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THE JUVENILE COURT IN THE SERVICE STATE

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THE PATH OF PROGRESS

In fifty years there has been enormous advance in scientific preparation for social work and in the training of those who have to do with the treatment not merely of children but of adolescent and adult offenders. Only as one compares the books of today with those with which I began as a teacher of law in 1899 can he see how much more prepared those who are coming after us will be than were those who have gone before. Take the one matter of psychology. In the last two decades research in connection with juvenile delinquency has put us immeasurably in advance of where we were in the formative years of the juvenile court.

As it was in the beginning we saw only the individual child. We sought to do for the individual child what normal households had done in the everyday conduct of the family. Later we came to see that the delinquent child with whom the juvenile courts had to do was a product of conditions which had operated to bring about delinquency long before he came before the court and that we had a preventive no less or even more than a correctional task. We had not merely to adjust or readjust the individual but to deal with conditions which were making for

maladjustment of so many of his kind. In other words, the juvenile court was not enough. It had to be put in a setting of institutions doing more than salvage of individual children. But after this was perceived the difficulty was that we had hardly yet perfected the court for the purposes for which we had set it up. Too few of our courts, in the country as a whole, have even now the facilities and equipment for what we have demanded of them. In the last few years, however, more and more we are seeking to organize comprehensive prevention, not for the locality merely but for the state, and to bring all agencies and programs of prevention into effective relation. Here is a great administrative problem; one which deals not only with juvenile delinquency but with the whole area of social control in its relation to delinquency, and indeed, with the whole program of the welfare or service state. Many states in the present decade have been moving in this direction. But expense in the multiplication of demands upon public revenues, lack of experience of administration on such a scale, and a certain American instinct for non-cooperation have been in the way. Yet here is one of the most hopeful activities of the service state. If we are bringing up a generation equal to developing this movement as ours did

the movement for the juvenile court, we shall have done much for a social control for urban industrial America even as the formative era from the American Revolution to the Civil War did for rural pioneer agricultural America.

Much in this new direction is experimental. Much will require education of the public. Much will require a great deal of research beyond what has been done even if along lines that have been definitely indicated. But the juvenile court in its inception was experimental. It required education of the legal profession and of the public. It has required and has brought about a great deal of productive research. We have only to compare the knowledge we have achieved through two generations of research with what we called criminology when I began to teach criminal law, in order to be assured that we are in the path of progress.

So much for the coming pathway. As to the going pathway, the way before us, for the most part in many states and to no little extent in all, we shall for a time be going forward from the first level of development, the correctional level, thinking only of the individual child after he has been brought to the attention of the court. Correction, to use the legal term, of the individual child is a highly important function. But this function can only be performed effectively as doing it is integrated in the whole process of social control in a modern society and works in harmony and cooperation with other agencies toward the same ends. Moreover, in the exercise of the immediate function itself there is a like and difficult task of integration. Our progress in the going pathway will depend much upon our appreciation of these tasks of integration.

Integration does not mean making a whole by merging each part in one of them which swallows up the rest. It means instead a weighing and balancing whereby each part is preserved while joining it in the whole so that each is given effect with the least impairment of any.

BALANCE

Radbruch, whom I regard as the outstanding writer on philosophy of law today, tells us that in the law we have to do with three ideas which are in irreducible contradiction in the sense that no one of them can be carried out to its full logical development consistently with a full logical

development of the others or either of the others. These ideas are: (1) justice, the ideal relation among men, (2) morals, the ideal individual character, and (3) security both of the individual and of the social order. Let me illustrate. Criminal procedure is embarrassed by an internal conflict between quest of effective prosecution to maintain the general security and quest of protecting the individual against coerced confessions and unreasonable searches and seizures. When we think only in terms of the general security we may be tolerant of third-degree methods, may make no objection to the searching of person and house and seizure of papers which are employed so effectively in criminal investigation in France, and may not be offended by wire tapping. On the other hand, when we think only in terms of the ideal relation among men we repudiate the third degree and limit search and seizure by strict limitations in bills of rights rigidly enforced. When we think only in terms of morals we are likely to agree with Lord Coleridge that while barristers and judges are gentlemen the question of requiring a priest to testify to what is disclosed to him in the confessional can never arise, and to concur in the pronouncement of Mr. Justice Holmes as to wire tapping. Yet the exigencies of the general security have led a majority of the courts to deny privilege to disclosures in the confessional as a matter of common law, while half of the states have established the privilege by statute. So difficult is it to hold the three ideas in mind at one time and put and keep them in balance. In legal history there has been a continual movement back and forth between stress on the general security at the expense of the other two ideas, and stress on the ideal relation among men at the expense of the general security.

