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## THE *KENT* CASE AND JUVENILE COURTS IN VIRGINIA

*Kermit V. Rooke\**

In an article in the October, 1966, issue of the American Bar Association Journal, Honorable Robert Gardner, Judge of the Superior Court of Orange County, California, directs the attention of the legal profession to the juvenile courts of this country and suggests corrective action in respect to various phases of the operation of these courts. His concern and immediate anxiety were occasioned by the decision of the United States Supreme Court in the case of *Morris A. Kent v. United States*,<sup>1</sup> wherein by a 5 to 4 opinion that court found irregularity in the handling of a case in the District of Columbia and reversed a conviction of a juvenile on six counts of house-breaking and robbery. Justice Fortas, speaking for the majority, having dealt with the rather narrow issue before the court, extended his observations to include a somewhat disturbing indictment of the entire philosophy of the juvenile court system, in these words:

While there can be no doubt of the original laudable purpose of juvenile courts, studies and critiques in recent years raise serious questions as to whether actual performance measures well enough against theoretical purpose to make tolerable the immunity of the process from the reach of constitutional guaranties applicable to adults . . . . There is evidence, in fact, that there may be grounds for concern that the child receives the worst of both worlds: that he gets neither the protections accorded to adults nor

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\*Senior Judge, Juvenile and Domestic Relations Court of the City of Richmond, Virginia. LL.B., University of Virginia, 1936.

1. 383 U.S. 541 (1966).

the solicitous care and regenerative treatment postulated for children.<sup>2</sup>

Judge Gardner views this as an ominous portent. "Here was a new voice, and this from the highest court in the land, questioning the unquestionable, the juvenile law."<sup>3</sup>

The Kent case poses a challenge to the legal profession: is the Supreme Court again going to be forced to step into a vacuum left in the field of social justice or are the lawyers of this country going to accept the responsibility for needed reform in the administration of juvenile justice?

The basic responsibility for the problems that now exist in the juvenile court law lies with the legal profession. Sixty-seven years ago a problem existed that should have been obvious to our profession. We did nothing about it. Another discipline stepped in. Today we are reaping the harvest of our failure.

In 1899 in Chicago a group of citizens, properly horrified at the sight of impressionable youngsters being handled in the same court with hardened adult criminals, created a new court—the juvenile court. The architects of this new law were attuned to sociology, not the law. They created a new court that abandoned many established legal principles and provided for a treatment program by which cases coming before it were treated as social problems. As Justice Fortas says in the Kent case, "The theory of the . . . Juvenile Court Act . . . is rooted in social

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2. *Id.* at 555.

3. Gardner, *The Kent Case and the Juvenile Court: A Challenge to Lawyers*, 52 A.B.A.J. 923 (1966).

welfare philosophy rather than in the corpus juris.'<sup>4</sup>

Apparently accepting the indictment by Justice Fortas as a conclusive judgment of failure on the part of the juvenile court system, in which judgment Judge Gardner seems to concur, he sounds the call to arms to the legal profession, that the gap left by these doomed, inferior tribunals may be promptly filled before the judicial function can be again usurped by social workers and others not properly attuned to true constitutional principles. As a suggestion of guidelines for the profession to follow in its review of the operation of these courts, Judge Gardner advances five questions in respect to which he suggests each lawyer should satisfy himself by inquiry and review, and corrective action.

It is the general purpose of this article to respond to these questions, and to direct the interest and attention which they may have generated to the juvenile court operation in Virginia. It is believed that the concerns voiced by Justice Fortas and Judge Gardner are not acutely applicable to Virginia courts, and that the juvenile court system is the best plan yet devised to deal with the problems over which they exercise jurisdiction in this state.

Before coming specifically to the questions raised by Judge Gardner, a few observations of a more general nature may be appropriate.

