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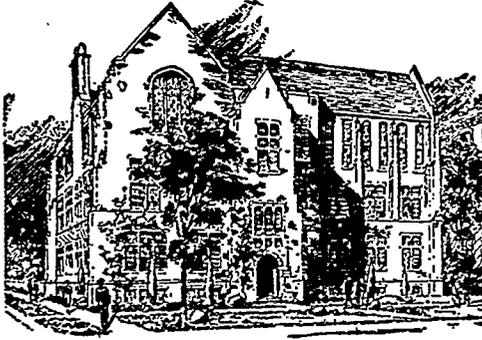
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PROBLEMS OF MODERN JUVENILE DELINQUENCY LEGISLATION

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IN spite of a revolutionary development during the past fifty years in the treatment of minors who have violated the criminal law, existing legislation is continuously undergoing adjustments. After noting historical instances which led the way from early common law methods of treating the child offender in the same manner as an adult criminal, it will be the purpose of this note to review the problems of modern juvenile delinquency legislation.

Cases of the early 18th century clearly indicate the effect of English common law rulings.¹ A nine year old child was found guilty of murder and was hanged.² A thirteen year old girl was burned to death for the crime of murder.³ An eight year old boy was executed for commit-

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¹ BARBOUR, CRIMINAL LAW (2d ed. 1852) 262.

² 1 Hales P. C. 27; 1 Russ on Cr. 3; (Noted, *supra* note 1, p. 263).

³ 1 Hales P. C. 26; (Noted, *supra* note 1, p. 262).

ting arson.⁴ At common law, England and the United States regard the ages at which a child may be held responsible for criminal acts to be divided into three distinct periods. An infant under the age of seven years is presumed, conclusively, to have no capacity to commit a crime. There is a presumption of incapacity to form criminal intent between the ages of seven and fourteen years, but this is rebuttable. After fourteen years the child is presumed capable of committing a crime, but such presumption is subject to proof as to the real fact.⁵ Thus, only two things are required at common law for the conviction of a minor over seven years of age: 1) that the illegal act was committed in fact, and 2) that the child was capable of intending to do wrong and understood the wrongful consequences of his act. Because the sentences passed in the administration of the criminal law were based on the idea of retributive justice—i.e., one must pay for his crime with a penalty suitable to the crime—the courts began to find themselves face to face with the necessity of making unpleasant decisions. For example, in *Rex v. York*,⁶ decided in 1748, the English court found a ten year old boy guilty of the murder of a five year old girl. Under the facts of the case, a modern juvenile court would probably not have recommended punishment, but psychiatric treatment. However, the court had no other authority in law but to pass the death sentence. In reluctantly declaring that the boy must be hanged, the opinion stated that one good reason was "it would be of very dangerous consequence to have it thought that children may commit such crimes with impunity." However, a way out was found in recourse to His Majesty's pardoning power, and this ten year old child was given the choice of the hangman's noose or of entering His Majesty's Sea Service for life.

Gradually the public's influence began to assert itself and executions of very young offenders began to disappear, although life imprisonment became the only alternative in many cases. It was during the period in which separate reformatories for young criminals were being established that the idea of rehabilitation rather than punishment came to the foreground. Legislatures of many states in America passed laws providing that when persons under twenty-one year of age were convicted by criminal courts they should be placed in an institution separate from adult criminals, should learn rather than sit idle and should be made to acquire an interest in all things tending to destroy a lawless attitude. These reform schools have served a very definite purpose. But the system was, in its early form, still an insti-

⁴ 1 Hales P. C. 25; Arch. Crown Pl. 11; 4 Black. Com. 24; (Noted, *supra* note 1, p. 262).

⁵ 31 CORPUS JURIS 1096, § 218.

⁶ FOSTER, CROWN LAW 70 (Eng. 1748); Noted: Bennet and Heard, Leading Cases (1856) 68.

