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## Courts of Domestic Relations

Charles W. Hoffman

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## COURTS OF DOMESTIC RELATIONS<sup>1</sup>

(Report of the Committee of the National Probation Association.)<sup>2</sup>

CHARLES W. HOFFMAN, *Chairman*

The recommendations herein made by your Committee received the unanimous approval of all present at the meeting. It is conceded by the judges, by probation officers, and by social welfare workers in kindred lines of social service activity that "the unit of society is not the individual, but the family, and whatever tends to undermine the family by irrepealable laws of nature will crumble and destroy the foundations of society and the state."

Prof. Albion Small declares that "the family is the mechanism which delivers over to the nation the raw material, or the partially improved material, out of which the nation must be composed, the adolescent individual."

If there is dissension in the family, if there is absence of sym-

<sup>1</sup>Presented at the Pittsburgh meeting of the Association, May, 1917.

<sup>2</sup>The membership of the committee is as follows:

Hon. Charles W. Hoffman, Judge, Court of Domestic Relations, Cincinnati, O.,  
Chairman.

Hon. Edward J. Dooley, Judge, Court of Domestic Relations, Brooklyn, N. Y.  
Mrs. Jane D. Rippin, Chief Probation Officer, Municipal Court, Philadelphia, Pa.  
Mr. Monroe M. Goldstein, Secretary, National Desertion Bureau, New York  
City.

Mr. Wm. H. Bailey, National Prison Association, New Haven, Conn.

The following workers in social fields, on invitation of Mr. Charles L. Chute,  
Secretary of the Association, shared in the deliberations of the Committee:

Mr. Wm. H. Baldwin, Washington, D. C.

Mr. Edwin J. Cooley, Chief Probation Officer, Magistrates' Courts, New York  
City.

Mr. Frank L. Graves, Probation Officer, Domestic Relations Court, Brooklyn,  
N. Y.

Mr. Patrick J. Shelley, Probation Officer, Domestic Relations Court, Manhattan.

Mr. George Everson, Secretary, Criminal Courts Committee, Charity Organiza-  
tion Society, New York City.

Miss Maud Needham, Investigator, Criminal Courts Committee, Charity Organ-  
ization Society, New York City.

Mr. Arthur W. Towne, Supt., Society for Prevention of Cruelty to Children,  
Brooklyn, N. Y.

Mr. Morris D. Waldman, Executive Committee, National Desertion Bureau,  
New York City.

Mr. George P. Richter, Clerk, Court of Domestic Relations, Manhattan.

Miss Ida M. Curry, Supt., County Agencies of the State Charities Aid Asso-  
ciation, New York City.

Mr. Hiram Myers, Association for Improving the Condition of the Poor, New  
York City.

Mr. Charles L. Chute, Secretary, National Probation Association, Albany, N. Y.

pathy, forbearance, self-control, and other necessary elements incident to the development of character; if the social reciprocities are not cultivated, then the members of the family will be characterized by anti-social conduct in their relations, not only with the members of the family itself, but with the members of the community with whom they may come in contact.

The causes of juvenile delinquency, dependency of children, desertion and non-support, pauperism, alcoholism, divorce and marital dissensions are inter-related. All these, in a measure, can be traced to some defect in the family, and that defect in many instances is so obscure that current methods of dealing with domestic relations fail to reveal them.

It is apparent that to deal with the family effectively, to relieve present distress and to ascertain the causes of disruption of the family and the causes of anti-social conduct in general, it is necessary that some court have the power to deal with the family as a unit. At present the various phases of the family life are considered by independent courts, and while these courts have accomplished much good and should be commended, yet their work in no way has been inter-related.

It may be stated that the Court of Domestic Relations of Hamilton County, in which is located the City of Cincinnati, is somewhat exceptional in this respect. This court has jurisdiction in all divorce and alimony matters; cases of desertion and non-support, and all matters coming under the Juvenile Court Act. The court has been in existence since January, 1915, and the work has indicated clearly that the co-ordination in one court of these phases of domestic relations has been exceedingly efficient in the prevention, as well as the investigation into the causes, of anti-social conduct.

In practically all the states, Courts of Record have jurisdiction in cases of divorce, alimony, failure to provide, desertion, and paternity or bastardy cases. Other courts, usually the Probate Courts, have charge of the issuing of marriage licenses, and adoption and guardianship of children.