I have been speaking here in terms of the criminal law, and you will tell me that the juvenile court is not a criminal court but is administering an equity jurisdiction. I grant this freely and grant that this feature of the juvenile court is fundamental and is to be preserved sedulously. But both criminal court and juvenile court are parts of a regime of social control through a politically organized society. They should work in cooperation not so as to negate each other.

It is said that the fear of the Lord is the beginning of wisdom. Over and again the Bible tells us of the God-fearing man and commands us to fear God. But that does not mean the fear the

slave has of the overseer or that the subject has of a tyrannical despot. It means the fear born of an overawing respect and such a fear of the law of the land is a powerful agency of social control. Our agencies of individualization, responding to the social interest in the individual life, should be kept in balance with this requirement of the social interest in the general security. This is something we must weigh carefully in extending by analogy the ideas and methods of the juvenile court to older offenders. Overemphasis on either side must be avoided. A balance conduces to the general security, as overemphasis on the general security may threaten it and in experience has resulted in impairing it by the reaction to the other extreme which it induces. So also overemphasis on the social interest in the individual life impairs the security of that interest by the reaction it induces.

All legal history shows the difficulty of maintaining this balance in showing a constant fluctuation between reliance on rule and justice administered in accordance with established norms on patterns of conduct and of decision, on the one hand, and reliance on discretion and unfettered judgment of judge or magistrate in molding his decision to the case in hand and the parties individually, on the other hand. The nineteenth century, following an era of personal government and of judicial discretion in the rise of the court of chancery, turned to rule and pushed discretion into a corner. The present century by a like reaction turns back again to discretion; and individualized justice according to the personal ideas of judge or administrative official for the time being is called socialized justice, as if social interests are only to be secured by wide judicial or administrative discretion. Because the nineteenth century overemphasized history, the fashion of thought of the moment tends to ignore history. Also the necessarily minute specialization of today divorces the history of law from study of the new agencies of social control. There are, however, signs that we must relearn much of what the law has had to learn in the past.

Indeed, the problem of balance is universal. To begin with, the individual needs the law to keep the two sides of his own nature in balance no less than to make adjustments of the desires and demands and activities of his neighbors to his own, and of his own to theirs. The word instinct has been so overworked and made to cover so many things that one hesitates to use it.

But using it to mean certain fundamental tendencies of human behavior, appearing in childhood and manifest throughout life, there are two groups of classes of these tendencies, one which may be called the aggressive or self-assertive instinct, the other which may be called the social instinct. In other words, man's nature is not a harmonious one except as he learns to bring about a working balance through training and the exigencies of life in society. The aggressive or self-assertive instinct leads him to think of his own demands and desires for himself alone and to seek to satisfy them at the expense of others and to overcome all resistance to them. Bringing up and education seek to bring about control of the tendencies involved in this instinct. But it is deep-seated and experience shows that it requires a backing of force. The exercise of that force, however, is something which in itself requires control, since the aggressive instinct of those who wield it may govern its application. Thus we get a problem of balance of force and of control of force which is at the root of an internal contradiction in criminal law and criminal procedure from which we have thus far found no escape and is in the background of most of the difficulties of government and of the legal order. This, however, is external to the man himself. Aggressive self-assertion even to the point of violence is potential in almost every one. It is excited in different men in different ways and different degrees, often spasmodically and contrary to the normal intention and mode of conduct and even in ways for which he finds it difficult to account. The significant point is that it runs counter to the social instinct of the individual and he usually repudiates it. But its potential existence and frequent manifestations require a reserve of force somewhere to keep it in control. The task of social control, and hence of the highly specialized form of social control which we call law, is to hold down this individual tendency to aggressive self-assertion to satisfy individual desires. That this is so we have abundant evidence whenever the reserve of force is withdrawn or suspended, as for example, in revolution or a police strike, or in some sudden great catastrophe—conflagration or flood or pestilence—when the coercive agencies of politically organized society are in abeyance and violence seems to break out spontaneously. I remember that a generation ago at the time of the police strike in Boston, respectable people

