Wiebe, describing the political climate of the nation in the 1870's, identified a theme that swept Nebraska in the 1890's:

. . . cries for reform sounded much like the counsel of reaction. Deep inside, everyone knew the path of virtue; and those who had strayed would simply have to return. . . . The government in particular would have to relearn the fundamentals of thrift. From the Midwestern farmers and shopkeepers to the editors of Eastern literary magazines came demands for "retrenchment and reform", drastically reduced appropriations, austerity on all public occasions and lower salaries.

In the immediate aftermath of Nebraska's experience in "retrenchment and reform" no new legislation was enacted which served to expand state support of charitable, or correctional institutions. It was not until after the turn of the century that the Legislature again focused its attention on questions of juvenile law and corrections. Renewed interest began in 1901 with the Twenty-Seventh Session of the Nebraska Legislature. In that year the Legislature passed two bills, one substantively administrative, the other relating directly to the regulation of the state industrial schools.³⁸

Earlier it was noted that the National Conference of Charities and Correction developed in part out of the emergence of state charity boards. We saw that the first of these boards was established by Massachusetts in 1863, and in the years afterward a number of other states followed suit. In 1901 a State Board of Charities and Correction was created

in Nebraska patterned after those found in other states, and on a model that was popular with the National Conference.³⁹ The establishment of this Board appears to have grown out of the reform movement of the 1890's. A rough parallel can be drawn between those factors which led to the first boards, and those which were relevant concerns in the creation of the Nebraska Board. "The economic . . . problems which continued to plague reform schools" writes Mennel, "led governments in some states to seek administrative solutions by scrutinizing institutional operations in a systematic way."⁴⁰ Nebraska's measure to insure systematic scrutiny was, like in other states, the establishment of a board of charities and correction.

The Nebraska Board was to consist of the Governor, the Commissioner of Public Lands and Buildings, and the State Superintendent of Public Instruction.⁴¹ Additionally, four "advisory secretaries" were to be appointed, to cooperate with and assist the Board in carrying out its function. Several stipulations within the law were directed at making the Board corruption-free, and immune to the influence of political graft. None of the Board members or advisory secretaries were to receive a salary for their efforts, and the Governor was required in appointing secretaries to insure that "not more than two . . . belong to the same political party". Finally, Section Five of the act held:

No member of said Board nor its Chief Clerk nor any of its advisory secretaries shall be either directly or indirectly interested in any contract for building,

repairing, or furnishing, or furnishing supplies to any of the institutions in the state described in this act; nor shall the officers in charge of or connected with the management of any such institution be eligible to appointment under said Board as advisory secretary or Chief Clerk.⁴²

This last feature of the law dealing with conflict of interest was designed to eliminate problems that were at the core of the political scandal of 1893. In the same vein, another provision of the law made it possible for the Governor to order the Board to conduct special investigations, or impromptu inspections of institutions without the necessity of appointing a special ad hoc legislative committee to perform such tasks. The chief function of the Board remained however, the duty "to inquire into the whole system of public charities and methods of and practices in the correctional institutions of the state and counties and to ascertain the condition thereof from time to time by inspection or otherwise, especially of prisons, jails, infirmaries, public hospitals, asylums, reformatories, and industrial schools. . . ." Lastly, the Board performed a rudimentary planning function by approving all plans relating to new construction in public institutions.

The second piece of legislation enacted in 1901 will only be mentioned in passing. This bill was a reorganization of Chapter 75 of the Revised Statutes of Nebraska, which contained the Reform School Act of 1881 and the amendments and changes which had been added to it over the years.

The Establishment of the Juvenile Court

The first juvenile court in the United States was established in Cook County (Chicago) Illinois in 1899. Such individuals as Julia Lathrop, H. H. Hart, and Fredrick Wines, all child-savers of national repute, were instrumental in the organization of this court. In many ways the creation of the juvenile court marked the high point of a movement that had been gaining momentum during the entire latter third of the 19th century. "The juvenile court act of 1899" writes Platt, "culminated nearly thirty years of reform efforts by child-saving organizations in Illinois." 44

In Nebraska the attempt to establish a juvenile court began in 1902. Not unlike the situation in Illinois, initial interest in securing a juvenile court law emerged from within the private charitable organizations of the state. According to an account by Lincoln Judge Wilbur F. Bryant given at the 1904 meeting of the Nebraska Conference of Charities and Correction, the first effort to secure juvenile court legislation came as a result of a November, 1902 meeting of the Directors of the Charity Organization of Lincoln.⁴⁵ As a result of this meeting, Judge Edward Holmes of Lincoln was contacted and asked to draft a bill for an act to establish a system of juvenile courts which could be introduced during the 1903 session of the Nebraska Legislature.

This bill, Senate File #179, which was introduced by Senator William Warner, was patterned after the 1899 Illinois

law; in fact, its title, "an act to regulate the treatment and control of dependent, neglected, and delinquent children" was exactly the same as the title of the Illinois act.⁴⁶ As an independent item of legislation the bill met with considerable opposition in both Houses of the Nebraska Legislature. Before it finally won passage, it was attached to another, entirely different child-welfare bill that dealt with penalties associated with the neglect, cruelty or ill-treatment of children.

Although it was passed by the Legislature, the new act was destined to face still more trouble. At the request of Governor John H. Mickey, Nebraska Attorney General Frank N. Prout wrote an opinion regarding the constitutionality of the act. The focus of the opinion centered on the provision of the act which subjected children in counties having a population of more than 40,000, to the jurisdiction of the District Courts in Nebraska, while in counties having a population less than 40,000 jurisdiction over juvenile cases would be exercised by the County Court. Under the Nebraska Constitution of 1875 the jurisdiction of all courts of the same class or grade was required to be uniform throughout the state. The Attorney General concluded, "The Legislature therefore is powerless to confer jurisdiction of a class of cases [i.e. juvenile cases] in one county on the district court and deprive the district court of another county of that jurisdiction."⁴⁷ Thus, the new act in the opinion of the Attorney

General was in conflict with the Constitution and therefore unconstitutional. Acting on this advice, Governor Mickey vetoed the bill, and since the Legislature had adjourned and would thus be unable to reconsider it, the bill failed to become law.

The dust had not yet settled around the debris of the vetoed bill when its backers started making plans to revise it for resubmission in the next legislative session. Obviously something would have to be done to correct the jurisdictional problem posed by the Nebraska Constitution. This was not viewed as an easy task. The problem with conferring exclusive jurisdiction on the District Court centered around the fact that in the sparsely populated counties of the state, "during nine-tenths of the year the judge will be where you can't get at him".⁴⁸ Conversely, to grant exclusive jurisdiction on the County Court was thought unsatisfactory on account of the county judgeship being an unsalaried position. Thus, "for this reason in most rural districts the position is filled by laymen and too often by mere politicians."⁴⁹ Naturally, in the minds of advocates of the juvenile court, it would be a scandal to have "mere politicians" hearing cases as sensitive as those which would come under the aegis of the juvenile court. The only alternative, short of rewriting the constitution, was to make the jurisdiction of both the District and County Courts concurrent. This course was also not without its disadvantages, but in Judge Bryant's estimation this was

the direction which would have to be followed.

To give the County and District Courts concurrent jurisdiction throughout the State is not without objections. The conflicting jurisdiction of Herod and Pilot, which occurred nineteen hundred years ago, is liable to be repeated, and not to end as the other conflict did in a reconciliation; but still the least objectionable course to pursue - and I am in favor of it - is to give these courts concurrent jurisdiction.

I would recommend requesting Judge Holmes to re-draft the bill passed by the Legislature, changing it to give the concurrent jurisdiction indicated, and have the same ready for the next Legislature.⁵⁰

Indeed, the bill was redrafted, and the 1905 session of the Legislature saw the bill introduced as Senate File #6 by Senator John Mockett, Jr. of Lincoln. The bill was changed along lines suggested by Judge Bryant. The jurisdiction of the District and County Courts was made concurrent, with the qualification that the County Court would not exercise jurisdiction except in the absence of the judge or judges of the District Court. In virtually every other respect, the new juvenile court bill was the same as those parts of the 1903 act that had dealt with the establishment of a juvenile court. Owing to a number of factors,⁵¹ the bill passed rapidly through both the Nebraska House of Representatives and Senate; on a unanimous vote in each instance.