tutionalization of the individual. Thus, when the record began to indicate that persons released from these reform schools all too often returned to a life of crime, the need for new laws was made obvious once again. The germ of the solution was found in the laws of Massachusetts in the middle 1800's. This state did most of the legal pioneering in the field of juvenile delinquency in an attempt to prevent the courts from stamping the label "criminal" on immature offenders. One of the early landmarks was the law which provided for a "state agent" whose task it was to find a home for the wayward child, thus removing the need for prison committment.⁷ This, of course, did not answer the problems of all types of cases. Young boys were still being arrested, hauled to jail with drunkards, robbers and the like, and carried before the grim presence of a criminal court judge who, from his high bench, would inform their bewildered minds what their legal rights as criminals were. Then the court would proceed to try, convict and sentence the worst of these offenders with the severity deemed necessary to let them know and to let society know that society was being protected from bad boys. From that moment to the end of their lives they carried with them the name "criminal" wherever they might go. If an eleven year old boy wounded a schoolmate in a school-yard brawl, no one examined his personality to determine if he was vicious in character or not. Where a nineteen year old was brought to court at the height of a career of robbery, there was no one there to ask the single question, "What made him that way?" When a boy ran away from home and was caught stealing food, he was convicted. His parents were never investigated at all. Where an eighteen year old boy took the life of his girl friend and was charged with murder, there did not appear in court a psychiatrist with the legal power to recommend hospitalization if this was determined the most suitable course to follow. Because of all these shortcomings in the administration of the law, Massachusetts provided in 1870 that all cases of children under sixteen years of age should be heard separately from criminal cases,⁸ and that the state agent, or probation officer as we know him today, was to investigate the case, attend the trial and protect the best interests of the child.⁹ By 1891 the state probation department was definitely established.¹⁰ The first specialized court for juvenile delinquents was the Juvenile Court, or "clinic" as we call it today, of Cook County, Illinois.¹¹ The law provided for the treatment of dependent, neglected and delinquent children alike, in a non-criminal

⁷ Laws of Mass. (1869) ch. 453, § 4.

⁸ Laws of Mass. (1870) ch. 359, § 7.

⁹ *Ibid.*, § 8.

¹⁰ Laws of Mass. (1891) ch. 356.

¹¹ Laws of Ill. (1899) p. 131.

proceeding supplemented by a probation department to suit the remedy to the individual.

Thus, the basis upon which minors had been treated as criminals was absolutely pushed aside; criminal responsibility or the violation of a particular law was no longer to be an issue in an individual case. The delinquent was put in the same category as a dependent and was to be treated with understanding and guidance, not by punishment.¹² Similar legislation was subsequently enacted in most jurisdictions, and by 1932 there were 633 independent juvenile courts in the United States and 2,255 juvenile sessions of regular criminal, probate and equity proceedings in other courts.¹³ It was not until as recently as 1938 that the Federal Juvenile Delinquency Act was passed.¹⁴ It declares that a juvenile is a person seventeen years of age or under; juvenile delinquency is an offense against the laws of the United States committed by a juvenile and not punishable by death or life imprisonment. If the Attorney General in his discretion so directs and the accused consents, the child is prosecuted on a charge of juvenile delinquency on information, and no prosecution is instituted for the special offense alleged to have been committed. Such consent, made in writing before the judge who informs the accused of the consequences of his consent, is deemed a waiver of jury trial.

Since the Wisconsin Act is substantially similar to those of other states, mention of its significant provisions will be helpful. It is entitled, "Child Protection and Reformation."¹⁵ It provides for a Juvenile Court, which is not a criminal court, with original jurisdiction over all cases of neglected, dependent and delinquent children.¹⁶ A "delinquent" is defined in section 48.01(1) (c) of the Wisconsin Statutes as:

" . . . any child under the age of eighteen years who has violated any law of the state or any county, city, town or village ordinance; or who by reason of being wayward or habitually disobedient, is uncontrolled by his parent, guardian or custodian; or who is habitually truant from school or home; or who habitually so deports himself as to injure or endanger the morals or health of himself or others; or, if below twenty-one years of age, shall unlawfully and carnally know and abuse any female under the age of eighteen years, or assault intending carnal knowledge and abuse."

The Juvenile Court has exclusive jurisdiction over children sixteen years of age and under. Over sixteen years the criminal courts have concurrent jurisdiction.¹⁷ But when the Juvenile Court determines

¹² S. and E. T. GLUECK, 1000 JUVENILE DELINQUENTS (2d ed. 1934) ch. II, p. 13.

¹³ *Ibid.*, p. 14.

¹⁴ 18 U.S.C.A. 921.

¹⁵ WIS. STAT. (1941) ch. 48.

¹⁶ *Ibid.*, § 48.01(2).