The juvenile court judge occupies a unique position in the judicial system and legal profession, quite different from any other figure in the law. Added to his other burdens, official and otherwise, undertaking the limitless activities required in rehabilitating and protecting disturbed, troubled and neglected children, while keeping the other eye focused firmly on the interests of society, he

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4. *Ibid.*

must regularly defend his court against the attacks of those who find it an easy prey of impatient criticism. Attacks upon other divisions of our system for the administration of justice usually are met by a prompt and vigorous defense generously provided by the legal profession, whereas in similar situations the juvenile court can but rarely look to the bar for a constructive defensive alliance. To this rule, of course, there are noteworthy exceptions, but the juvenile court, in all of its areas of activity, is generally fairly well on its own.

In the higher courts, when the distinguished presiding judge reaches the wrong conclusion, it being respectfully assumed that this may not be entirely beyond the realm of possibility, the error is attributed to a misinterpretation of controlling legal principle or, at worst, to a misunderstanding of the law. Errors of juvenile courts are viewed as being quite different in origin, rarely being dignified by association with the law and usually reflecting upon personal infirmities and inadequacies of the court or judge. When the dockets of higher courts become crowded with suits for divorce or prosecutions for murder, or other actions in which the profession actively participates, the reaction of the bar is that the judge should have assistance in carrying the burdens of his court, and urges upon the legislative authority that an additional judge be provided. A similar increase in the volume of cases in the juvenile court usually is regarded as a failure on the part of the court in the area of crime prevention. One of my scholarly and considerate brethren of the juvenile court judiciary, taking into account the tendency to be critical by those who haven't the time or inclination to give the subject much thought, has compiled a partial list of our more commonly recognized infirmities, adaptable to any juvenile court judge:

If he is under fifty, he lacks mature judgment.

If he is over fifty, he's an old fogey.

If he is married, he lets his wife tell him what to do.

If he isn't married, he doesn't have an understanding of family problems.

If he has children, he should do a better job with his own before he tells others how to raise theirs.

If he has none, he is out of touch with the younger generation.

If he puts a child on probation, he's mollycoddling him.

If he sends a child to an institution, he's depriving him of his constitutional rights.

If he gives information to the press, he's a publicity hound.

If he doesn't release news stories on juvenile cases, he's hiding something.

If he awards custody of a child to the father, it's because he can only see a man's point of view.

If he awards custody to the mother, he's a sucker for a pretty face.

If he attends judge's meetings, he's looking for a free vacation.

If he doesn't attend, he's not interested in keeping up with developments in his field.

Disciplined by exposure to these popular attitudes, those of us who occupy these juridical islands of exile from our profession are fairly well reconciled to criticism, regarding it as a sort of unavoidable occupational hazard. Consequently, most juvenile court judges will not be greatly disturbed by the unflattering implications of Judge Gardner's article, simply disagreeing with most that he says. They will recognize the fact that consideration and discussion of the issues are good for the juvenile court system, promoting some understanding of this important and much neglected judicial operation. This attention is long overdue.

However, to question the ability or effectiveness of a particular court or judge, or judges who do not possess required qualifications, is quite different from a wholesale assault upon the laws which prescribe the objectives and methods of all juvenile courts. Such an attack is particularly frustrating in that juvenile court judges are poorly equipped to fight back, and most lawyers are not sufficiently familiar with juvenile courts to undertake their defense, even if they were disposed to do so.

It is, of course, realized that the fact that most lawyers have little concern for the juvenile court system and, consequently, little understanding of its operation, involves the practical matter of economics. Practice in these courts is usually not profitable, and the socially-oriented procedures involved in the process of rehabilitation rarely provide situations for the application of conventional legal skills. Rehabilitation is not accomplished by a court order. Character is not instilled in a neglected child by quoting what a learned judge said in a celebrated case. Charting a course for the future of a delinquent boy and steering him along that course until he learns to follow it without professional direction is a tedious, time-consuming operation, and most lawyers manifest little inclination to put aside more lucrative activities to be involved in it. Yet most lawyers readily acknowledge that these courts are of great importance to the communities and to the society the profession serves.