The bill became law on March 8, 1905 with the signature of Governor Mickey. As suggested earlier, the new Nebraska Juvenile Court Act bore a strong resemblance to the nation's first juvenile court act, the 1899 Illinois Act. Like the Illinois law, the definitions of "dependency" and "delinquency"

were expanded under Nebraska law to include a wide range of juvenile misdeeds. Section One of the Juvenile Court Act demonstrates this dramatically. The earlier 1901 Revised Reform School Law spoke in general terms of dependent children as those "who for want of proper parental care [were] growing up in mendicancy or crime."⁵² The new law however, gave a detailed description of dependency to include children not only "homeless or abandoned", but also, as in the case of those under eight years old, those who were found "singing or playing any musical instrument upon the street, or gives any public entertainment, or accompanies or is used in aid of any person in so doing." The new definition of delinquency contained an equally detailed elaboration of forms of misbehavior that went well beyond concern for those "who violate any law of the state or any city or village or village ordinance". Legally prohibited misdeeds also included the visiting of "any public pool room or bucket shop" and "habitually wander(ing) about any railroad yard or tracks".⁵³

This lengthy delineation of states of dependency, and modes of delinquency is not without problems. As the litany of conditions and offenses grew longer, the distinction between the dependent as opposed to the delinquent child becomes less clear. If one were to set aside the reality that the available remedies to alleviate dependence, or correct delinquency under the new law were substantively no different,⁵⁴ one would still be confronted with a wide variety of situations

in which functionally, it would be difficult to determine whether the circumstance faced indicated a condition of "dependence", or a state of "delinquency". Consider for example the subtle and very possibly arbitrary distinction which could be made between a child who is "homeless" (dependent), and one who is "vagrant" (delinquent). What is ironic about this situation is that one goal of the child-savers was to see that the child received solicitous care on an individual basis. In the words of Judge Julian Mack of the Chicago Court:

. . . the basic idea of the juvenile court in dealing with the child. . . is not a legal one, but purely a humane one. There is no type, there are no classes, it is all individual work; and individual work is the only true work.⁵⁵

Even though Judge Mack claimed that no distinctions were made, the law which authorized the work of the court did distinguish among its clients, leaving one to assume that if this distinction was to have meaning, it would have to be a responsibility of the court first, to identify the "type" of child the court had before it, and secondly, to treat differently dependent, as opposed to delinquent children. Whether this condition was ever met however, remains a matter of conjecture, for it never becomes clear exactly how the court, in practice, fashioned its response to one group any differently than to the other.

In the actual courtroom proceeding, the juvenile court was designed to deal with children in a manner thought to be

the most conducive to discovering the needs of the child. Both the environment of the courtroom, and the proceeding itself, were to convey an atmosphere of informality. Section Three of the Nebraska Juvenile Court⁵⁶ laws ordered that counties with a population of over 40,000 must provide a special "Juvenile Court Room" in which juvenile cases were to be heard. Charles E. Foster, Deputy Douglas County (Nebraska) Attorney described the first Omaha Juvenile Court as follows:

A separate room is provided for the court and it is presided over by one of the judges of the District Court. A person being in the Juvenile Court for the first time will notice at once the unconventional manner in which the business of the court is conducted and the informalities observed in the examination of witnesses. The offenders as well as the witnesses, who are for the most part children are made to feel at home by the officers of the court by removing in every possible manner the restraint and awe of the ordinary court proceeding. The judge tries to get the confidence of all the witnesses as well as the young offenders. The delinquent child has a seat by the side of the judge and is made to feel to a certain degree the responsibility and importance of the matter. He is allowed to tell his story in his own way and in his own language. The punishment as a rule is not severe and in a majority of cases a few suggestions by the judge to the parents, and the parole of the delinquent child is sufficient.⁵⁷

As a necessary adjunct to the courts' new responsibilities, the role of probation officer was created. In counties that had a population of 50,000 or upwards, probation officers were to be "salaried county officials".⁵⁸ Their duties were both supervisory and investigatory. In the latter instance it was the duty of the probation officer, at the bidding

of the judge, to conduct investigations into the home life, school records, or any other area which might yield information required by the court for the proper adjudication of a case. According to Mogy Bernstein, Omaha's first Chief Probation Officer, during the first year of the Juvenile Court's operation, 3,000 investigations were conducted through visits to homes in Douglas County.⁵⁹

Perhaps the most pervasive activity of the probation officer though was to act as an agent of the court in the supervision of youths returned to either their parents, or placed with a private family. Section Nine of the Juvenile Court Act held:

In the case of a delinquent, neglected, or dependent child, the court may continue the hearing from time to time and may commit the child to the care or custody of a probation officer, and may allow said child to remain in its own home, subject to the visitation of the probation officer as often as he may be required, . . . or the court may cause the child to be placed in a suitable family home subject to the friendly supervision of the probation officer.⁶⁰

In short, as the agent of the court the probation officer became in effect a third parent whose authority over the child might, in some instances, outweigh that of the natural parents.

The role of the probation officer was only one example of the increased comprehensiveness given to the concept of parens patriae. Under the Reform School Act judges were limited in their power to intervene between parent and child in behalf of the child. In the case of children charged with a crime, for

instance, the judge was required to either commit the child to the industrial school or release him. The Juvenile Court Act however, greatly expanded the discretionary powers of judges, while at the same time serving to diminish the ability of parents brought before the court to maintain control over their children. So severe was this imposition, that once a child was committed to the guardianship of an "association" or individual other than the natural parents, the guardians became the legal representatives of the interests of the child to the complete exclusion of the "rights" of the natural parents. Hence, in an adoption proceeding for example, the assent of any "association" having control of the child was sufficient to authorize the court to enter a decree of adoption.⁶¹

The concept of the state as parent also formed a significant role in arguments employed in defense of the function of the juvenile court. At times the arguments of some child-savers extended well beyond mere justificatory rhetoric. On occasion the language was so zealous in defense of the power of the state as to suggest that the child-parent relationship was a political privilege extended by the state.

. . . Now I will make the bold assertion that parental right, as the term is popularly understood, is a chimera, a factless fiction, a mummified myth, and a relegated relic of barbarism. . . .

You are holding your child as a trustee of society. Your natural affection is your guaranty to society that you will not abuse that trust. If you do abuse it the State - society in the aggregate - interferes.

Judge Mack put the same argument a little more mildly.

The juvenile court legislation represents this theory, that with the delinquent, just as the dependent child, the state is the greater parent; that every child within its border is its ward; that when the natural parent fails in its duty or is unable . . . to perform his duty to the child, the state must step in, the state must take charge of its ward.⁶³

Summarizing these comments regarding the establishment of the juvenile court in Nebraska, it is safe to say that while the court act added some new features to the milieu of juvenile justice, its primary thrust was to make the attack on juvenile crime more comprehensive by consolidating as much as possible, the power of intervention in one court whose authority would be broad and discretionary. Rather than a "revolution" in juvenile justice, the development of the court can be seen as a culmination of intensive efforts at delinquency control initiated years earlier.

Advocates of the juvenile court realized the importance of the relationship between the structure of the family and the social development of youth. We also saw evidence however, of a questionable assumption that the state can intervene in those instances where "proper" parental guidance is lacking, and assume the role of parent with some assurance that it can produce the same positive results as a "good family". In the chapter that follows we will attempt to examine this and similar assumptions as are manifest in the "correctional" practices that were prevalent in this era. As such we will look with particular interest to the routine of the State

Industrial School at Kearney to see how the goals idealized in law as early as 1879 found application in the specific climate of the juvenile reformatory.

Ideology and Practice of the Nebraska Juvenile Justice System

The purpose of this chapter will be to examine the response of Nebraska child-savers to the problem of delinquency in the period predating the establishment of the juvenile court. This response was predicated on a body of assumptions concerning the moral nature of man, but more particularly, the nature and causes of youthful misbehavior. Of interest will be an overview of how these assumptions found concrete application in the reformatory methods employed in the state schools at Kearney and Geneva. By describing the concepts and practices of this period, a better understanding and assessment can be made of the role "modern" theories played in the early development of the Nebraska juvenile justice system.

Earlier it was suggested that the ideas and thoughts prevailing in the activities of the National Conference of Charities and Correction exerted a powerful influence on the structure of the child-saving movement as it was organized in Nebraska. The evidence shows that this was indeed true. The work of the Conference was of considerable interest to Nebraskans engaged in a wide range of charitable endeavors. John T. Mallalieu, superintendent at Kearney for many years, was an active member of the Conference's section on juvenile reformation, and a staunch supporter of all of the Conference's different activities. More than occasionally, Mallalieu sang praise to the work of the Conference in a most laudatory

fashion. Consider his editorial in the Kearney Industrial School Courier in which the pending conference of 1892 was the subject:

The conference of 1892 will be held in Denver, commencing June 23rd and continuing in session for six days.

. . . Almost every topic that can be enumerated in the line of charitable work will be touched upon. If you want to find out the best method of treating the insane, attend this conference. If you want to comprehend and understand the systems of kindergarten work and placing out children, attend this conference. If you desire to know something about the most modern methods of managing prisons and reformatories - juvenile and intermediate - attend this conference.. If you have an interest in the blind, the deaf and dumb, and the idiotic, and want to learn what the public is doing for them, attend this conference. If you are rusty or uninformed on the Indian policy, the immigration and pauper questions, attend this conference and get posted.

In fact, Mallalieu claimed the Conference was even good for one's health:

If you are run down physically or have been breathing air impregnated with malaria during the past year and want to get braced up and rejuvenated, attend this conference and take in lungs full of Rocky Mountain health-restorer and a head full of good ideas. Institutional and charitable workers can ill afford to miss this meeting.¹

Superintendent Mallalieu's eagerness to have high attendance at the Conference may have been motivated by the fact that he was to present a paper entitled, "Aims, Methods, and Results of Reform School Training", at the Conference. This paper was perhaps the most comprehensive statement on reformatory work authored by a Nebraskan during the formative years of child-saving work within the state, and aptly demonstrates that at least some Nebraskans were well abreast

of the popular themes in reformatory work. While this may have been Mallalieu's most glorious hour before the Conference, it was not his last. He attended other annual meetings of the Conference and delivered another paper at the Conference of 1894. It should also be noted that other figures involved in charitable endeavors in Nebraska attended these meetings and made original contributions of their own.