¹⁷ *Ibid.*, § 48.01(5) (a) 4.

any child to be delinquent he shall be under its jurisdiction until he reaches the age of twenty-one years, unless discharged prior thereto;¹⁸ and where the criminal court has waived jurisdiction in the case of a minor between eighteen and twenty-one years of age, the Juvenile Court may place such minor on probation until he is twenty-five years old, or commit him to an institution for the term to which he might have been committed by the criminal court.¹⁹ While the statute, in order to avoid objections on grounds of unconstitutionality, provides for a jury trial if demanded by the minor or an interested party,²⁰ it was the intention of the legislature to remove all aspects of criminal proceedings. The hearings are private;²¹ usual court rules of procedure are dispensed with, although each finding of fact must appear on the record.²² Specially designated, though not specially qualified, judges are to preside.²³ The court has extensive powers as to the disposition of cases, either by placing the child on probation, or under supervision in his own home, or in the custody of some fit person, relative or otherwise, or in a family home, or a public institution or a child welfare agency licensed by the state; or, to quote the statute, the court may "make such further disposition as the court may deem to be for the best interests of the child."²⁴

The purpose of the act is further made clear by these additional provisions: "No adjudication upon the status of any child in the jurisdiction of the juvenile court shall operate to impose any of the civil disabilities ordinarily imposed by conviction . . . The disposition of a child or any evidence given in the juvenile court shall not be admissible as evidence against the child in any case or proceeding in any other court . . ." ²⁵ Also, "it is declared to be the intent of this chapter that each child coming within the jurisdiction of the juvenile court shall receive such care, guidance and control, preferably in his own home, as will conduce to the child's welfare and the best interests of the state; and when such child is removed from his own family, to secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given by his parents."²⁶

At this point a very important question presents itself: where does the state get the power to do all of these things? The constitutionality of juvenile court jurisdiction and procedure has been almost universally upheld. The reason objections to this court's power have failed in

¹⁸ *Ibid.*, § 48.01(5) (4b).

¹⁹ *Ibid.*, § 48.07(1) (d).

²⁰ *Ibid.*, § 48.01(3).

²¹ *Ibid.*

²² *Ibid.*, § 48.07(2).

²³ *Ibid.*, § 48.01(2).

²⁴ *Ibid.*, § 48.07(1) (c).

²⁵ *Ibid.*, § 48.07(3).

²⁶ *Ibid.*, § 48.07(4).

nearly every case is that they have assumed that the hearings were, in nature, criminal proceedings requiring all of the constitutional and statutory safeguards of a criminal trial; however, decisions upholding the juvenile court acts have repeatedly pointed out that here is not a criminal court, but an agent of the state fulfilling the state's duty to step into the shoes of the parent when the latter has failed in his duty of caring for the child; that so long as the disposition of cases is not "punishment" but protection of the child, no lack of due process can be raised. The first principle, then, is that it is the duty of the state, as a political necessity, to pass such legislation for the care of those of its citizens who are unable to take care of themselves. This has been recognized in Wisconsin, in *Milwaukee Industrial School v. Supervisors of Milwaukee County*²⁷ and *Lacher v. Venus*,²⁸ as an established view not open to question. Secondly, the fact that the constitutional guaranty that no person shall be deprived of ". . . liberty . . . without due process of law"²⁹ is not violated by such legislation was decided by a federal court in 1911.³⁰ The Wisconsin court rendered a similar decision in 1899,³¹ and the problem was more broadly considered in the leading Pennsylvania decision of *Commonwealth v. Fisher*.³² The court's opinion in the latter case pointed out that the constitutional provisions at the basis of the objection applied to persons charged with a criminal offense, but that the juvenile delinquency case in question was not a trial for any crime; that the act was operative only where there was to be no trial and that the purpose of the juvenile court act was to prevent a trial. It added:

"To save a child from becoming a criminal, or from continuing a career of crime, to end in maturer years in public punishment and disgrace, the Legislature surely may provide for the salvation of such a child, if its parent or guardian be unable or unwilling to do so, by bringing it into one of the courts of the state without any process at all, for the purpose of subjecting it to the state's guardianship and protection. The natural parent needs no process to temporarily deprive his child of its liberty by confining it in its own home, to save it and to shield it from the consequences of persistence in a career of waywardness; nor is the state, when compelled as *parens patriae* to take the place of the father for the same purpose, required to adopt any process as a means of placing its hands upon the child to lead it into one of its courts. When the child gets there, and the court, with the power to save it, determines on its salvation, and not its punishment, it is immaterial how it got there."

²⁷ 40 Wis. 428 (1776).

²⁸ 177 Wis. 558, 188 N.W. 613 (1922).