Accordingly, before delving into the issue advanced by Judge Gardner, perhaps it would be constructive for each lawyer to remind himself that membership in his great and honored profession carries with it an obligation to society, involving the total judicial system, and not limited to those areas of professional activity wherein the financial harvest is best. To the extent that it might be said that juvenile courts are deficient, perhaps this deficiency may be said to reflect a default by the legal pro-

fession in this vitally important obligation. If these courts are weak, this fact may be largely attributable to indifference and neglect on the part of those who constitute their primary source of strength.

When the issue under consideration touches upon the legal validity of an admittedly important division of our judicial system, lawyers cannot afford the luxury of indifference. A shadow cast upon the juvenile court system is by reflection criticism of the entire profession. If some degree of professional responsibility is not here acknowledged, to pursue the inquiry further would seem somewhat pointless.

Coming now to the five questions advanced by Judge Gardner:

1. *Is the juvenile court a part of the highest trial court of the state?*

The emphasis of this inquiry is on the importance of the work of juvenile courts, equated by Judge Gardner with "the administration of an estate or assessing liability for a whiplash injury." He points out the fact that in many states juvenile courts are "inferior," in name and in fact, in some instances being under the direction of poorly trained and otherwise unqualified judges. His statement of this question would imply the view that, juvenile cases being worthy of the best available judicial talent, the problem of curing the quality deficiencies of juvenile courts, and elevating them to standards consistent with the levels contemplated by Justice Fortas, might be accomplished by the rather simple manipulation of making these courts "a part of the highest trial court of the state."

Few will deny that the work of these courts is vitally important and worthy of competent treatment, although it must be said that the legal profession generally gives

little indication of recognizing this fact. Carrying a most demanding burden, and an assignment which cannot conceivably be completely performed, juvenile courts are all too frequently rewarded with indifference and neglect by the organized bar. However, the procedure apparently suggested by this question impresses me as not only being circuitous in its approach, but not necessarily getting at the basic problem.

The function performed by a juvenile court is the most completely specialized operation known to the law. Essential elements of an effective juvenile court are a properly qualified judge, a respectable physical plant, an adequate staff of trained probation officers, and sufficient operating funds to employ required clerical assistance. Provided these basic ingredients, the hazard of getting an ineffective court are reduced to the minimum which can be hoped for in any human operation. None of these essentials would necessarily be provided by making juvenile courts "a part of the highest trial court in the state."

It is, of course, elementary that in Virginia our trial courts are classified as *Courts of Record* and *Courts not of Record*, juvenile courts being in the latter category. Legislative manipulation, shifting us from one of these classifications to the other, would as such accomplish nothing.

The titles above referred to being awkward and largely meaningless, and some form of descriptive designation being needed, the courts of record are in some areas referred to as *Superior* courts, this approach to the classification problem leading logically to the designation, *Inferior*, for courts not of record. It may be that this inconsequential little dilemma of titles has led to the assumption that all courts not of record are necessarily deficient in the attributes of a good court and consequently not capable of handling important cases. It must here be remembered that the judgments and decrees of all of

our courts are sustained and enforced by the same sovereign power and are of equal force and effect, subject only to the right of appeal. An adjudication of a juvenile court which is not appealed is as final and binding, and is enforced by precisely the same authority, as a decision of our Supreme Court of Appeals. Accordingly, no Virginia court is inferior as a matter of law, though some doubtless are in fact.

