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The Problem of Delinquent Juveniles

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case could be heard and final judgment entered until after the complaint shall have been on file for six months. You, as lawyers, I know, are acquainted with what the committee is driving at, what they are trying to correct by making that recommendation. They are trying to correct the problem of the marriage which occurs prior to the final decree, which, being a void marriage, results in confusing property rights, and anyone who has seen a volume of divorces realizes that the problem of the illegitimate children who have been born because no final decree was entered in a prior divorce is a large one. You would be amazed at the number of annulment cases in King County, for instance, which by the fact that they declare the marriage void of record, by the same token make the children illegitimate.

"The Problem of Delinquent Juveniles" by Joseph A. Barto

Early in 1945 a juvenile confined in the King County jail was beaten by other juveniles who were in detention with him. As a result of this beating he died.

The occurrence was given great publicity by the press. One radical paper advocated the immediate recall of Judge Long and the sheriff of the county An inquest was held by the coroner and an investigation was launched. A survey of the county and city jails was made and somebody was paid a fee of $1,500.00 for this investigation, although I believe that a bright ten-year-old boy could have determined at a glance the unfitness of the city jail as a detention place for juveniles.

The chain of occurrences culminated in Joint Senate Resolution No. 4 of the 1945 legislature, which created an interim committee, provided for hearings, and provided that the committee could seek advice, employ assistance, and make a study of juvenile delinquency Twenty-five thousand dollars were appropriated for the use of the interim committee.

In the fall of 1946 the interim committee called a meeting at the Washington Athletic Club in Seattle. The meeting was attended by delegates from about thirty different religious, social, political, and labor groups and representatives from the Medical Society and law enforcement agencies of the state. I attended the meeting as a delegate of the Washington State Bar Association. The committee organized and Judge George B. Simpson of our Supreme Court was elected chairman. The delegates were handed copies of the interim committee's

tentative draft of the bill. This bill provided for the division of the state into judicial districts—a startling innovation.

In each district there was to be a full time juvenile judge. The bill established a branch of the Superior Court to be known as the Juvenile Court. It established the State Juvenile Council, consisting of representatives from the Bar Association, Medical Association, State Conference of Social Workers, Parent-Teacher Associations, and three delegates to be appointed by the governor, at least one of whom was to be from organized labor.

This group was to submit to the governor a list of persons from whom the governor might appoint the juvenile judges, and, further, was to prepare and submit to the governor a list of three persons from whom the governor might appoint a director of youth protection. The bill further set up a department which was to have the supervision, management, and control of all state schools, camps, and detention facilities. This department selected the probation officers for the various judges, and assigned to the court such officers as the department thought the courts should have. This department had very broad powers. For example the court could commit a child to the care, custody, or guardianship of this department and the department in turn could, in its discretion, commit the child to a public or private institution or agency In other words, the department was given the right to delegate this matter of the custody and care of the children to whom it wished.

A cursory reading of the proposed bill had led me to the conclusion that it was unconstitutional and I so reported to the committee of thirty Thereafter the interim committee employed counsel to render an opinion on the constitutionality of the bill, and counsel confirmed my opinion.

Prior to this time the report of the interim committee had been widely publicized. Public hearings had been held in ten of the principal cities of the state, and numerous social and educational groups had heard discussions of it.

I felt that this report was grossly inaccurate and was a reflection upon the state. I was particularly incensed by a document which was widely circulated as late as January, 1947 This was the reprint of an article by Albert Q. Maisel which had been published in the *Woman's Home Companion.* I quote from it:

"What jail confinement can lead to was demonstrated to the city of Seattle in January, 1945, when John Emberg, a sixteen-year-old lad whose 'crime' was that he had run away from home to join the army, was placed in an unsupervised 'tank,' where for five days he was tortured by fellow juveniles. His cries went unheard or unheeded by the authorities. One the fifth day the boy was found dead.

"The shocked newspapers of Seattle made much of the case, looking for a goat on whom the blame could be thrust. Fortunately, however, the state legislature realized that the people and the government themselves were guilty rather than any single official. Under the leadership of the youthful state senate majority leader, able and aggressive Albert D. Rosellini, a joint legislative committee was set up to study the state's entire problem of juvenile delinquency and to recommend and enact new laws.

"Surveying the state, they discovered that only nine of the thirty-nine counties had any type of separate juvenile detention facility. In twenty-seven counties, in direct violation of state law, children were being held in common jails and lockups, 1970 of them within the single year of 1945!"

That is the article that was repeated in interviews with people interested in this problem. Virtually the same thing appeared in the *Seattle Times* and other papers.

These misstatements prompted me to send questionnaires to the Superior Court judges of this state, and prompted Judge George B. Simpson to write personal letters to every Superior Court in this state. When we assembled our facts, we found that there was not a single county in the state where a child was being kept in jail with adult prisoners.

Our Juvenile Court Act of 1913 provides that a child shall not be kept in the same enclosure with a common jail. You men of my age remember the courthouse as it was built when we were boys. The county treasurer, auditor, clerk, and the county court were all lodged in the building, and either in the basement or in the attic was placed the county jail. In King County the jail was in the basement and they hanged prisoners in the attic. Many of these old courthouses are still in use.

But the point is that in this state of ours during this period referred to in this report, there was not a single child kept in the same quarters with adult criminals. I went over the facts, county by county, and most of the counties of our state reported that children were not being kept in a common jail. With reference to Grant County, where I was advised that children were kept in the women's ward, away from adult prisoners, it is true that they were kept in the same building. I have a report from Stevens County to the effect that in some cases children

had been kept in the same building which housed the common jail but were never kept with adult criminals.