²⁹ United States Constitution, Art. XIV, § 1.

³⁰ *Ex parte Januszewski*, 196 Fed. 123 (E.D. Ohio 1911).

³¹ *Industrial School for Girls v. Clark County*, 103 Wis. 651, 79 N.W. 422 (1899).

³² *Commonwealth v. Fisher*, 213 Pa. 48, 62 Atl. 198 (1905).

In answer to the allegation that there is a denial of the right to trial by jury, the same decision again points out that such right is present only in criminal proceedings, but that when a juvenile is brought to the juvenile court, the court passes on nothing but the propriety of an effort to save it. Whether the child deserves to be saved by the state is no more a question for the jury than whether the father, if able to save it, ought to save it. A similar view is expressed by the Wisconsin court as follows:

"In proceedings in juvenile court . . . its (the state's) fundamental purpose is the conservation of the child as a member of the state, and it extends alike to the child who is then not properly cared for by reason of the misfortune of its parents; is abandoned or neglected by reason of their willful neglect to perform their parental responsibilities; or, being itself delinquent, needs the supervision and control of the state . . . The exercise of this broad and generous function of the state has been expressly declared to be based upon the quality of mercy rather than upon the idea of punishment."³³

A summary statement of the constitutionality of these proceedings may be drawn from two additional Wisconsin decisions: the function of the court is a legitimate exercise of the police power in the protection of the health, safety and general welfare of children.³⁴

While the jurisdiction of the juvenile court is now well established, some questions still may arise as to the application of rules of evidence during hearings. A reasonable statement was offered by the New York court in *People v. Lewis*:³⁵

"Since the proceeding was not a criminal one, there was neither right to nor necessity for the procedural safeguards prescribed by constitution and statute in criminal cases . . . (However) there is no implication that a purely socialized trial of a specific issue may properly or legally be had . . . The customary rules of evidence shown by long experience as essential to getting at the truth with reasonable certainty in civil trials must be adhered to. The finding of fact must rest upon a preponderance of the evidence adduced under those rules. Hearsay, opinion, gossip, bias, prejudice, trends of hostile neighborhood feeling, the hopes and fears of social workers, are all sources of error and have no more place in Children's Courts than in any other court."

The reason underlying all of the foregoing holdings which uphold the system of treatment as constitutional was stated by Julian Mack, when he emphasized that the problem for the judge to determine in the juvenile court is not, has this boy or girl committed a specific wrong

³³ *Lacher v. Venus*, 177 Wis. 558, 188 N.W. 613 (1922); see also *In re Alley*, 174 Wis. 85, 182 N.W. 360 (1921).

³⁴ *In re Johnson*, 173 Wis. 571, 171 N.W. 741 (1921); *State v. Scholl*, 167 Wis. 504, 167 N.W. 830 (1918).

³⁵ *People v. Lewis*, 260 N.Y. 171, 183 N.E. 353 (1932).

defined in law, but how has he become what he is and what had best be done in his interest and the interest of the state to save him from a downward career.³⁶ It may be noted here that the comparatively few appealed juvenile court cases appearing in the reports is some indication that interested persons have found little legal dissatisfaction with the proceedings. It is the writer's conclusion that where the spirit of this legislation is adhered to by the personnel selected to administer the law, there is more assurance of the spirit of the constitutional guaranties being preserved than if statutory limitations are placed on the proceedings. In this field particularly the workable plan is to direct statutory qualifications to the matter of personnel selection rather than to courtroom rules. Obviously, there is less opportunity, let alone motive, for a juvenile court and probation department of today to trample on the inalienable legal rights of children than there was for the old common law criminal courts to do so as they blindly followed the only course permitted by law.

Do we have today the best possible juvenile delinquency laws? Obviously not. In their book of a few years ago, the Gluecks asserted that recidivism among juveniles was high.³⁷ We learn that in the last two years the nation's delinquency rate has been on the increase.³⁸ Probation officers, judges and social workers tell us that the laws are the result of patch-work legislation yet uncompleted. The American Law Institute in 1940 proposed a Youth Court Act to apply to minors who are otherwise not able to be brought within the juvenile court's jurisdiction.³⁹ This same body also proposed a new Youth Correction Act.⁴⁰ Perhaps the problem concerning the age at which a child ceases to be a delinquent and becomes a criminal has reached the courts more frequently than any other. Statutory ages vary in different states. The following is what happened in Wisconsin: the legislature enacted a law in which it defined as "delinquents" offenders under eighteen years of age. Then to meet, by the method of compromise, the objections of those who argued that criminal courts should not be robbed of their jurisdiction to so great an extent, the legislature provided that criminal courts would have concurrent jurisdiction of those cases where the accused was between sixteen and eighteen years of age; to quote the statute, "in all cases of *delinquent* children over sixteen years of age the criminal court shall have concurrent jurisdiction with the juvenile court."⁴¹ The offender under consideration was called

³⁶ Mack, *The Juvenile Court*, 23 HARV. L. REV. 104 (1909).