Recalling some of the most prominent factors in the Conference's repertoire of beliefs on delinquency causation, it has been observed that they entertained a preoccupation with the notion of moral discipline, a fear of the so-called "dangerous classes", and a belief that "moral" or "industrial" training could save delinquent and dependent children from lives of crime. These same concerns formed the general focus for Nebraska child-savers. For them the twin problems of idleness and improper homelife constituted the most obvious elements in the creation of a delinquent career. Before all else, it was assumed that failure to occupy one's time properly was indicative of moral degeneracy and delinquent propensities.

Many a life has been wasted from sheer incapacity of fixing on what to do. In these days there is no room left for the idle. Society expects every man to do his duty, and its revenge is very swift when its claims are neglected, or its expectations disappointed. ²

The question of how some children came to be slothful, while others became industrious and dutiful was explained by

reference to the "social condition" of the family.

"Social condition" in the context used by reform school administrators at Kearney and Geneva referred to the presence of one or both parents in the home. These "statistics" were published in the biennial reports to the Board of Public Lands and Buildings. Most often what was indicated was that either one or both parents were deceased. If both parents were living, usually they were divorced or separated. Since it was axiomatic that the influence of both parents was necessary for the proper upbringing of a child, the figures on the condition of the children at the two institutions was positive proof that they had not been benefiting from proper home influences. Judge Edward Holmes, author of Nebraska's 1905 Juvenile Court Act, echoed this sentiment, especially in regard to the effects of divorce on the family.

. . . Childhood shows more aptitude for receiving early impressions and assimilating good and evil that comes to it from the teaching of home life and parental example. And it is interesting to know that from those statistics examined 50 per cent of those confined in reformatories, or industrial schools, are either orphans, or the children of divorced parents, who have been deprived of proper parental instruction and care Divorce and crime go hand in hand, and juvenile crime is sheltered beneath its wings. . . .³

The integrity of the family was not the only concern of Nebraska's juvenile reformers as they scanned the social environment for debilitating influences. Fears of "minds . . . poisoned by the trash literature of the cheap novelist", "haunts of misery where criminal tendencies follow the laws

of heredity", "homes of the inebriate", and "vile dens of iniquity" were all thought to be "sapping the manhood and womanhood of so many of our youths. . .".⁴

Those closely associated with reformatory work with delinquent girls in Nebraska shared a view of the problem similar in orientation to that found throughout the rest of the nation. When attention was focused in this direction, the questions raised usually centered on the moral well-being of children, and was vigorously, though somewhat ambiguously pursued. The approach of Nebraska child-savers was ambiguous in the sense that it is difficult to determine precisely what their central concerns were, but more problematic, it is impossible to grasp the dimensions of these concerns. In most of the literature of the period, the concept of the delinquent female was discussed euphemistically, as juvenile reformers apparently went to great lengths to avoid confronting such a thoroughly distasteful anathema.

Mrs. Harriet Heller, Superintendent of the Omaha Detention Home, presents us with an interesting example of this inarticulation over the etiology of female delinquency. Mrs. Heller in her report on the first year of the detention home's operation developed her own taxonomy of delinquent types. She had no trouble identifying three categories of delinquent boys. They had either, "misdirected energy", had "defective mental powers", or came from an

"absolutely bad environment". The girls, on the other hand, were quite a different problem.

The fourth class of delinquents are the girls, and the girl question demands especial and distinct consideration. It is in the main a more complex question than that of the boys. This is mainly true because it is less a child's problem. The way to save a fallen girl is to get hold of her before she falls. Important as is prevention work, in ways it is more important with the girls.⁵

Even though this is a confusing statement and says virtually nothing explicit about the nature of the "girl problem", by her deliberate vagueness, Mrs. Heller has led us to the assumed promiscuity of the girls by default. As the regimen of delinquency control measures are unfolded, it becomes increasingly obvious that sexual misconduct was thought to be the primary form of delinquent behavior engaged in by girls.

Listed below are the cumulative totals of all commitments of girls to Kearney, and later Geneva, from the opening of the school at Kearney in 1881, through November 30, 1898:⁶

Forgery.....	2
Vagrancy.....	33
Mendicancy.....	30
Incorrigibility in Vice.....	168
Assault.....	3
Prostitution (called vice by the judge).....	70
Larceny.....	21
Disorderly Conduct.....	49
Obtaining Goods Under False Pretense.....	1
Not Recorded.....	<u>2</u>
Total	379

Aside from being generally nondescript relative to the substance of many of the offenses, these "statistics" indicate a strong orientation toward the enforcement of sanctions against "vice". Shortly we will see the steps that were taken at Kearney and Geneva to correct this assumably licentious behavior.

In order to confront the problem of delinquency head-on, Nebraskans developed programs in their institutions designed to go to the very source of the delinquency problem and reverse within the child behavior patterns brought about by "idleness", "base parentage", and "bad environment". The organizational structure of both the Kearney and Geneva institutions was based on the "cottage plan", adopted from a plan originally used at the Massachusetts Reform School at Westborough. Under this system children were housed in individual "cottages" and grouped according to age, physical size, and temperament. The internal routine of the cottage was supposed to approximate, as near as possible, the routine that one would expect to find in a good home. For the boys at Kearney, virtue was to be instilled through the application of equal doses of moral, physical, educational, and industrial training. All of these functions could be performed, it was believed, if the reform school officials were provided with adequate time and resources.

When a child was committed to Kearney the provisions

of the Reform School Act of 1881 required that the judge not "enter judgment", that is to say, not pass sentence on the youngster. It would be wrong to assume however, that commitment to the reform school did not bring with it a minimum length of commitment which had the functional effect of a sentence. Under the law of 1881, the responsibility for actual regulation and operation of the reform school was delegated to the Board of Public Lands and Buildings. It was in the rules adopted by this body that we find a "merit system" which served the purpose of establishing a minimum stay at the reform school.⁷ Three categories of offenses were established:

For Boys:

<u>Class 1</u>	<u>Class 2</u>	<u>Class 3</u>
Burglary	Larceny	Vagrancy
Obstruct. Railroad	Forgery	Disorderly Conduct
Rape	Assault	& the like
Perjury		
<hr/> 6000 demerits	<hr/> 5000 demerits	<hr/> 4000 demerits

For Girls:

<u>Class 1</u>	<u>Class 2</u>	<u>Class 3</u>
Burglary	Incorrigibility	Vagrancy
Prostitution	Disorderly Conduct	Mendicancy &
Forgery	Assault	the like
Perjury	Similar Offenses	
Larceny		
<hr/> 6000 demerits	<hr/> 5000 demerits	<hr/> 4000 demerits

Under ordinary circumstances the child, by winning "merits", would work off demerits at the rate of ten per day for good behavior. Merits cancelled demerits at the ratio of one to one, with 25 additional merits granted for

each month of "perfect" behavior, and 100 merits extra if this behavior could be extended for three consecutive months. Thus, barring release from the institution under special circumstance,⁸ a child could expect to stay at the reform school at least eleven months, assuming a career at the institution of absolutely perfect behavior.

The "merit system" is of significance for reasons more important than simply demonstrating that commitment to the institution did carry a de facto "sentence". This system helped to reinforce the claim of child-savers that "reform takes time". This line of thinking was often repeated in the literature, especially by John T. Mallalieu. One such example came in his "Suggestions to Judges".

There is a ... matter which should command the attention of the judges We have rules for promotion and it depends largely upon a boy's actions as to the time when he will be entitled to a parole Boys have been told that they would only have to stay here three or four months. Acting upon this supposition they did not care whether they behaved themselves or not until the reality dawned upon their minds that the court had no right to make this restriction. When they found out that it was necessary to get down to business in order to work themselves out honorably, of course they would censure the judges for misrepresentation.⁹

With some degree of assurance that a child committed to their care would not be hastily removed, reform school officials were free to go about the task of reformation. Moral training, the first item in the correctional scheme, can be roughly equated with conventional religious training. While reform school superintendents were quick to point out that

no particular doctrine or creed was taught, regular religious observances were a normal part of the institutional routine. As might be expected, this training exploited to full advantage the argument of "render unto Caesar". Often the message conveyed was subservience to authority - particularly secular authority.

. . . To our superiors we owe the greatest respect. The laws of God require this. The one placed over us has a right to our most perfect obedience and honor The obedient boy, the respectful boy, will be the honored man. It is a duty no one can perform too earnestly. Cheerfully, continuously do what superiors require. . . .
 . . . Serve God: be loyal to your government; obey your superiors, and peace will fill the soul.¹⁰

Physical training was viewed as a derivative of moral training. Military drill was able to serve a unique role in this regard since it was thought to be both healthful and conducive to the development of discipline. As such, it was considered a useful instrument in the reformation of delinquent boys. Certainly ordinary routines of play and exercise were valued as essential to physical fitness, but military drill was particularly prized for its capacity for serving this dual function.