who would not normally think of such things were seen to take goods from show windows on main streets and walk off with them.

PREVENTIVE JUSTICE

Delinquency is a product of imbalance of the two sides of the individual nature so that the instinct of aggressive self-assertion gets the upper hand. Preventive justice is directed to developing, maintaining and strengthening this balance. Modern methods of penal treatment are directed to restoring it. But in developing, maintaining and restoring this balance we must have an eye to the general security as well as to the individual life. Hence deterrent measures operating through punishment and fear of punishment cannot be left wholly out of account. Lack of inner balance and self-control which lead to delinquency is a problem not merely of juvenile delinquency but of all delinquency. Also it is a problem not merely of criminal law but of all law; and not of law merely but of all the agencies of social control.

Today we seek a way out from the difficulties of the criminal law and criminal procedure by developing preventive justice and preventive measures of social control. Equity had developed preventive remedies and in making the juvenile court to the model of equity those who set it up built wisely. The progress in preventive justice, not in the form of forcible interference in advance of delinquency, by police and agencies of detection and investigation, discovering planned offenses and thwarting their execution, but by treatment of the causes of imbalance and endeavoring to create or restore balance, has gone far in the present century.

When I came to the bar in 1890 there were no traffic rules for ordinary vehicles and no special traffic policemen as we know them now. Beyond a custom of turning to the right, everything was left to the judgment and the good sense of pedestrian and of driver. When one walked upon the street, on coming to a crossing he exercised his own judgment as to when and where and how he should cross. When a driver came to a crossing he also exercised his free judgment. Each made up his own mind for himself at the crisis of action. If injury resulted, the judgment he had formed for himself was scrutinized after the event by a tribunal which then told him

whether or not he had lived up to the legal standard. Today, on the other hand, lines down the middle of the road tell where to drive, lines upon the pavement tell where to cross the street, and other lines tell where to park cars. Also signals and signaling traffic officers tell when to cross the street and when to stop and await one's turn. This change is typical of what has happened in every sphere of activity. On every hand we now seek to handle concrete situations concretely at the time and when they arise instead of referring to abstract generalizations and handling them out of their setting of time and place. We seek to prevent rather than to repair after the event. We give, so far as we may, individualized treatment to the case in hand instead of generalized treatment to an abstract situation.

Nowadays also we conceive of the legal order, of the regime of adjusting relations and ordering conduct by systematic application of the force of a politically organized society, as only one part of social control. A significant characteristic of thought in the present generation is the breakdown of the water-tight-compartment theory of the social sciences. We no longer hold each self-sufficient. We no longer believe that we may give each a sufficient critique in terms of itself. We recognize that in the past century, while each was largely formative, each like Baron Munchausen, sought to pull itself out of a bog by its own long whiskers. Carrying out this unification of the social sciences there is special need of the fullest team play between law and social work. In order to bring about this team play, in order to make use of all that has been done and is being done for preventive justice by courts, by administrative agencies, and through social work, we need the same creative spirit and inventive activity which Americans and American lawyers displayed so abundantly in the formative era of our institutions. The needed team play has been growing up, largely in connection with the juvenile court. There is much more to do in many places in order to make it what it should be. But when I compare what I could say about preventive justice in my address on that subject before the National Conference of Social Work in 1923 with what I could say today were I to rewrite it, I can see that we have on the whole gone forward steadily and far.