It should be pointed out, however, that the educational qualifications of judges of courts not of record in Virginia might be examined to good purpose by the legal profession. While it is provided in Section 16.1-8, Code of Virginia, that judges of these courts appointed after July 1, 1956 shall be persons licensed to practice law, Section 16.1-9 provides for the appointment of lay persons where no licensed attorney is available, and for the reappointment of incumbent judges not so licensed. These modifications of the required qualification, of admission to the bar, were of course designed to accommodate the situation prevailing in a few rural communities, and I have no reason to suppose that the communities involved have been adversely affected. However, it would seem that the legal profession, which has with proper zeal excluded laymen from all areas of law practice, should not be content to have laymen serve as judges. An extension of the regional court concept would seem to be a better solution to the problem of these less populous areas. Without implying any criticism of incumbent Virginia judges who have not been admitted to the bar, the profession might well contemplate the possible reaction of the Supreme Court to the question of whether an accused person, who is as a matter of law entitled to be represented by counsel, as in *Escobedo v. Illinois*,<sup>5</sup> is not by the same reasoning

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5. 378 U.S. 478 (1964).

entitled to have the arguments of his counsel heard and considered by one also trained in the law.

In response, then, to this inquiry it may be concluded that the infirmities of the juvenile court in Virginia would not be cured by affiliation with our *superior* courts. To the contrary our current performance in our particular assignments is probably better than could be expected from the judges of our higher courts, most of whom dislike handling juvenile cases and have had limited experience in this difficult field.

The primary objective of juvenile courts is rehabilitation, the law under which we operate clearly directing that this shall be so. This process of transforming a difficult and undisciplined child into a law-abiding citizen is accomplished mainly through individualized casework services by probation officers with special training in performing this service. Without a qualified probation staff to follow through with day to day supervision and direction, an adjudication of probation in a particular case is meaningless. Most juvenile courts in Virginia do not have adequate probation services, for two main reasons. First, the volume of juvenile cases in many of our rural areas is not sufficient to justify the expense and, second, there is little enthusiasm for appropriations to meet the need even where the need is clear. The current trend toward regional juvenile courts, wherein neighboring areas justify a full-time judge and adequate staff by combining their problems and resources, would appear to represent a forward step toward generally more effective juvenile courts and should be closely studied by the legal profession. The legal validity of an order of probation by a court without a probation officer might well be questioned.

2. *Does the state's juvenile court law provide for handling cases involving dependent and delinquent children in the same court?*

In Virginia these cases are handled in the same court, and I am of opinion that this is proper. To suggest that committing an abandoned child to the Welfare Department involves a stigma which could be avoided by having the same function handled in the same way in some other court reflects academic thinking and poor judgment. Commitment of neglected and mistreated children generally requires an investigation and evaluation of possible placement resources, and the use of trained investigative personnel, which other courts are not qualified, by experience or staff, to handle. Judge Gardner's reference to juvenile courts as treating all children as "underage criminals" is completely without foundation in Virginia, and is of very doubtful accuracy anywhere. In reality there is usually no sharp line of division between dependent and delinquent children, the court's purpose in both situations being to lift the juvenile out of the dilemma in which he is found and to guide him as his individual predicament may require. Such stigma as is attached to his plight is created before the court becomes involved in the transaction and is neither aggravated nor reduced by court action.

3. *Are the constitutional rights of young persons safeguarded in the state's juvenile courts?*

This question is of such vital importance, embodying the major concern of both Judge Gardner and Justice Fortas, that I shall undertake to deal quite fully with the basic considerations which I believe to be involved. At issue are certain fundamental concepts in respect to which there will always be vigorous differences of opinion. What are the "constitutional rights" of young people, as opposed to the rights of the society of which they are a part? What, precisely, does the process of "safeguarding" these rights involve?

Before discussing these broad issues, it should be said

that in their unqualified devotion to the principle of constitutional government, their loyalty to the American heritage of justice under law, the judges of the juvenile courts of Virginia require no defense and owe no apology to anyone. The implication that in these areas of concern they are deficient or could be improved by the application of standards prescribed by the Supreme Court of the United States is particularly offensive.