. . . The erect posture, measured step, accurate lines, facility for handling large numbers at a word of command, induce habits of promptness, order, and regularity that are not lost in the school room, at work, or other places of discipline. The outdoor exercise, soldierly position, expanded chest, the play given to so many muscles, and the pleasant and exhilarating feeling engendered are conducive to bodily health, grace, and strength.¹¹

At first glance, supporting the use of military drill would seem to contradict another ideal of the child-savers; namely, to make the institution a kind of surrogate family in which the inmate could experience all of those features found to exist in a good home. What has to be remembered, however, is that these reformers were not content with the available model of a good home; they were committed to the belief that they, as reformers, were tasked with the responsibility of creating a new "model" of the ideal environment in which to raise children. It would be an exaggeration to suggest that they would expect a father to march his children around the backyard to a snappy cadence. Their ideas did, nonetheless, exert influence in the broad areas of moral, educational, and industrial training, well beyond the grounds of reform schools. David Snedden for example, a prominent educational sociologist of the early 1900's, and author of the concept of "education for social efficiency", took a serious interest in reformatory work, arguing that public school educators ought to look to the reform schools for innovative ideas in education.¹² Hence, it is important to understand that reform school officials would not necessarily see a contradiction between a thing such as military drill and a "good home".

Formal scholastic education was the aspect of the reformatory regimen that was considered least important. Actual time spent in the classroom was limited to four hours

a day at both Nebraska Industrial Schools, with the remainder of the day dedicated to some type of work activity. The goal of scholastic training at the schools was to provide the pupils with a "common school" education aimed at mastery of the three "R's". Basic realism (with an additional generous portion of social determinism) dictated that "book learning" served an important, but limited role in the reformation of delinquents.

The training of youths, whose future success will be measured more by physical labor than intellectual culture, should be practical and should embody a knowledge of those business forms and principles which are required in the ordinary vocations of life.¹³

The most important element in juvenile reform from the viewpoint of Superintendent Mallalieu was manual, or industrial training. According to him this was the primary function and responsibility of any reformatory institution. In Nebraska, Mallalieu lobbied hard to bring a variety of "industrial departments" to Kearney. It was not until after he arrived at the school in 1885 that the industrial building was constructed (1889), and industrial training established as a regular part of the correctional process.

Mallalieu's belief was that as a parent to the children at the institution the state had a responsibility not only to the present well-being of the child, but to his future success as well.

A youth is taken from his home by the superior majesty of the law or the dictates of parental authority. He is partly secluded within the grasp

of an institution for several years, probably the most important in his life. If he is too young to learn a trade he should be placed in an advanced kindergarten or manual training department. His mind should be trained in some line of industry, and as his age increases his opportunities should be extended. The industrial departments should be established and regulated with reference to the ability of the boy, and also with reference to the trades in vogue in the state.¹⁴

The Nebraska Legislature was supportive of reform school programs throughout the decade of the 1880's. By 1890, the Nebraska Industrial School¹⁵ offered one of the better industrial training programs found in reformatory institutions.¹⁶ The school boasted of a printing shop, shoe shop, tailor shop, carpenter shop and a number of other "industrial" details, most of which were menial chores associated with the school's routine operation. But unlike reform school administrators in other areas, Mallalieu seemed quite sensitive to the limited training value of detailing youths in these latter activities. He argued that a mark of the progressive institution was the dispensation of the "old idea that a boy should simply work for the benefit of the institution, and that no training should be introduced except such as brought a profit to the institution".¹⁷ He was careful however, not to press this thinking to too great a degree without tempering his argument with some consideration of "practical economy". In a report to the Board of Public Lands and Buildings in which he described the benefits of having the shoe shop in operation,

Mallalieu stressed the economy of making, rather than purchasing shoes, and also interestingly enough, he noted, "Our inmates are better supplied with shoes than when we were obligated to depend upon a contractor to furnish them. Being well provided in this manner a corresponding decrease in colds has been very noticeable this winter."¹⁸

Ultimately the success of an industrial training program would have to be measured by the ability of the child to find employment with the newly acquired skills after he left the school. Mallalieu was not unaware of this, and on numerous occasions indicated that "it would be folly to have a department that could not be properly utilized by the boy after he leaves the school. . .".¹⁹

Questions such as this were relatively moot however, when the reformation of delinquent girls was the issue at hand. Proceeding as they did on an entirely different set of assumptions regarding the substance of female delinquency, child-savers engaged in work with girls placed far more attention on "moral" training than they did on the inculcation of specific "industrial" skills. This orientation is not surprising in light of the tendency to view the "girl question" as a problem of "vice", "sin", or other similar term of moral reproachment. In most respects the actual training of the girls was conducted in a manner like that of the boys, only on a much more intense scale. The bulk of this was devoted to "Moulding the untrained outcast into

useful Christian life". Once again, this process was generally taken to mean the cultivation of a sense of "duty", if not in fact a sense of subservience.

. . . A good proof that you mean to be true to your trust is to cultivate faithfulness in the little duties. Remember no labor is degrading which is performed cheerfully, honestly, but on the other hand, all labor may be a sacred charge for the Master, if discharged faithfully. The dear old, black "Aunty" who declared that she "knew now" that she "had religion because she swept under the bed", was not so far from the truth after all. It is the doing a good deed or an assigned duty, whether acknowledged by the world or not, wherein lies true merit.²⁰

Along with a notion of a "duty" to work, the above quotation contains an inference to the kind of work thought suitable for reform school "graduates". Following the general pattern established throughout the rest of the country, the girls at Kearney, and later at Geneva, were offered training in the "domestic skills" of general housework, kitchen work, sewing, and the doing of laundry. Also in a fashion similar to that found elsewhere, it was argued that such work was perfectly sufficient for living a purposeful existence, justifying therefore the "training" routine of the girl's industrial school: ". . . Believing that to earn a livelihood as a domestic is quite as respectable as it would be in any other position . . . we endeavor to make them homekeepers and thoroughly acquainted with the domestic side of life."²¹

In the final analysis, it must be stressed that the moral training of the girls took priority over any other

concern, for before all else, it was the problem of promiscuity and moral misconduct that needed to be corrected.

Theirs have been the sins of omission rather than of commission. . . . Is it then surprising that they fell an easy prey to false friends and the hundreds of snares which awaited them daily? The work of the industrial school is to supply as far as possible the elements of "home" and to throw around the girls, in every branch of its operations, only such influences as are calculated to uproot the errors of the past and to infuse a higher sense of obligation to God and man; to cast down the "false idols" of the selfish gratification of their untrained natures and to raise the standard of truth, honor, and all those qualities that broaden and embellish true womanhood.²²

Summarizing the comments which have been made in this chapter, it has been noted that the prevailing theoretical assumptions of Nebraska child-savers were in form and substance quite similar to attitudes regarding delinquency causation found in other parts of the nation. It is very likely that this similarity of thought can be traced to the participation of many Nebraskans in the activities of the National Conference of Charities and Correction. This relative uniformity of thought stemming from participation in the Conference is not surprising, if it is remembered that one of the original purposes of the Conference was to establish in the arena of philanthropic endeavor, a single, orthodox approach to the "problems" faced in accordance with knowledge obtained through the interchange of mutual experiences, and in some instances, on the basis of "scientific" discovery.

In some regards though, the focus of attention of Nebraska reformatory workers differed considerably from the sentiment of the Conference. Seldom, for example, was the "immigrant problem" offered as an explanation of delinquent behavior. In the East especially, the presence of too many dim-witted immigrants possessing deficient moral sensibilities was thought to be responsible for high rates of delinquency found in Eastern cities.

Likewise, Nebraskans placed far greater emphasis on the inculcation of work skills as part of the correctional scheme than did their colleagues in the East. In one sense this reveals a thoughtful concern for what would happen to the children after they left the institution. To some extent however, it is arguable that this concern may have been primarily circumstantial. Nebraska in this time period certainly was not a very densely populated state, and manpower may be assumed to have been at a premium. It would be most unlikely then, that Nebraskans would have had to resorted to placing out as a solution to the delinquency problem as did child-savers in New York and elsewhere. Thus, anticipating the need for manpower within the state, Nebraska reformatory workers concentrated their efforts, not on how many children could be successfully removed from the state, but rather on developing skills that they thought would be in future demand in Nebraska.

Perhaps the most curious aspect of the thought of

Nebraska child-savers was their willingness to adopt for their use, the delinquency paradigm employed to describe urban delinquency. Some of the rhetoric coming out of Nebraska categorized the delinquency problem as one involving "street-Arabs", and "great armies of juvenile tramps". Such a characterization, if it had any existence in reality at all, would seem to be descriptive of a uniquely urban phenomenon. In the concluding remarks that follow, this seemingly incongruous characterization will form part of the focus of a discussion of the theoretical content of Nebraska child-saving thought, along with a discussion of the extent to which that thought can be said to have conformed realistically to the actual climate of juvenile misbehavior in Nebraska in the late 1800's.

