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Reviews and Criticisms

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REVIEWS AND CRITICISMS

THE LEGAL ASPECT OF THE JUVENILE COURT. Monograph prepared for the Children's Bureau. By *Bernard Flexner* and *Reuben Oppenheimer*. Bureau Publication No. 99, Washington, 1922.

It is a rather wholesome experience for persons with the social workers' approach to face occasionally the hard reality and cold, dry forms of law through which their hopes must eventually be worked out or thwarted, even though one of those hopes be the putting into law the milk of human kindness and humane reality. It should be an equally salutary process for those inured to the artificialities of legalism to face occasionally the critique of the social worker and social psychologist.

To the reviewer much of the historical and technical argument in the present scholarly monograph appears sheer rationalization. (*Vide* Robinson, J. H., *The Mind in the Making*.) The authors do not pretend that any such changes in common law, equity, and criminal procedure would have or could have taken place in the absence of a definite dynamic factor, the interests of an altruistic group. They, or at least the deciding judges, afford therefore excellent examples of the principle of legitimation through conformity to tradition, well stated by Ross and other sociologists and pungently illustrated by the story of Tom Sawyer and the pickaxe, so effectively used by Dean Pound.

The authors are, however, refreshingly frank in their criticism of such decisions as seem to stand in the way of the most socially desirable developments of the juvenile court.

They favor the trend toward the family court, and seem to agree that "the court should not be burdened with purely administrative functions," such as pensions, but that there is "a growing tendency to broaden the court's jurisdiction so as to include all children in need of protection."

From the reviewer's point of view, however, several comments can be stated as "buts":

"It was not unusual [in England] for the chancellor to concern himself with the religious education of the child"; *but*, the court did not itself hire clergymen to do such educating.

"Probation [is] one of the most important procedural features of the juvenile court"; *but*, as a status it does not necessarily require that the probation officer be administratively attached to the court; only that the person responsible for the probationer be responsible to the court, as in the case of all other dispositions (except dismissal or discharge).

"Provisions giving juvenile courts power to appoint probation officers [have] been held constitutional" and such appointment is a judicial function; *but*, the probation officer need not (in legal theory) be a paid employee of the court; he may be any fit person. This leaves the way open for the court to make any educational agent its officer

for the administering of whatever type of treatment seems to the court (after inquiry) to be for the best interests of the child (and therefore of the state). "Probation is a judicial guardianship"; *but*, no more so than other possible dispositions of the child once declared a ward of the court.

"No parent should ever be deprived by the courts of the custody of his children merely because of his poverty"; *but*, in that case, the family court should have power to order relief under the administration of the appropriate agency. It need not, however, administer such relief, nor should such cases come before it unless on appeal when relief has been demanded and refused.

"A juvenile-court law 'should not be held to extend to cases where there is merely a difference of opinion as to the best course to pursue in rearing a child.'" Here the reviewer takes direct exception. In most such cases, to be sure, the matter can and should be settled by common consent without trial. If, however, the matter is serious enough to involve an irreconcilable dispute, it should then be possible for both guardian and educational agent to have their respective claims adjudicated, regardless of the degree of delinquency or neglect involved. This may not be law—yet. But statutes including "any act or deportment which may endanger the child's health or welfare" could be so interpreted.

"The juvenile court must have the power to keep in constant touch with the children who have come before it and to use state and local institutions as instrumentalities toward this end"; *but*, this power should not be that of initiative: it would be exerted at such times as the child, the guardian or the agent previously given custody by the court might object to the *status quo*, or at the termination of a period set by the court in the original disposition.

The court has powers over contributory delinquency and neglect, and also the power of injunction. These powers have not been fully tested. The reviewer hopes to see some judge declare a child neglected when the child is refused proper care for physical defects; and issue an injunction against such commercialized resorts as are catering to minors in a depraved manner.

The reviewer is in entire agreement with the authors in their attitude toward the future of the court as such. Legal rights require a court whenever they are contested. The development of probation as a part of the educational system would not destroy either the process of probation or the process of adjudication.

Northwestern University.

THOMAS D. ELIOT.

INSANITY AND THE CRIMINAL LAW. By *William A. White*. The Macmillan Co., New York. Pp. 281.

The object of the author in this little book is to discuss the relations of psychiatry to the administration of the criminal law and to do it in such a way that the layman may understand. Doctor White has succeeded. He has produced a book that should be in the hands of every judge and of every lawyer who handles criminal cases. The

vexing problem of expert testimony as it involves the mental state of the offender has received particular attention here, and the author's wide experience as a witness in this capacity qualifies him to speak with authority.