Preventive justice as we knew it twenty-five years ago, the preventive justice administered by

a court, while it makes an advance in our dealing with delinquency, is by no means the solvent of all our problems which we took it to be. We have to go deeper and find out how to deal effectively with things which cannot be reached by courts of any sort. In the first place, preventive justice such as courts can administer, even with the administrative machinery which we have learned to give them, does not always or wholly prevent. The studies of Professor and Mrs. Glueck have made us aware of this. Tribunals must still deal with a great mass of cases in which the preventive methods we have been able to set up have not achieved their ends. We must still deal with a great mass of cases where there are serious crimes before such preventive methods as we have are indicated. We must still deal with many cases which are not amenable to preventive methods; which at best only admit of what we have called correction, and probably only of deterrent correction if that can be made to deter. The adventurous type of boy who used to run off to sea, the adventurous youth who used to go abroad to fight in revolutions or foreign wars, is limited by the conditions of life today to conducting holdups and is not easily deterred by the best of machinery of police, criminal investigation, and penal treatment. We cannot wholly dispense with conviction and penal correction as deterrents if only as a means of holding down this type.

Secondly, our experience of preventive justice on the criminal side is recent and limited and we have still much to learn in order to give what we have devised a maximum of effectiveness. While it is yet in a large measure formative, we need to be careful not to impair the general security by zealous experimenting at the expense of demonstrated experience of penal legislation and administration. We need to bear in mind that preventive justice and penal and correctional measures after the event are parts of one system of social control. Neither is to claim our exclusive attention at the expense of the other. Neither should be a wholly separate self-sufficient system.

Proof may be seen in the phenomenon of which I have already spoken in another connection, namely, in what happens in oft repeated experience when the ordinary machinery of forcibly maintained order by governmental authority is for a time in abeyance in some emergency. In time of earthquake, fire, flood, or

even riot it becomes necessary to call out the military when the instinct of aggressive self-assertion which is latent at least in each of us breaks over the limits established by bringing up, social custom, and the inner order of the groups and association which make up society; when even steady-going citizens are seen to need the restraint of the strong arm of the law backed by government. Let me repeat: In preventive justice we have to do with an agency of social control and so should view it in its place in social control as a whole, that is, in its relation to all other agencies and to how they all may be made to work without friction or waste toward the end or ends of social control.

COOPERATION OF SOCIAL CONTROL AGENCIES

Because of the difficulties just set forth a writer of an able paper on the legal character of juvenile delinquency has urged that the juvenile court should not attempt more than its original function and that in trying to be an agency of preventive justice as well as one of treatment of the individual before the court, the court is likely to fall down between two tasks. There is no doubt much to be said for this point. It is never wise to impair the doing well of whatever an institution has been set up to do and has learned to do well, by trying at the same time to do also something else which it has not been set up to do and has yet to learn how to do or even whether it can do it. I am looking at social control as an integrated whole and at the view of that whole as giving the end and spirit and guiding method to each of its agencies. The juvenile court should not impair its usefulness by seeking to do what it cannot well do. But it can make the most of its usefulness by the fullest realization of the task of prevention which confronts all institutions and agencies having to do with delinquency and the fullest exercise of its powers in cooperation with and by utilizing the help of those other institutions and agencies.

An eight-year-old child friend of mine, when I said to her that it was dangerous to climb up on the hand rail of an ocean liner from which she was apt to be thrown and injured if the boat pitched, told me sorrowfully that there were many so many things she couldn't do that she couldn't remember them all. There were things

her father and mother would not let her do, and things her aunt would not let her do, and things her big sister would not let her do. And then, too, she said, I have to remember that there are things that God won't let me do. In the crowded world of today, in which individuals and groups and peoples are brought into so many and so close contacts with each other, in which so many reasonable desires and demands conflict or overlap, in which the opportunities for misunderstanding and misjudging each other are so numerous, we are all much in the position of the small girl. There are so many things we can't do if the world is to move smoothly. But because there has to be so much regulation of what we do or seek to do and because the measures of regulating and forbidding are so often not easy for the individual to recognize in a complex social order, it is the more needful that the agencies of social control be made to operate in effective and harmonious cooperation. If each is made or allowed to operate by itself without regard to what is done by the others or even some of the others, not only is the end of social control impaired but the working of those so operating is itself impaired if not thwarted.