³⁷ S. and E. T. GLUECK, 1000 JUVENILE DELINQUENTS (2d ed. 1934) ch. IX, 151-152.

³⁸ M. G. Caldwell, *Extent of Juvenile Delinquency in Wisconsin*, 32 JOUR. OF CRIM. LAW 148 (1941).

³⁹ MICHAEL and WECHSLER, CRIMINAL LAW AND ITS ADMINISTRATION 958 (1940).

⁴⁰ *Ibid.*, p. 970.

⁴¹ WIS. STAT. (1941) § 48.01(5)(a)4.

a "delinquent," not a criminal. The statute did not state whether or not the criminal court, if it assumed jurisdiction, was to conduct a *criminal trial* of the "delinquent." This question has not been made an issue in any appeal, although, in conformity with the Wisconsin Attorney General's opinion,⁴² where the criminal court does take jurisdiction of a minor between sixteen and eighteen years of age the trial becomes a criminal one and the sentence, if any, is the same as that had in adult criminal cases. Thus, for example, where a Wisconsin probation department which has been given the custody of a fourteen year old boy who has been habitually truant from school sees fit to discharge him within a year or so, and then shortly thereafter, at the age of seventeen, the same boy is arrested for stealing an automobile, he may be convicted for larceny and sentenced by the criminal court. The net effect of this type of legislation, therefore, is to insure the benefits of non-criminality to children sixteen years and under, and *maybe* to those between sixteen and eighteen.

To meet this kind of problem, there was established in Brooklyn, New York, in 1935, an Adolescent Court for minors above the statutory juvenile delinquency age to do for these offenders what the earlier legislation has done for the younger group.⁴³ This is based on the theory that such immaturity which might justify treatment rather than punishment of young offenders can also be found among sixteen to twenty-one year old persons.

Not all jurisdictions have had absolute faith in the efficacy of making the young offender immune from the penalties of the criminal law. A fifteen year old girl was sentenced by an Illinois court to a twenty-five year term in the women's reformatory for homicide. The criminal court had concurrent jurisdiction with the juvenile court, the latter having previously had custody of the girl on unrelated charges. In holding, on appeal, that the criminal court had properly assumed jurisdiction, the opinion declared, "It was not intended by the legislature that the juvenile court should be made a haven of refuge for a delinquent child of the age recognized by law as capable of committing a crime, or that he should be immune from punishment for violation of the criminal laws of the state committed by such child subsequent to his being declared a delinquent."⁴⁴

The general tendency of the courts is to analyze the seriousness of the offense to determine which of the two courts should handle a case; hence, in most jurisdictions a child committing an act which amounts to a felony usually is subjected to criminal proceedings. The Connecticut court reversed a criminal conviction of a fifteen year old

⁴² 20 OPINIONS OF ATTY. GEN. 1978 (1931).

⁴³ *Supra*, note 39, p. 967.

⁴⁴ *People v. Lattimore*, 362 Ill. 206, 199 N.E. 275 (1935).