CONCLUSIONS

The development of efforts to control juvenile delinquency in Nebraska, between 1875 and 1905, is a story of the increasing bureaucratization of the infant system's organizational structure, without a corresponding change in the substantive theory or practice of delinquency control. The activities of Nebraska child-savers were marked by a disparity between idealized, publicly stated goals, and the day to day practice of their work. Put another way, they were tremendous "institution-builders", but rather nondescript, perhaps even inept therapists. We may speculate that this process was not an innocuous one since we may suspect that unnecessary intervention in the lives of some of these children exacted a high human cost. Three factors are noteworthy: (1) the theme of increasing bureaucratization, (2) inertia on the theoretical and programmatic level, and (3) the possible detrimental effect of unnecessary intervention.

The bureaucratization of the Nebraska juvenile justice system is not the type of phenomenon that takes place on a specific date in history. It must be understood as a long term process, occurring over time, going almost unnoticed in the climate of specific historical events. In this regard the time frame of this study (1875-1905) marks neither the beginning nor end of the process. Robert Wiebe, commenting on the bureaucratization process in a broader context,

but in roughly the same time period, remarked: "Partly because its climax lay in the future, partly because its ideas lent themselves to piecemeal adoption, the bureaucratic revolution came rather quietly, almost surreptitiously . . . its influence often appeared first in shadows and corners, as the shifting emphasis within almost every significant social movement demonstrated."¹

The characteristics of bureaucracy are in many ways as subtle and unobtrusive as the development of the process which spawned them. German sociologist, Max Weber, who spent much of his academic career studying the rationalization of Western culture, saw bureaucratization resulting from the rational calculation of means to ends in social organization. These circumstances were brought about by man's abandonment of the belief in the immutable nature of a world governed by divine or supernatural powers. Left to be masters of their own existence, men became aware of realizable goals and the need to consciously calculate the best method of attaining them. Part of the answer to this problem lay in the mechanism of large scale organization whereby maximum results could be had at minimum expense. According to Weber, bureaucracy affected as revolutionary a change in organization as machinery had done for means of production.²

A number of characteristics common to the bureaucratic mode of organization are found in the activities surrounding

the growth of the child-saving movement in Nebraska. Among these are: the interest in resorting to formal legal enactment in order to guarantee stability and predicability in the system, the expansion of organizational influence and consolidation of administrative control, and a stress on the minimization of waste through operational efficiency.

One must be careful in looking for evidence of the bureaucratic mentality in the Nebraska child-saving movement. Historian Samuel P. Hayes, in a study of the politics of reform in municipal government during the Progressive Era, has noted that the ideology of social reform movements does not always coincide with actual practice. He warns historians who engage in investigations of subjects which have both an ideological and practical dimension, not to be overly influenced by first-hand accounts informed by the ideological perspective of a group being studied. ". . . It is becoming increasingly clear", writes Hays, "that ideological evidence is no safe guide to the understanding of practice, that what people thought and said about their society is not necessarily an accurate representation of what they did."³

What Hayes has said about political reform movements in the Progressive Era is also appropriate to a discussion of the Nebraska juvenile justice system. Virtually all of the literature available recounting the activities of

Nebraska child-savers has been left in reports, addresses, and newspaper articles, all of which were authored by persons close to the child-saving movement. These sources quite naturally reflect the perspective of their author, and written as they were to impress specific audiences (such as politicians and child-savers in other locales), while valuable, they do not necessarily convey an accurate picture of exactly what occurred in actual practice. This is particularly true in the case of the present study. Nebraskans involved in child-saving consistently articulated ideas designed to legitimize the nature and direction of their work; what they actually did is something quite different. Rather than a wholesale reliance on reports authored by the child-savers themselves, one ought to turn to the legislative history of the movement. Such an orientation reveals a good deal more about what the child-savers actually did, than do reports that reflect what the child-savers said they were doing. The legislative history of Nebraska child-saving presents the clearest evidence of how in thirty relatively short years, Nebraska progressed from having no organized system of delinquency control, to having a fully developed bureaucratic one.

Nebraskans realized that if organized efforts to control delinquency were to be successful, the processes involved would have to operate in a stable and predictable

manner. Enacted legislation could guarantee this. The Nebraska Constitutional Convention of 1875 provides the earliest indication of how this concern was expressed and fulfilled. The reform school provision that was added to the Nebraska Constitution allowed for the legislative appropriation of funds necessary to build such a school. One of the concerns of the sponsors of this provision was an interest in segregating youthful offenders and hardened criminals. This in itself however, would not dictate the need for a constitutional mandate to build a reform school. What made the provision necessary was the belief that without such a provision, a law for the construction of a reform school would be declared unconstitutional regardless of its substantive merit. This orientation toward meeting formal "legal" prerequisites is indicative of the growth of bureaucracy; procedure (because it insures predictability) comes to be as highly valued as the substance of the law. Time and again throughout this period, we see recourse to legal enactment in order to insure the smooth operation of the burgeoning juvenile justice system.

An even more clear-cut example of bureaucratization came in the laws enacted in the late 1890's which had as their aim the accomplishment of three specific tasks;

- (1) the reestablishment of frugality in state government,
- (2) reform of the management of some state institutions,

and (3) the consolidation of managerial authority. Without entering into a discussion of the details of each of these pieces of legislation, it is clear that the guiding thoughts behind these laws, even though not portrayed as such, were decidedly bureaucratic in orientation; their aims bear this out. The same can be said of the move to establish a state board of charities and corrections in 1901. The emphasis in this law was on providing for the systematic scrutiny of all state institutions - including reform schools - under the auspices of a single oversight agency. Again, the stress was on maximization of efficiency in state government, in this instance the elimination of the need to appoint special legislative committees to "watchdog" the activities of state institutions, and the tightening of control over these institutions.

On the level of institutional development, nothing in the history of Nebraska child-saving can serve as an index to bureaucratization as well as the establishment of the state's first juvenile court in 1905. The creation of this forum, more than any other facet of the juvenile justice system, represented a staunch faith in the bureaucratic ethos. With the advent of the juvenile court the power of intervention became all-pervasive, ranging from the broad discretionary powers of the court itself, to its newly created power of investigation. No longer would the

response to juvenile misbehavior - which itself became more comprehensively defined - be on an incremental or piecemeal basis; the new law, in short, provided juvenile justice advocates with the ultimate stability and predictability necessary to adjust means (intervention) to the achievement of ends (crime prevention).

Unfortunately, as the child-savers became increasingly concerned with the appropriateness of the means employed to control delinquency, they gradually lost sight of their ultimate goal, juvenile reformation. New goals emerged, oriented more toward the smooth operation of the system and its institutions than toward the specific purposes for which the institutions were created. The mere fact that a juvenile justice apparatus existed, seemed to necessitate and justify a series of attempts to refine it. Wiebe noted a similar tendency operative on a broader scale.

Experts in administration supported by a variety of professionals sought solutions to the city's problems through proper procedures and continuous enforcement, rather than by simple, self-fulfilling fules. . . .

. . . A serious weakness. . . was a failure to explain precisely what they sought in these all-important social processes. It was not that the exponents of bureaucratic thought sacrificed ends to means but that they merged what customarily had been regarded as ends and means into a single, continuous stream, then failed to provide a clear rationale for the amalgam. Endless talk of order and efficiency, endless analogies between society and well-oiled machinery, never in themselves supplied an answer.⁴

In the arena of actual theory and practice, Nebraska child-savers, in spite of making a few minor technical changes, continued to be guided by theory adopted from the early and mid-1800's. The foci of attention remained on the individual and his environment, the belief in the "changeability" of the individual, and the idea that home-spun virtues could be taught in an institutional environment. Most of these assumptions were abstracted from studies conducted at Auburn State Prison, New York, in the early 1820's. Their results challenged the Calvinistic notion that some men were inherently depraved, hence no amount of treatment could correct the defects of their corrupt natures. What replaced this belief was the idea that men were essentially the products of their environment, allowing for the conviction that given proper training, in a proper atmosphere, criminal offenders could be rehabilitated. Prisons began to reflect this new thinking and juvenile "houses of refuge" emerged on the belief that early intervention in the lives of youths could prevent them from becoming incorrigible felons.

Throughout the remainder of the 19th century these thoughts formed the essence of juvenile reformatory theory. Nebraska reformatory workers adopted these assumptions almost item for item, as did child-savers throughout the rest of the country. The National Conference of Charities and Correction (from whom Nebraskans drew heavy intellectual

support) often debated the "causes" of juvenile crime, but made little if any substantial contributions to the development of delinquency theory.⁵

In actual correctional practice, Nebraska child-savers borrowed techniques employed in older reformatories in the Eastern United States. Such things as attitudes regarding the use of corporal punishment appear to have shifted over the years,⁶ as did the espoused purposes for manual and industrial labor at Kearney. Fundamental elements in the correctional routine however, such as the inculcation of the basic values of industriousness, clean living, and submission to authority were left undisturbed. These traits were transmitted through a rigid program centering around the workshop and school-room, and differed very little from the routines of institutions built prior to the establishment of the reform schools in Nebraska.

There is very little evidence available to establish one way or another, whether these practices engaged in by Nebraska child-savers had any appreciable effect on levels of youthful misconduct. Reformatory workers consistently claimed a "success" rate of 75 percent, though this figure was never substantiated in any reliable manner. Even if it had been true, they failed to consider the possibility that many of their former inmates did well in later life independent of any "benefits" derived from the institutions.