Hence when I address bar associations I preach the need of understanding and cooperating with social workers, and when I address social workers I preach the need of understanding and cooperating with lawyers and courts. However, as I look back forty years to the time when I first became interested in the relation of social work to the law, it is gratifying to see how much progress has been made on both sides toward understanding and working with each other. Yet there is still much to be done, though more in some parts of the country than in others, to make the machinery of justice according to law and the machinery of individualized justice operate as one, without friction and without waste. In the social sciences we are all, whatever our special field, engaged in some part of a job of social engineering; a job of maintaining, furthering, and transmitting civilization—the development of human powers to their highest possibilities—with a minimum of friction and waste.

HISTORICAL DEVELOPMENT

In the nineteenth century, in reaction from the idea that law and morals were to be made

identical which governed in the science of law in the seventeenth and eighteenth centuries, and consequent uncertainty of the law in action, in reaction also from the extreme of personal discretion which had obtained in the formative stage of English equity and the arbitrary conduct of common-law judges appointed for political purposes under the Stuarts, there was a quest for certainty at any cost and a rejection of judicial discretion, a seeking to make the administration of justice a matter of mechanical logical application of rigid rules attaching definite detailed consequences to definite detailed states of fact and making legal procedure over-technical and rigidly mechanical. The results of this reaction made the law of the third quarter of the nineteenth century quite out of line with the needs of that time and created popular dissatisfaction with the administration of justice lasting well into the present century. We were for a time slow in ridding the law of the burden it accumulated in the course of that reaction. But the substantive law has taken it off and procedure has been modernized in the federal courts and is more and more becoming modernized in the states. While the process of emancipating law and legal procedure from the mechanical methods of the last century was going on slowly, administrative agencies, set up in continually increasing number to meet the exigencies of the rising service state, brought back for a time the unchecked personal discretion and arbitrary methods which had characterized the administrative tribunals of the Tudors and Stuarts. Personal justice rather than justice according to law became the fashion. Many who remember what legal procedure was two generations ago, or having read what it was then, have not learned of the overhauling that has been going on, and would prefer an out and out administrative agency instead of a court. It is significant in this connection that in continental Europe, where the Roman administrative tradition prevails, courts rather than administrative agencies have been set up for juvenile delinquency except in the Scandinavian countries. But in Sweden recently there has been a demand to substitute judicial for administrative tribunals as to all decisions involving deprivation of liberty. The example of totalitarian states has taught distrust of administrative agencies with power over individual liberty. The founders of the juvenile court did a lasting service by basing it upon the

individualized justice of the court of chancery (the court of equity) in England. For two reasons I have preferred to say "individualized" rather than "socialized" justice. First, the justice administered in the juvenile court has the characteristic of the chancellor's justice in that it individualizes remedial treatment, dealing with each case as in great measure unique and yet does this on a basis of principle derived from experience or, one might say, experience developed by reason. Secondly, the law has always been directed to social ends. Today we are directing its application toward those ends by individualization whereas in the last century we sought to do so mechanically.

Thus the juvenile court has been and is a court with the tradition of the Anglo-American teaching of the supremacy of the law and respect for the liberty of the concrete human being and yet the flexible procedure which an individualized justice demands.

CONSERVATION OF JUDICIAL POWER

There are those who advocate a truly separate and independent local juvenile court with its own judges and its own probation department. But the specialization which is sought in this way may be achieved sufficiently by a well-organized branch of a general court, presided over by a specialist judge with its own probation officers, part however of the staff of the whole court, without the serious disadvantages which multiplication of independent separate courts, each with an independent administrative staff, brings in its train. A notion of dignity of specialized functions of administering justice has often led to establishment of separate independent courts. Perhaps the extreme example is a court for St. Louis created by statute in 1855. It had jurisdiction of everything in which real estate agents might be interested, and of nothing else. In eras of boom in town lots the real estate agent is a person of much consequence and the dignity of his calling required that he have a court of his own. Such tribunals are seldom long lived. On the basis of experience with separate independent courts of more or less concurrent jurisdiction, of which there has been much in England and in the United States, I deprecate separate juvenile courts and separate domestic relations courts instead of juvenile courts and domestic relations courts as branches in the