boy for the crime of rape,⁴⁵ but said in its opinion, "It is difficult to attribute to the Legislature an intent that every offender under the age of sixteen, though he may have committed murder, rape, robbery or other serious crime, and however hardened he may be by iniquity, merely because he has not reached that age, though it be but a matter of days, must necessarily be immune from criminal proceedings . . . The defendant not only committed a heinous offense, at a time when he fell short of the age of sixteen by but a few weeks, but the long series of serious crimes with which he is charged at least suggests that he is thoroughly depraved and irresponsible. The thought of remitting the disposition of proceedings against such an offender to the juvenile court arouses a natural reluctance. That such a course would not accord with the the general feeling of mankind is indicated by the fact that in most juvenile court acts . . . some provision is made for the disposition of such cases . . . Moreover, to draw an arbitrary line of distinction at the age of sixteen, without regard to the character or history of the offender or the circumstances of the offense, is hardly cognizant with that individualization of punishment which has become one of the fundamentals of modern penology." In an early New Jersey common law holding it was said, "The distinctions . . . as to age when crimes may be committed and the criminal punished are, in no considerable degree, arbitrary . . . The real value of the distinctions is to fix the party upon whom the proof of this capacity lies."⁴⁶ It appears that in the Connecticut case⁴⁷ the court argued, as at common law, that wherever capacity is shown—a consciousness of guilt—punishment should follow. But in fact the "fundamentals of modern penology" carry to its limits the present theory that capacity or not, guilty or not, the action of the state should *not* be punishment, but any suitable plan for rehabilitation of the individual. Nor does the theory overlook the fact that there are many young, teen-age law violaters in the United States who seem to be beyond the ability of a juvenile probation department's aid and who would seem to deserve confinement away from society. When such an offender is brought before the court, jurisdiction of the criminal court—or the decision to *punish* the offender—is generally, in practice, determined by the necessity of confinement for society's protection or as an example to others. Neither of these reasons, where they predominate, are based on a penalty to the offender for his crime. The legal tests applied are those used at common law by the criminal court, e.g., does the individual show a heart void of social duty and fatally bent on mischief?⁴⁸ Did

⁴⁵ State v. Elbert, 115 Conn. 589, 162 Atl. 769 (1932).

⁴⁶ State v. Aaron, 4 N.J.L. 232 (1818).

⁴⁷ *Supra*, note 45.

⁴⁸ State v. Vineyard, 81 W.Va. 98, 93 S.E. 1034 (1917).

the offender know that he was acting wrongfully in the eyes of the law?⁴⁹

Examples of the more technical problems confronting the administrators of these laws include the case where a twenty-two year old was charged with first degree murder and proof on trial indicated that his mental age was possibly that of a thirteen year old. It was held that this could not make him subject to the juvenile law, physical age being the determining factor.⁵⁰ In Rhode Island it has been held that where a juvenile delinquent under sixteen years of age commits an offense, but proceedings are first begun against him when he is over sixteen years of age, the latter time determines which court shall hear the case and not the time of the offense.⁵¹

The more far-reaching social effects of this legislation, its degree of success and failure, is beyond the scope of this note, but is clearly presented in "1000 Juvenile Delinquents."⁵² This book contains a thorough review of the laws of the United States on the subject. Current information is obtainable at the Children's Bureau, Department of Labor, Washington, D. C. For the purposes of this present paper, that is, the high-lighting of certain legal problems of these laws, a concluding summary cannot be accurately made without reference to the social demands which crystallize the problems, just as it was social policy which motivated the entire modern approach to juvenile legislation. Since, then, it is the problem of the juvenile court to determine whether a program of correction and guidance should be followed for a particular individual, someone has to conduct that program. That is the duty of the probation department without which the entire system would fail. Probation means release, not imprisonment; protection, not prosecution; correction, not just punishment; guidance, not frustration; the making of a citizen, not a criminal. Yet, if this be the keynote of present legislation, what about the fact that seventeen year old boy can be sentenced to imprisonment in Wisconsin, and in many other states, for the remainder of his natural life? On the one hand it may be argued that, even if the boy is not a hardened criminal, society must know, other boys must realize that crime does not pay. This argument is the same as that used by the English court in 1748 when it sentenced a ten year old boy to be hanged on the theory that "it would be of dangerous consequence to have it thought that children may commit such crimes with impunity."⁵³ So a conviction is upheld as a proper punishment, setting an example for others

⁴⁹ 31 CORPUS JURIS 1095, § 213.

⁵⁰ Commonwealth v. Trippi, 268 Mass. 227, 167 N.E. 354 (1929).

⁵¹ Ex parte Albiniano, 62 R.I. 429, 6 Atl. (2d) 554 (1939).

⁵² *Supra*, note 39.

⁵³ Rex v. York, Foster's Crown Law 70 (Eng. 1748); (Noted, Bennet & Heard, Leading Cases (1856) 68).

to deter them from the same path of crime. On the other hand, it may be asserted that if the state releases this offender and he admits his wrongdoing, he may never make his mistake again; therefore give him the opportunity to make his life worthwhile if he repents.

It is the task of future legislators to decide which case implicit in these two views is the stronger—possibly not only as to young persons, but to every human being who falls into the hands of those upon whom rests the duty to administer justice.