In addition to these courts there are now, in every locality of any considerable population, juvenile courts, or children's courts, having jurisdiction in matters concerning the delinquency or dependency of children, and of adults contributing to such delinquency or dependency.

It will be observed that in all the cases mentioned in which these various courts have jurisdiction that the welfare of children is generally involved. The inability of the present juvenile courts to reach

the family, so frequently the cause of dependency and delinquency, was recognized by Flexner and Baldwin in the introduction of their book on Juvenile Courts and Probation. They declare that the Juvenile Court "in its treatment of the child has fully justified itself, though it has almost wholly failed in its treatment of the adult responsible for the child's condition. Heretofore, the emphasis has been placed on the child in court; with a wider conception of the law it will, in the future, be placed on the family in court. In short, the court will undertake to deal more effectively with the family which produces the neglected or delinquent child, who is merely a factor in the larger and more complicated problem. This change contemplates a legitimate extension of the present court's functions. It will be vested with both equitable and criminal jurisdiction and will deal with all charges against minors, with neglected children, and all cases such as divorce, adoption, etc., in which the custody of children is in question. It will likewise embrace within its jurisdiction all violations of law where children have been wronged, such as child labor laws, and compulsory attendance laws. It follows as a matter of course that it will have exclusive jurisdiction over all cases of adults who contribute in any way to the conditions of delinquency or neglect in children."

The extension of the scope of activities of the Juvenile Court as thus suggested would supersede or rather take over the work of our present Courts of Domestic Relations with their various special functions, and, therefore, the term "Courts of Domestic Relations" would not be sufficiently comprehensive to include functions of the new court. The designation of these courts as "Family Courts" would probably more clearly signify the work designed to be accomplished by these institutions, viz., the conversations of childhood.

It is apparent, too, that the combining in one court of all matters concerning the family, such as have been mentioned, would be beneficial to society from the economic viewpoint. Much of the costly legal machinery now necessary in the operation of independent courts could be abandoned, and a great number of court attaches, whose services are merely formal, could be dispensed with or their activities directed to more useful purposes.

The foregoing considerations impelled the committee to present to this Association for its consideration the following resolutions:

*Be it Resolved*, That the National Probation Association recommends that the courts that are at present organized under the name of Domestic Relations Courts and Juvenile or Children's Courts be organized under the title of "Family Courts," and that such other courts be established.

That the Family Courts be given jurisdiction in the following classes of cases:

(a) Cases of desertion and non-support.

(b) Paternity cases, known also as bastardy cases.

(c) All matters arising under acts pertaining to the Juvenile Court, known in some states as the Children's Court, and all courts however designated in the several states having within their jurisdiction the care and treatment of delinquent and dependent children, and the prosecution of adults responsible for such delinquency or dependency.

(d) All matters pertaining to adoption and guardianship of the person of children.

(e) All divorce and alimony matters.

That these courts be under the direction of a single judge, except in such jurisdictions where the work of the court is so great as to require more than one judge for the convenient and proper disposal of the matters coming before the court. That in these cases the court have special divisions, to which are assigned certain classes of cases; the court as a whole to be under the supervision and direction of a presiding judge.

That such courts be provided with ample probation departments, upon which shall be conferred power to make all necessary investigations, medical, pathological, social, psychological or otherwise as shall be considered necessary, and that, in pursuance of this work, there be provided psychopathic laboratories sufficiently equipped to conduct the necessary scientific investigations.

That in the conduct of the work of the probation department no probation officer shall have under his charge, direction and probation more than fifty cases at one time.

That all moneys decreed for payment of alimony or for the support and maintenance of children by delinquent fathers or mothers, shall be paid into the court, and that no private institution or organization be invested by law with authority to receive money or take charge of cases requiring probation except under the direction of the court.

That all cases involving children and intimate family relations be conducted as privately as possible, consistent with the law and the constitutional rights of the individual, and that publicity concerning abnormal family conditions be discouraged.

That the procedure in the Family Courts be informal and summary so far as it may be consistent with positive law, and that such equitable, as well as criminal, jurisdiction be conferred on the courts as will enable them to deal with all cases so as to effect the adjustment of individual and family conditions without legal formality or delay.