ordinary courts of general jurisdiction with specialist judges and specialist staff. A modern organization of the judicial system calls for specialist judges rather than specialized courts. Specialist judges, exercising their powers in the way their special knowledge and special experience has taught them, with specialized equipment and specialist staff, may still be part of a court of general jurisdiction with more than one branch. Conservation of judicial power is a requisite of efficiency under the circumstances of the time. There are so many demands pressing upon our state governments for expenditure of money in the service state of today that so costly a mechanism as the system of courts cannot justify needless and expensive duplications and archaic business methods. The principle of a unified court cannot be insisted upon too strongly. Specialist judges in a unified court can devote themselves to their special function in a special branch. But if work in that branch falls off they may be utilized elsewhere where there is need of them, and if their work accumulates or they become ill or disabled, other judges of the court may be assigned to help out. This does away with problems of concurrent jurisdiction, clashes of jurisdiction, and technicality and expense of appeals. There ought to be as few appeals as possible from a juvenile court. They should be as few as possible both in the number of decisions appealed from and as to the questions reviewed. But we cannot allow one-judge tribunals without review. Habeas corpus as the only remedy is inadequate, and appeal with a new trial in a superior court and prospect of review of that trial in an appellate court is not merely expensive and time consuming, it is destructive of the purposes of a children's court and impairs the effectiveness of a domestic relations court. A hearing before a bench of three judges in the court of which the juvenile court is a branch can be as individualized as the exigencies of the juvenile delinquency jurisdiction demand, and if only a question of law is involved, can be as formal as a proper determination of a question of law demands. Where everything is done in one court questions of interim custody and the like will cause no delay and give rise to no conflicts.

BROAD VIEWPOINT NECESSARY

Fichte pointed out that in modern society each man is trained or has trained himself specially

for some profession or vocation or walk of life, and as he has perfected himself for the purpose of that profession or vocation or walk of life, has tended to narrow his outlook upon the world and to look upon his fellowmen as it were through the spectacles of his calling. Looking at other callings through those spectacles he has tended to become suspicious, prejudiced, and intolerant of them. Hence Fichte urged an all-round training instead of the one-sided vocational development which he saw in the educational system of his time. The purpose, he said, must be an all-round development of men as men, not merely as fellows in a calling. It is indeed hard to be a specialist and at the same time the all-round man whom Fichte called for. On the other hand, the all-round man whose all-roundness is due to equally superficial development on every point is not what is called for. Rather our need is for specialists of sufficient knowledge of many other fields bearing on social control to make them aware of the problems in those other fields and of the necessity of adjusting their ideas to those problems as well as to their own.

Let me give an example of how a one-sided view from the standpoint of one specialty only may result in rules which have bad effects in other parts of the administration of justice. Wigmore has called attention to this in his monumental treatise on evidence. A feeling of the dignity of some of the old professions and the urge of newer callings to claim the dignity of professions and assert that dignity, has led in many states to legislative provisions for professional privilege as to testifying which are sometimes seriously embarrassing to ascertainment of the truth. You are familiar with provisions as to juvenile courts keeping no records. Here the question is not one of dignity but of protection of the delinquent child. But when later questions as to probation and parole arise as to an adult delinquent, it may not be the child that is protected but instead an adult criminal whose nature and record need to be known for the purposes of adequate individualized penal treatment.

One result of the narrow specialization in research which is inevitable in relatively formative social sciences in the complex social order and service state of today is the persistent fallacy of the single cause for particular ills or for the ills of society in general. Very likely the cause

which the specialist sees and investigates is truly a cause of ill. But it is usually not the only cause even of the ill investigated. Zeal to reach this cause which he sees in the light of his specialty leads to ignoring of other causes and to advocating measures which do not consist with those designed to meet other causes equally valid. What I would emphasize is the need that the different callings, which should cooperate in making individualized preventive justice effective, come completely to understand each other. When they fully understand each other will be time enough to criticize; and when they understand each other they are not likely to wish to criticize. As necessary co-workers in the task of social engineering I have described, these callings need to know and appreciate each other's accumulated experience, each other's problems born of their experience, and each other's methods devised to meet those problems.