Still more importantly though, they failed to grasp the idea that unnecessary involvement with the system may have worked an unnoticed, but nonetheless positive detriment in the lives of many children. These questions raise some serious doubt about the meaningfulness of their notion of "success".

In more recent times, the "drift" theory of David Matza (1964), the "hidden" delinquency studies conducted by Short and Nye (1957, 1958), and the work done in labeling theory by Lemert (1951), Becker (1963), and others, have forced serious reconsideration of the value of intervention by the juvenile justice system in cases of petty misbehavior. Essentially, the fallacies that drift theory and hidden delinquency studies have exposed are: (1) the fact that certain forms of petty misbehavior do not inevitably result in lives dedicated to hard-core criminal activity, and (2) that the behavior of one, two, or two hundred "adjudicated" delinquents is insufficient to glean a profile of the "typical" juvenile offender. These studies reveal that minor misdeeds are engaged in by youths representative of the entire socio-economic spectrum, and that many, perhaps most, of these youths manage to avoid involvement with the machinery of juvenile justice. For the most part, children who engage in this wide variety of "delinquent" acts tend to "mature-out" of this behavior pattern, falling far short of becoming adult felons.

Labeling theory focuses on society's reaction to delinquent acts, and more specifically, the consequent "label" that is attached to the offender. This label may create the need for the offender to engage in "secondary deviations" in an effort to compensate for the unfavorable effects of stigmatization. There flows from this a social cost connected with intervention, which is weighed by calculating the relative value of official intervention against the possibility that it will do more harm, than good.

There is very little data available to measure with any degree of precision the actual effects of intervention on the lives of juveniles incarcerated at Kearney or Geneva, in the late nineteenth, and early twentieth centuries. In order to make such an assessment we would have to know something about specific individuals whose lives have long since been obscured by history. But while it is true that labeling theory cannot be used to measure exact levels of stigmatization, or its effect among these youths, we may speculate that what is true today regarding labeling may very well have been true 75 to 100 years ago. A few examples are readily available to lend credibility to this hypothesis.

Two disadvantageous aspects of labeling are of particular interest to us here; first, the tendency to draw stereotypes, and secondly, the problem inherent in

"retrospective interpretation".⁷ An example of stereotyping can be inferred from the comments of Judge Edward Holmes cited earlier, where he discusses the relationship between divorce and delinquency rates. The major tendency in this particular case lies in the element of self-confirmation. Take for example a situation where a judge is ruling in the case of a boy who is found to be from a broken home. Suppose on that basis, the judge decides to commit the child to the state reform school, while at the same time, a second boy charged with a similar offense though not from a broken home, is returned to the custody of his parents. In time the judge comes to the realization that "50 per cent of those confined in reformatories or industrial schools, are either orphans, or the children of divorced parents"; ergo, broken homes must "cause" delinquency. Future decisions by the judge are likely to be reinforced by his new theoretical discovery, a discovery confirmed by his own earlier actions.

Edwin Schur defines retrospective interpretation as, "the process by which once an individual is identified as deviant he is seen in a totally "new light". He goes on to say:

One day the individual is simply an ordinary citizen, the next (as a result of conviction, or perhaps merely accusation) he has suddenly been converted into a "murderer", or "burglar", or whatever. And from then on he is seen only in terms of this new (degraded) status.⁸ (p.122).

This type of labeling was common in the correspondence of early reformatory workers. Superintendent Mallalieu in a monthly report to the Board of Public Lands and Buildings commented on the attempted escape and recapture of two girls from Kearney. "As they had recently been committed here for prostitution," he observed, "their only excuse for trying to escape was that they sought to go back to their former mode of living."⁹ Obviously! Given retrospective interpretation what other conclusion can be drawn?

Another, perhaps equally striking example, comes in a letter from a woman who had received, on a "leave of absence", a girl from the industrial school at Geneva. The "girl" in question had recently turned twenty-one, and was therefore no longer under the control of the industrial school. In her last report (see Correspondence, Girls' Industrial School for Juvenile Delinquents, 1898) to Superintendent W.R.B. Weber, the woman felt obligated to assess the young lady's prospects for marriage.

. . . I should like to see her married well. But I cannot have much hope for her in that direction, --- not for a long time at least. It seems generally known where she came from, here, & of course, such young folks as I would have her associate with, do not feel inclined to take her up, & such as she could go with, I will not allow her to. She has got it all to live down first.¹⁰

Implicit in this reference is the fact that the young woman has already been detrimentally affected by the delinquent

label, through ostracism by her peers on the one hand, and by the effects of the older woman's decisions to promote, or restrict her social life on the other. She is caught up in a "deviance-disavowal" scheme in which, as Schur puts it, she "is hard put to convince others she is not really, or no longer, "like that".¹¹ This will indeed be a difficult task, for as the report goes on to state, "I wish she could have cancelled all her demerits, but they will always be on the books against her". The point to be made here is a relatively simple one. Intervention in the lives of children accused of non-specific, or minor misconduct (as appears to have been the case with the girl above) is an old, and in a sense, may well be a far more serious problem than is generally appreciated. Unfortunately however, proposing a solution to this problem is no easy task and lies well beyond the scope of this paper.

In summary, we have seen that in the thirty years from 1875 to 1905 Nebraska developed within the state a juvenile justice system which included, at least in rudimentary form, virtually all of the structures commonly associated with juvenile justice. These included correctional institutions, a juvenile court structure, the apparatus of probation and parole, and most importantly, a fully developed body of formal legislation under which the system was organized. The theory and practice of

juvenile reform in this period was adopted from earlier practice originating in the 1820's, and changed only in a number of superficial characteristics.

Many historians have seen the period in which the Nebraska juvenile justice system developed as a time which witnessed a fundamental shift in the values and lifestyle of the American people. The larger processes at work here, have been described as rationalization, bureaucratization, and most comprehensively, as modernization. There can be no question that the origins of delinquency control measures in Nebraska were influenced by, and are indicative of these processes. The most historically significant aspect of the system's early development lies in the remarkable bureaucratization of its organizational structure. This is significant for it reflects the values that guided the system's growth far better than does the ideological literature of the child-savers themselves, and may be used as a point of reference for those interested in an analysis of the "problems" of the juvenile justice system. It has been noted that bureaucratization in this time frame was still marked by the "reign of traditional village values". Indeed, this is true as far as it applies to the goals to be achieved. What is noteworthy however, is that for the first time these goals were to be realized via an entirely different mechanism. Reliance on the ability of the insular community or the rugged individual

to deal with complex social problems fell into demise. What replaced it was a new faith in a government of "continuous involvement" imbued with broad, discretionary powers, and all-encompassing in its influence.

FOOTNOTES

Youth and Deviance in America: The Historical Background

¹David J. Rothman, The Discovery of the Asylum: Social Order and Disorder in the New Republic, (Boston: Little, Brown, 1971), p.46.

²Ibid., p.53.

³For a discussion of the conservative reaction to these forces, see W. David Lewis, "The Reformer as Conservative: Protestant Counter-Subversion in the Early Republic" in Stanley Coben, The Development of an American Culture, (Englewood Cliffs, N. J.: Prentice-Hall, 1970) pp.64-91.

⁴Rothman, p.59.

⁵Ian Taylor, Paul Walton, and Jock Young, The New Criminology: For a Social Theory of Deviance, (Boston: Routledge, Kegan Paul, 1973), p.2.

⁶The New York reports cited by Rothman are: "Abstract of Brief Biographical Sketches as taken from Convicts when Discharged from this Prison", "Annual Report of the Inspectors of the State Prison at Auburn", N. Y. Senate and Assembly Documents, 1830, I, no. 38, pp.37-54, and "Annual Report of Auburn Prison", N. Y. Senate Docs., 1831, I, no. 15, pp.32-63.

⁷Rothman, p.72.

⁸Ibid., p.71.

⁹In respect to the administration of these refuges, Robert M. Mennel in Thorns & Thistles: Juvenile Delinquency in the United States, 1825-1940, (Hanover, N. H.: The University Press of New England, 1973) n., p.4, observed,

"The refuges in New York and Philadelphia were private corporations; the Boston House of Reformation was a public institution. Two refuges received public funds to augment institutional operating revenue, but their internal affairs were subject to minimal state control. Corporation members elected managers who could serve an indeterminate period of time, and these managers appointed and controlled the administrators of the institutions. Managers submitted annual reports to the legislature and delegations from the legislature paid pro forma visits to the institutions."

This administrative arrangement is of interest since some charitable institutions established in Nebraska a number of years later, were administered under similar conditions. These semi-private endeavors caused considerable controversy on the Nebraska political scene during the mid-1890's.

¹⁰William Pryor Letchworth, "The History of Child-Saving Work in the State of New York", in National Conference of Charities and Correction, Report of the Committee on the History of Child-Saving Work to the Twentieth Conference (1893). (reprinted, Montclair, N. J.: Patterson Smith, 1971) p.186.

¹¹The reference "Dangerous Classes" is adopted from a book written in 1872 by Charles Loring Brace entitled, The Dangerous Classes of New York and Twenty Year's Work Among Them, (New York, 1872, in which Brace recounts his as head of the New York Children's Aid Society and his work to control the spread of the culture of the "dangerous classes".