Following are the chapter headings:

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| I. Introduction. | XI. Legal Suggestions for Betterment. |
| II. Crime. | XII. The Principles of Criminology. |
| III. The Criminal. | XIII. Further Suggestions. |
| IV. The Growing Tendency to Individualize the Criminal. | XIV. The Functions of the Criminal Law. |
| V. Expert Testimony. | XV. The Nature of the Law. |
| VI. Prejudice. | XVI. The Functions of the Medical Expert. |
| VII. The Hypothetical Question. | XVII. The Argument. |
| VIII. Responsibility. | XVIII. Punishment. |
| IX. The Tests of Insanity. | XIX. Concluding Comments. |
| X. A Chapter of Blunders. | |

Addendum—A Criticism.

Northwestern University.

ROBERT H. GAULT.

THE ACHIEVEMENT OF SUBNORMAL CHILDREN IN STANDARDIZED EDUCATIONAL TESTS. By *J. E. Wallace Wallin*. Miami University Bulletin, Series XX, No. 7, April, 1922, pp. 97.

In the present study, Professor Wallin sets before himself a task which should have a twofold significance to the teachers, superintendents of schools, psychologists, physicians, and mental hygienists, and this is: first, a survey "made by several standardized educational tests of pupils enrolled in special schools for mental defectives"; second, "most of the pupils tested had been psychologically examined and differentially diagnosed, so that it is possible to analyze the results from the educational tests with reference to the children's intelligence age, to their diagnostic classification . . ." (5). These tasks are accomplished by the use of the following educational tests at St. Louis in 1918: Ayers' Spelling Scale upon 259 pupils; Starch's Spelling Scale upon 237 pupils; Gray's Reading Test upon 304 pupils; Counts' Arithmetic Tests upon 233 pupils.

While Professor Wallin does not discover any essentially new facts, he does, however, empirically prove in the main some of the generally accepted opinions. He finds that his generalizations based upon the data obtained, by the use of the above tests, are about the same for all the tests. He discovers, with some reservations, that there is an improvement in the spelling test as well as in the reading and arithmetic tests among subnormal children with increasing grade; increasing Binet-Simon age from intelligence category to intelligence category, when the comparison is confined to measure categories (34, 59, 84). He finds specifically that the improvement in spelling from

grade to grade was greater for the subnormal than for the normal children in some columns, but less in others (16, 34). Reading, he finds, is entirely too difficult for the mental defectives, subnormal of kindergarten and III- and IV-year mentalities (58), while "subnormal children of a grade of imbeciles or those grading IV- or V-years mentally or those classified as of kindergarten or first grade status are not able to function to any appreciable degree even in the simplest processes of arithmetic" (85).

While there is a patent improvement with increasing intelligence age, the variability in tests is very great. He finds that mental defectives, just as normal children, show general abilities in one or the other of the three tested subjects, while others special disabilities, but not one of the subnormals tested was a prodigy (36). And, furthermore, some have been found to be energetic, industrious, ambitious; others apathetic, inert, and indolent (62). At this point, Professor Wallin justly points out that the growing tendency to classify pupils in any of these subjects purely on the basis of intelligence age is misleading. "The intelligence age, or general supernormality, or subnormality, is only one factor to be considered in the pedagogical classification of pupils. Among other important factors which must be taken into account are specific mental and pedagogical defects and talents and the pupils' stage of instruction, . . . while with certain types the physical and nervous conditions must also be considered" (95).

As to sex differences, he finds no constant difference in ability to spell words (21); however, in reading and arithmetic tests there is a difference. In arithmetic, the boys tend to surpass the girls, especially in division and subtraction. The girls, however, excel in reading (94). Professor Wallin thinks that the difference in reading is due to the fact "that the vast majority of children subject to word blindness are boys" (61).

Professor Wallin finds his study of practical importance because his "investigations have shown that many children have failed wretchedly in their school work primarily because of word blindness . . . because of this affection they have frequently been assigned to classes for the feeble-minded" when they should be taught in special classes (63). Because of that, and for many other reasons, Professor Wallin supports the special class movement as an aid for the normal and near normal child, where corrective pedagogy will help them overcome in a large measure some of their special defects.

In the book are to be found some other interesting conclusions and detailed studies of individual cases, but lack of space inhibits our temptation to point these out at this time.

Northwestern University.

A. J. SNOW.

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