RISE OF THE SERVICE STATE

Along with the demand for preventive justice, the rise of the service state known to the English-speaking world only in the present century, has greatly complicated the task of social control. From the relatively simple subject known to law and government in the past, it has become a many-sided one with effects upon every feature of what had seemed fundamental in the analytical and historical jurisprudence of the nineteenth century. A state which instead of maintaining the general security began to render to the people service of every sort, so that a French jurist writing at the time of the First World War could say that a railroad company, a banking company, an insurance company, an endowed school, and the state were equally public service companies, makes the law look very different from the way it looked when I was a law student. Also the great expansion of administration and setting up of bureaus with staffs of lawyers and physicians and experts of all kinds is having a marked effect upon the professions. When Blackstone wrote he could classify public law as a part of the private law of persons. Now a teacher of administrative law in England can tell us that public law is swallowing up private law. As we could think a generation ago, when the service state in America had comparatively little development, the juvenile court

represented a service to children as wards of the state which had succeeded to the position of the English king as *parens patriae*. As the sphere of activity of the service state increased we could think of it as a necessary part of the oldest service which the state had been rendering, namely, that of adjudging the disputes, adjusting the conflicts of interests, and ordering the conduct of its citizens, without which the social group would dissolve. But that service instead of standing out as paramount, is now taking its place along with satisfying the material wants and meeting a multitude of other demands incident to life in an urban industrial society. In consequence, there is a growing tendency to rely on official rather than on individual private initiative and to commit all things to bureaus of politically organized society. Today the service state has become jealous of public service being performed by anyone else. What the effect of this may be upon social work I leave it to you to answer. All this is so out of line with the traditional mode of thought of the Anglo-American that it is difficult to guess what it may portend.

But of one thing I am sure. We shall not be changed radically over night. As Isaiah puts it, he that believeth shall not make haste.

HALF A CENTURY OF PROGRESS

If we are inclined to be impatient we may take heart from the progress made in half a century. I have been at the bar now for fifty-nine years—substantially two generations, counting thirty years as a generation. The well-educated lawyers who came to the bar in 1890 had had a college training primarily in Latin, Greek, and mathematics, with some modern languages, Mill's political economy, and some elementary science. In law school they were trained in the analytical and historical methods which had been worked out in the nineteenth century and have gradually given way

in the last forty years to social philosophy with sociological or realist methods. The lawyers of 1890 came mostly from apprentice training in law offices or from law schools conducted on the apprentice type. It is only since 1900 that the bulk of the profession has come from university law schools training college graduates.

How far all the callings which need to contribute to effective treatment of delinquency in its many phases can agree upon the ends of social control is a question not easy to answer. If we distinguish immediate ends from ultimate ends, the former will be seen in the light of the latter as we see them. No subject has been longer and more heatedly debated and is now more in dispute than the ultimate end or ends. The philosophers, whose special province is here, have been in disagreement since the Greek philosophers first raised it as a philosophical question, and philosophers, clergymen, economists, political scientists and jurists are disputing the matter both with each other and among themselves. But there is no need for social workers and lawyers to conduct a sit-down strike until the philosophers have, if they ever succeed in doing so, settled the exact goal. We have sufficiently practical problems for which we may devise practical methods by experience and prove them by practical use.

It took seventy-five years to make a common law for nineteenth-century America out of the English seventeenth-century and eighteenth-century land law and procedure in a time of political and social change after the American and the French revolutions. This has been regarded as a record of achievement in the history of law. When we consider the progress which has been made in developing a law for twentieth-century America out of what had been achieved in our formative era, the development in comparison will not seem slow. Progress at the same rate for another twenty-five years may well establish another record.