¹²For an "insider's" view of the meaning of the doctrines of in loco parentis, and parens patriae, see M. G. Fairbanks, "Obligations of the State in the Control of Juvenile Delinquency", in NCCC Proceedings, (New Haven: 1895), p.238, and also P. Caldwell, "The Duty of the State to Delinquent Children in NCCC Proceedings (New York: 1898) p.404.

¹³Mennel, p.14.

¹⁴Ibid., p.18.

¹⁵For more detail on the types of punishment that were dispensed see Rothman, pp.230-231.

¹⁶Mennel, pp.26-27.

¹⁷Ibid., p.29.

¹⁸Hastings H. Hart, "Placing Out Children in the West", NCCC Proceedings (St. Louis: 1884), p.145.

¹⁹Ibid., p.147.

²⁰Mennel, no.36, pp.47-48.

²¹Andres E. Elmore, "Address of the President", NCCC Proceedings (Madison: 1882) p.12.

²²National Conference of Charities and Corrections, "Preface" to the Proceedings (St. Louis: 1884) p.III.

²³For more detail see Mennel, pp.102-123, and Anthony M. Platt, The Child-Savers: The Invention of Delinquency, (Chicago: The University of Chicago Press, 1969) pp.137-175.

²⁴Platt, p.IX.

²⁵This view is considerably different from earlier religious teachings in that it is not based on the same, or even a similar theological foundation. Theorists of this era tended to substantiate their claims on pseudo-scientific grounds, by "proving" either that natural laws of the social order demanded that lower classes of men follow the leadership of "natural" elites, or by theorizing that some classes of men were biologically incapable of disciplining themselves. The writings of Comte and Pareto typify the first case, with Spencer and Lombroso standing as variant examples of the second.

²⁶W. H. Brewer, "Discussion on Delinquent Children", NCCC Proceedings (New York: 1898) p.475.

²⁷Lombroso and his followers formed what has come to be known in criminological circles as the "Italian School". Their theory held that criminality was the result of "atavism", or in other words, the presence of "savage" genetic traits in the criminal offender. These "born criminals" could be identified supposedly, by specific morphological features. Many writers of the late nineteenth century adopted the essences of this theory for their own use, and attempted to apply it to a variety of phenomena relating to deviance, and criminal behavior.

²⁸I. N. Kerlin, "The Moral Imbecile", NCCC Proceedings (Baltimore: 1890), p.475.

²⁹P. Caldwell, "The Duty of the State to Delinquent Children", NCCC Proceedings (New York: 1898), p.406.

³⁰William Ryan, Blaming the Victim, (New York: Vintage Books, 1970), p.7.

³¹William Pryor Letchworth, "President's Address", NCCC Proceedings (St. Louis: 1884), p.16.

³²T. J. Charlton, "What are Proper Incentives to Reform?", NCCC Proceedings (New York: 1898), p.380.

³³See W. S. Fairbanks, "Religious and Moral Training", NCCC Proceedings (Portland, Maine: 1904), p.327.

³⁴James Allison, "Juvenile Delinquents: Their Classification, Education, Moral and Industrial Training", NCCC Proceedings (New York: 1898) p.327.

³⁵"Report of the Committee on Juvenile Delinquents", by T. J. Charlton, Chairman, NCCC Proceedings (Baltimore: 1890) p.228.

³⁶Ibid., p.218.

³⁷Fannie French Morse, "The Methods Most Helpful to Girls", NCCC Proceedings (Portland, Maine: 1904) p.310.

³⁸Platt, p.175.

³⁹Reform school managers insisted on teaching "useful" trades. The "usefulness" was sometimes determined with reference to the child's race. T. J. Charlton remarked "We have in our Indiana reformatories a large number of colored boys and girls. In our boys' school we aim to teach "cooking" and "waiting on tables" and laundry work to the colored boys". Proceedings (1890) p.228.

⁴⁰See Mrs. Charles Russel Lowell, "The Economic and Moral Effects of Public Outdoor Relief", NCCC Proceedings (Baltimore: 1890) pp.81-91, S. C. Wrightington, "The Effects of Immigration on the Community:", NCCC Proceedings (Baltimore: 1890), pp.281-290, and Harry McCormack, "Needed Legislation for Certain Classes of Dependents" NCCC Proceedings (Portland, Oregon: 1905) pp.238-245.

Creation of the Nebraska Juvenile Justice System

¹Henry Grebe's comment was taken from a letter written to State Senator S. C. Bassett. Bassett included segments of this letter in an historical sketch given at a gathering marking the thirteenth anniversary of the Kearney Industrial School, held at the school on February 26, 1892. For details see, Industrial School Courier (Kearney, Nebraska), April 1, 1892, p.2. This newspaper is a valuable source of information concerning the early development of the reform school.

²According to Grebe, in Illinois, "A reform school had been established by legislative enactment without constitutional authority, juveniles taken to said school had been released by process of habeas corpus". Grebe thought that the inclusion of a "reform school provision" in the new constitution would prevent this problem from occurring in Nebraska.

³Nebraska State Historical Society, Proceedings of the State Constitutional Convention, May and June, 1875, from the Nebraska State Journal (Lincoln, Nebraska) (1958) p.119.

⁴The provision read:

The legislature may provide by law for the establishment of a school or schools for the safe keeping, education, employment, and reformation of all children under the age of sixteen years, who, for want of proper parental care or other cause, are growing up in mendicancy, or crime.

Nebraska, Constitution (1875), art. 8, sec. 12.

⁵State Historical Society, pp.119-120.

⁶Nebraska, Legislature, Senate, 15th reg. sess., 1877, Journal, January 5, 1877, p.99.

⁷Nebraska, Legislature, Senate, 16th reg. sess., 1879, Journal, January 8, 1879, p.45.

⁸See Chapter Two, Robert M. Mennel. Thorns and Thistles: Juvenile Delinquency in the United States, 1825-1940, (Hanover, N. H.: The University Press of New England, 1973).

⁹Nebraska, Laws, (1870), p.413.

¹⁰The other bills introduced were: H.R.#25 introduced by R. N. Simonton from Nelson, Nebraska; H.R.#27 introduced by J. S. Gibson from Omaha; and H.R.#115 introduced by P. J. Dempster of Harlan County.

¹¹Industrial School Courier (Kearney, Nebraska), 1 April 1892, p.2.

¹²Laws, (1879), p.419.

¹³This bill was H.R.#217 introduced by Simon C. Ayer of Gibbon, Nebraska on January 27, 1891. It passed through the House on a vote of 69-15, and the Senate by a margin of 30-1. The bill became law with the signature of the Governor on March 4, 1891.

¹⁴Laws, (1881), p.312.

¹⁵Ibid., pp.312-313.

¹⁶Industrial School Courier, April 1, 1892, p.2.

²⁰Nebraska, Legislature, Senate, 18th reg. sess., 1883, Journal, January 2, 1883, p.38.

²¹See Industrial School Courier, April 1, 1892, pp.3 & 6.

²²Nebraska, State Industrial School, Fifth Biennial Report for the Two Years ending November 30, 1890, p.21.

²³Ibid., p.21.

²⁴The bill was H.R.#233 introduced by R. Dobson from Grafton, Nebraska on January 27, 1891. It passed through the House on a vote of 69-15, and the Senate by a margin of 30-1. The bill became law with the signature of the Governor on March 4, 1891.

²⁵Laws, (1891), p.294.

²⁶Industrial School Courier, April 1, 1892, p.10.

²⁷See Nebraska, Legislature, House, 23rd reg. sess., 1893, Journal, Appendix.

²⁸Nebraska, Legislature, House, 23rd reg. sess., 1893 Journal, January 13, 1893, p.77.

²⁹The August 1, 1893 monthly report of Superintendent Mallalieu to the Board of Public Lands and Buildings reflected well the fact that hard times had hit the state. The Superintendent complained at length about the numerous problems that had developed due to the shortage of funds, including the need to discontinue the Industrial School Band, a source of much pride for the school's administration.

³⁰The Nebraska Industrial Home for Fallen Women at Milford was established by legislative enactment in 1887. Supposedly the institution was built as part of an effort to control prostitution within the state. Functionally however, the Home appears to have been used as a home for unwed mothers. In the early 1950's the name of the institution was changed to the Nebraska Maternity Home, and subsequently was closed by the Legislature in 1953.

³¹Nebraska, Legislature, Senate, 24th reg. sess., 1895, Journal, April 2, 1897, p.681.

³²These bills were S.F.#61 introduced by William Ritchie of Ulysses, Nebraska, and H.R.#491 introduced by J. N. Gaffin of Colon, Nebraska. H.R.#491 was passed and sent to the Governor on April 8, 1897, followed by S.F.#61 which was sent to the Governor the following day.

³³Laws, (1897), p.245, and Laws, (1897), p.304.

³⁴Nebraska, Legislature, Senate, 25th reg. sess., 1897, Journal, April 2, 1897, p.681.

³⁵Nebraska, Legislature, Senate, 25th reg. sess., 1897, Journal, April 8, 1897, p.761.