As to the next statement that we had probation officers in only nine counties, may I observe that in many counties of this state probation officers are unnecessary One of our judges reported to me that in the past two years he had had exactly two juvenile cases.

In many of the smaller counties, the probation work is handled by the sheriff. In other counties it is handled by a part-time probation officer. I recall that in one of the counties of this state the probation officer is a retired minister who had been, in his earlier years, connected with the schools and had been connected with a correctional institution in another state. He did a magnificent job as probation officer, without burdening the taxpayers with the useless expense of employing a man to do this work on a full time basis.

After it had been determined that the preliminary draft of the bill was unconstitutional, several proposed bills were drafted. Two of them were prepared by my committee, and the last draft appeared as House Bill No. 101. Other groups submitted other bills. I was called to Olympia repeatedly to attend meetings of the various House and Senate committees who were working on this legislation, and I found that this campaign of misinformation and these erroneous statistics had been carried right into the legislature. Finally a suggestion was made that we prepare a compromise bill and all hands present agreed to a compromise, and substitute House Bill 101 was the result. I was not in Olympia when it was finally acted upon, but the Bar Association had its representative in the state legislature, Mr. Richard Ott, and Dick Ott said that in the eleventh hour we were double-crossed and no bill went through.

When I got into this fight and saw the extent of the publicity that had been given to this problem I felt that if the Bar Association could act as a buffer between what I thought were the demands of the social workers' groups and the public, we would have accomplished a great deal. In other words, we were better off with our present so-called archaic juvenile court bill, which is not so archaic after all, than we would be with some new thing which attempted to create jobs for a lot of people that wanted them.

Your committee has always taken the position that probation is a judicial function, it is part of the sentence that a court passes. Of course, we are dealing here with a legal fiction. Juveniles may do

wrong, but juveniles cannot commit crimes. We feel that the matter of probation is purely a judicial function, that it should be carried on under the supervision of the court. The court fixes the nature of the probation, the court fixes the length of it. The court should choose its own probation officers and not have its probation officers assigned to it by some bureau which is apart and removed from you gentlemen of the Bar and from the courts.

There are two kinds of incarceration that may occur to a juvenile; one I refer to as detention, that is the holding of the juvenile during investigation, before trial, or as an emergency matter until a place can be found for him. Second is the question of commitment. Commitment, we might say, is a thing of corrective nature. It is educational in some aspects and it is medical in certain other aspects. Probation or detention as a whole function should be maintained and supervised by the county and the county judge. Your commitment factors are state-wide. When a judge desires to commit a child to a correctional institution he should be able to commit that child, whether he is a judge in Asotin or King or Pacific County, wherever he may be.

My questionnaire to the judges elicited the fact that we need intermediate institutions for child care. Right now there is no stop-gap between the court and either the State Training School at Chehalis or the School for Girls at Grand Mound. The court has no choice of proper school or institution to which a child may be committed and must either commit the child to Chehalis or Grand Mound, or not commit him. I qualify that to a certain extent. Some of the juvenile court judges of the state have used the schools for boys and girls which are run by the Seattle School Board, and Martha Washington School is one of them. I have talked with some of the judges who used the House of the Good Shepherd in Spokane, for girls. But the state has no institution of that kind and the Seattle School Board cannot take an unlimited number of children. Our state institution for defective children at Buckley is over-crowded. We need as a part of this program a hospital or institution of a medical nature to which a child may be sent for observation or treatment for either mental or physical ailments.

Four million dollars is being spent to establish a medical school at the University of Washington. A children's clinic will doubtless be established as a part of the Department of Pediatrics. Steps should be

taken to make the services of this clinic available for the diagnosis and treatment of juveniles referred to it by our courts.

Other intermediate facilities, schools, and camps must be provided as the need for them is indicated. These will constitute further burdens to the heavily taxed public. Their need should be determined from facts, not theory

Your committee's conclusions are these:

We must assemble the true facts upon which the problems of juvenile delinquency and care are based.

We must educate the public, and disabuse the public mind from the misinformation heretofore furnished it.

The public was never informed that the breakdown of the expenditures of the interim committee showed that the National Probation Association received $1,000.00 for professional services in September, 1946, that it later received $1,104.50 and $973.00 and that another bill of $1,098.00 was pending at the time we received the report.

We are proud of the efforts of the American Bar Association and of this Washington State Bar Association in the protection of our rights and our property

I submit that the lives and liberties of the children of this state are just as important to all of us.

Report of the Chairman of the House Judiciary Committee, by Theodore Turner

I want to speak very briefly about the practical legislative aspects of this problem. Mr. Barto has given you a very fine introduction to the legal aspects involved and to the problem of drafting substantive legislation. What I want to talk about is the practical aspects of getting that legislation through once this Bar Association has endorsed a good bill. The basic issue between these two bills, as Mr. Barto pointed out, is whether or not we are going to leave the problem of juveniles, the administration of juvenile law to the judges, where it properly belongs, or whether we are going to take a substantial part of that responsibility from the judges and place it in the hands of some bureau, as Mr. Barto put it, who in fact would be a body appointive, a body of professional social welfare workers who would not be responsible to the people. That is the basic issue. The last theory was embodied in House Bill 195. And I was told that the National Probation Association spent about six thousand dollars in an effort to get that law passed in this