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More Light on Youth in the Courts: A Book Note

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MORE LIGHT ON YOUTH IN THE COURTS

A Book Note

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The foregoing discussions make it abundantly clear that the establishment of a Family Court provides no automatic solution to the manifold problems which led to its creation. A new and flexible institution is now available in which the most promising approaches to vitally important community problems may be explored. But the hard work of discovering the best solutions remains. And effective facilities for implementing them must be provided. These reminders are forcefully presented in the latest report of the Joint Legislative Committee on Court Reorganization entitled *Young Offenders and Court Reorganization.*[1]

Of the many issues involving youth and the law, none has commanded more public attention in New York in the last decade than the question of the age categories within which the regular procedures of the criminal law may be replaced by more flexible methods designed to minimize the risk of encouraging the development of careers of adult criminality. For many years, this basic category has been fixed by the sixteenth birthday which marked the upper limit of the jurisdiction of the Children's Court. More recently, the Youthful Offender Act provided a non-criminal type of proceeding for youths sixteen, seventeen and eighteen at the option of the court. With the increase of teen-age crime throughout the country, the advisability of broadening the use of these procedures for youths between sixteen and twenty has been frequently debated. Upon the recommendation of the Temporary Commission on the Courts, the New York Legislature in 1956 passed the Youth Court Act, extending the availability of youthful offender treatment to those under twenty-one and encouraging its use.[2] For several years, heated controversy swirled around the Act, both on substantive and procedural grounds. After successive postponements of its effective date, the Youth Court Act was finally repealed.[3] But the question of the appropriate age limits for the use of non-criminal procedures has not been answered.

The latest report of the Albert Committee contains the results of the most extensive effort thus far made to assemble all available statistical data relating to the age of youths embroiled with the law, as well as a careful analysis of the legal and service problems involved in the use of non-criminal procedures. The Commission makes no positive recommendations about the age categories to which these procedures should be available. In reviewing the history of the problem in New York, it suggests that "without an overwhelming demonstration that change was necessary, it would be difficult to

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1. N.Y. Joint Legis. Committee on Court Reorganization, Rep. VII (Young Offenders and Court Reorganization) (1963).
2. N.Y. Sess. Laws 1956, ch. 838.
3. N.Y. Sess. Laws 1961, ch. 196.

justify an increase in the juvenile delinquency age."[4] But in view of the language of the constitutional amendment adopted in the fall of 1961, the Committee concluded that further study was required:

> Given this constitutional language, this Committee has concluded that the Legislature is under a constitutional mandate to examine again the question of whether the juvenile delinquency age should be changed or other arrangements made for dealing with young offenders. In its judgment, the decisions of the past must now be subordinated to the policies of the new constitutional amendment. And these policies require a practical judgment, based on current experiences and realistic estimates, as to how the courts of the unified state court system may be most effectively used to deal with problems of youth.[5]

Most of the report is devoted to a thorough analysis of the relevant data.

Cautiously as they are used, the statistics assembled by the Commission appear to be pressing it toward the conclusion that the increasing relative incidence of crimes of violence in the age group below 18 has serious implications for the age limit which should be fixed for Family Court authority over delinquents.

In addition to subjecting the available statistical data to a most careful, many-angled analysis, the staff of the Commission has attempted to formulate fresh perspectives on the issues involved in defining the scope of the work of the Family Court in such a way as to maximize its effectiveness. An effort is made, in this connection, to appraise the effect upon the judges, and hence upon the way in which they approach their job in its totality, of loading their dockets too heavily with cases of young teenagers charged with acts of violence which seem seriously threatening to the community. It is suggested that they may be led to shift their general approach toward short-range protection against further acts of violence and away from a concentration upon giving the most effective corrective service to the young people who come before them. As the report states,[6] at a certain point "the community's concern with preventing violence asserts itself and in large measure overrides its generally tolerant attitudes towards the crises and rebellions of youth." Certainly this is a factor which must be reckoned with in making the ultimate decisions about allocating jurisdiction over youths between the Family Court and the criminal courts in the first instance.

On account of both the new statistical material made available and the sensitive exploration of many of the complex and subtle factors involved, this Report should receive careful scrutiny from everyone interested in contributing to the most effective development of the new Family Court. Whether or not one agrees with the conclusions hinted at, the entire community is greatly indebted to the Albert Commission and its diligent staff for this thoughtful Report.

4. *Op. cit. supra* note 1, at 5.
5. *Op. cit. supra* note 1, at 6.
6. *Op. cit. supra* note 1, at 107.