³⁶These bills, S. F.#270 and #271, were both introduced by Michael W. McGann of Albion, Nebraska. Both passed the Legislature and were forwarded to the Governor for approval on April 7, 1897.

³⁷Robert H. Wiebe, The Search for Order: 1877-1920, (New York: Hill and Wang, 1967) p.4.

³⁸The bill to create a state board of charities and correction was introduced by A. W. Lane of Lincoln on January 17, 1901. The other bill was S.F.#103 introduced by F.M. Currie of Sargent, Nebraska on January 15, 1901. This latter bill, the revision of the Reform School Law, was signed into law on March 29, 1901. The bill creating the Board of Charities and Correction became law on April 1, 1901.

³⁹For a detailed discussion of what an "ideal" state charity board would look like, see Goerge O. Chace, The Proper Functions of Boards of State Charities and Correction", in NCCC Proceedings (Madison: 1882), p.26.

⁴⁰Mennel, p.65.

⁴¹Laws, (1901), p.460.

⁴²Ibid., p.462.

⁴³Ibid., p.461.

⁴⁴Anthony M. Platt, The Child-Savers: The Invention of Delinquency, (Chicago: The University of Chicago Press, 1969), p.134.

⁴⁵Wilber F. Bryant, "The Constitutionality of a Juvenile Court Law in Nebraska", in Nebraska State Conference of Charities and Correction, Report of the Eighth Annual Meeting, (Lincoln: 1904), pp.32-34.

⁴⁶See Platt, p.134.

⁴⁷Nebraska, Attorney General, Report for the Biennium Ending November 1, 1904, p.60.

⁴⁸Bryant, 1904, p.35.

⁴⁹Ibid., p.36.

⁵⁰Ibid., p.35.

⁵¹Worth mentioning in this regard are the following factors: (1) the fact that except for the jurisdictional question, the bill was unchanged from the 1903 bill; (2) the bill drew tremendous support from such private groups as the Charity Organization of Lincoln, Associated Charities of Omaha, and the Nebraska Federation of Women's Clubs; and (3) the pressure brought to bear on the Legislature by the rapid establishment of juvenile courts throughout the rest of the country.

⁵²Laws, (1901), p.406.

⁵³Laws, (1905), p.306.

⁵⁴In terms of the disposition of delinquent, neglected and dependent children, the law made absolutely no distinction between these "types". Thus, to give an extreme example, the juvenile court judge by law could just as easily commit a "neglected" child to the State Industrial School as he could send a "delinquent" child to live in a foster home.

⁵⁵Julian Mack, "untitled", Mogy's Magazine, April, 1906, p.11.

⁵⁶Laws, (1905), p.307.

⁵⁷Charles E. Foster, "untitled" Mogy's Magazine, April, 1906, pp.32-33. Foster uses the term "parole" in a context which would seem to require the use of the term "probation". It is difficult to determine whether these terms were used interchangeably during this period, though they do not appear to have been. Probation is a sentence of a court whereby the offender is allowed to remain in his or her community under the supervision of an officer of the court. Parole on the other hand, refers to the early release of an individual from incarceration, allowing that person to serve the remainder of a sentence outside an institution under the supervision of a parole officer.

⁵⁸Laws, (1905, p.309.

⁵⁹Mogy Bernstein, "First Annual Report of the Douglas County Chief Juvenile Probation Officer" (1906), Mogy's Magazine, April, 1906, p.3.

⁶⁰Laws, (1905), p.310.

⁶¹Ibid., pp.311-312.

⁶²Wilber F. Bryant, "Address", Nebraska State Conference of Charities and Correction, Proceedings (Kearney: 1905), pp.54-55.

⁶³Julian Mack, p.11.

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¹Industrial School Courier (Kearney, Nebraska), 15 April 1892, p.4.

²John Askin, "Anniversary Address", Industrial School Courier, 1 April 1892, p.4.

³E. P. Holmes, "The Need of a Juvenile Court", Nebraska State Conference of Charities and Correction, Report of the Eighth Annual Meeting, (Lincoln: 1904) p.39.

⁴John T. Mallalieu, "Aims, Methods, and Results of Reform School Training:", NCCC (Special Session), Report of the Reform School Sectional Meeting, (Denver: 1892) p.8.

⁵Harriet Heller, "Report of the Superintendent of the Omaha Detention Home", Mogy's Magazine, April 1906, p.68.

⁶Nebraska, Girl's Industrial School for Juvenile Delinquents, Fourth Biennial Report, 30 November 1898, p.68.

⁷Nebraska, State Industrial School for Boys, Eleventh Annual Report, 30 November 1902, p.14, and Girls' Industrial School for Juvenile Delinquents, Fourth Biennial Report, 30 November 1898, pp.58-59.

⁸There were two situations in which a child could be released from the reform school prior to the cancellation of all demerits. If a home were found where a child could be placed on his or her "honor", the superintendent was free to release the child at any time that it was thought such a home would be beneficial to the child's welfare. Also, under

⁹Industrial School Courier, 1 January 1892, p.8.

¹⁰George W. Martin, "Sermon", Industrial School Courier, 15 April 1892, p.6.

¹¹John T. Mallalieu, "Our Work and the Outlook", NCCC Proceedings (Nashville: 1894) p.161.

¹²See Walter Drost, David Sneed and Education for Social Efficiency, (Madison: The University of Wisconsin Press, 1967) pp.72-77.

¹³Mallalieu, 1892, p.10.

¹⁴Ibid., p.7.

¹⁵In 1887 the Nebraska Legislature changed the name of the Kearney school from "Reform School", to "Industrial School". It was thought that in so doing, the "proper work" of the school would be reflected in its name and also, "that in the future it would be less a term of reproach to say of a person, he was an inmate of, or graduated from an industrial school rather than a reform school:." (See Industrial School Courier, 1 April 1892, p.2).

¹⁶See "Report of the Committee on Juvenile Delinquents", by T. J. Charlton, Chairman, NCCC Proceedings (Baltimore: 1890) pp.214-230.

¹⁷Industrial School Courier, 15 January 1892, p.4.

¹⁸Nebraska, State Industrial School, Monthly Report to the Board of Public Lands and Buildings, 1 March 1888, p.2.

¹⁹Mallalieu, 1892, p.11.

²⁰Lizzie M. Donahey, "The 'New' and the 'Old'", Industrial School Courier, 1 March 1892, p.4.

²¹Nebraska, Girls' Industrial School for Juvenile Delinquents, Biennial Report of 1896, 30 November 1896, p.2.

²²Lizzie M. Donahey, "The Girl's Department", Industrial School Courier, 1 April 1892, p.10.

Conclusions

¹Robert H. Wiebe, The Search for Order: 1877-1920, (New York: Hill and Wang, 1967) p.149.

²See, Max Weber, Economy and Society, vol. 3. G. Roth and C. Wittich, eds., (New York: Bedminster Press, 1968) p.973.

³Samuel P. Hayes, "The Politics of Reform in Municipal Government", Pacific Northwest Quarterly, LV (October 1964): 168.

⁴Wiebe, pp.153-154.

⁵Earlier it was noted that some members of the National Conference of Charities and Correction articulated a viewpoint taken from the perspective of the Italian School of Criminal Anthropology. This perspective is of limited significance for it appears to have had a relatively limited number of adherents, but more importantly, it does not seem to have altered to any extent the actual practice of child-saving.

⁶The rules governing the State Industrial School at Kearney, and the girls' school at Geneva, both explicitly stated that only the superintendent could inflict corporal punishment. Superintendent Mallalieu often expressed publicly his abhorrence for physical punishment. In his capacity as editor of the Industrial School Courier he saw fit to publish the following article in the April 15, 1892 edition:

An ingenious superintendent of a reform school in Jersey has devised a scheme of corporal punishment that keeps the most incorrigible of the boys in complete subjection. He found after repeated trials that the dark cell with bread and water treatment had no appreciable effect on the bold and bad pupils, and it was necessary to find a substitute for that time-honored method of administering punishment. Taking an ordinary medical electrical battery he placed a sponge on one handle and an electric brush on the other. The subject for punishment is now taken into the private room where this mysterious machinery is kept. The sponge is applied to the base of the skull and the brush is applied to the face, neck or arms, giving shocks that are painful enough to leave a deep impression on the

memory if not on the body. There is something mysterious about the machine that inspires the culprits with the deepest awe, and it is not often found necessary to repeat the operation. The apparent similarity of the process to the one used in executing criminals by electricity undoubtedly has a great deal to do with impressing the youngsters with the undesirability of undergoing this particular form of punishment.

⁷For this discussion I have relied heavily on the ideas articulated by Edwin Schur in his chapter entitled, "New Ways of Looking at Delinquency", taken from Radical Non-Intervention: Rethinking the Delinquency Problem, (Englewood Cliffs, N. J.: Prentice-Hall, 1973).

⁸Ibid., p.122.

⁹Nebraska, State Industrial School, Monthly Report to the Board of Public Lands and Buildings, 27 February 1887, p.1.

¹⁰Correspondence, Girls' Industrial School for Juvenile Delinquents, 1898, Archives, Nebraska State Historical Society, Lincoln, Nebraska, Box 1, Series 1, Folders 1-4.

¹¹Schur, p.125.

¹²Wiebe, p.146.

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