However, from whatever source the inquiry may originate, the matter of safeguarding constitutional rights is certainly a legitimate concern of lawyers, and the juvenile court operation in Virginia claims no exemption from this examination and scrutiny. Those of us who preside over these courts, and have personal knowledge of the practical problems with which they deal and the methods and procedures employed in accomplishing their judicial assignments, feel confident that, at least as to constitutionality, our courts will be approved by the legal profession.

The inquiry probably should include a brief perusal of the origin of juvenile courts and the juvenile court system, particularly since Judge Gardner has misinformed the readers of the Bar Association Journal in this regard. He states: "Sixty-seven years ago a problem existed that should have been obvious to our profession. We did nothing about it. Another discipline stepped in. Today we are reaping the harvest of our failure."<sup>6</sup>

First it should be pointed out that the problem to which he refers existed long before "sixty-seven years ago." The need for professional examination of the juvenile code probably existed even earlier, but is rather clearly apparent in Deuteronomy 21:18-21;

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6. *Supra* note 3, at 923.

If a man have a stubborn and rebellious son, which will not obey the voice of his father, or the voice of his mother, and that, when they have chastened him, will not hearken unto them: Then shall his father and his mother lay hold on him, and bring him out unto the elders of his city, and unto the gate of his place, and they shall say unto the elders of his city, This our son is stubborn and rebellious, he will not obey our voice; he is a glutton and a drunkard. And the men of his city shall stone him with stones, that he die: so shalt thou put evil away from among you, and all Israel shall hear and fear.

The problem continued to exist through the years. In 1828 the State of New Jersey hanged a boy of thirteen for being disobedient to his parents when he was twelve. The problem is yet unresolved. In Virginia, during the fiscal year ending June 30, 1965, the report of our State Board of Welfare and Institutions indicates that six children under age ten, four of them being girls, were committed to jail.

It is tempting here to digress for a moment from our consideration of the pure law enjoyed by Judge Gardner and Justice Fortas and touch briefly upon a few facts of life as judges of juvenile courts see them:

1. Building courthouses and detention homes is not a judicial function, and the absence of these facilities is a reflection upon the executive or legislative, rather than the judicial, branch of the government. Neither does the lack of funds to employ probation officers and other assistance to carry out the provisions of the law indicate that the law is constitutionally unsound.

2. Seventy-five per cent of the juvenile courts in America have no detention facility other than the county jail.

3. Fifty per cent of the nation's juvenile courts have yet to be provided their first probation officer.

4. Eighty-one per cent of our nation's juvenile courts have no psychological or psychiatric services, either connected with the court or otherwise available.

5. Those of us assigned to cope with the problem children of this generation can have little patience with those whose concern for our work does not lead them to an understanding of the difference between the validity of the law under which we operate and the absence of the tools required to make it work effectively.

They succumb to the fallacy of over-simplification, being content to stand upon the limited knowledge required to criticize and condemn. Magnifying their limited understanding out of all proportion, they obscure the real picture and discredit the entire system. Such is the situation of Justice Fortas, who was not commended to his appointing authority on the basis of his concern for the problems with which juvenile courts deal, and has little notion as to the practical aspects of those problems, and Judge Gardner, who is obviously out of place in this field.

Coming back, briefly, to the origin of the juvenile court system, it is a simple fact of history that the first juvenile court law in this nation was proposed by the Chicago Bar Association in 1899, in these words :

The fundamental idea of the juvenile court law is that the state must step in and exercise guardianship over a child found under such adverse social or individual conditions as develop crime. It proposes a plan whereby he may be treated, not as a criminal or legally charged with crime, but as a ward of the state to receive practically the care, custody and discipline that are accorded the neglected and dependent child and which

shall approximate, as nearly as may be, that which should be given by its parents.

The substance of this proposal has been carried into most juvenile court statutes, including the statute under which we operate in Virginia.

Section 16.1-140.—This law shall be construed liberally and as remedial in character; and the powers hereby conferred are intended to be general to effect the beneficial purposes herein set forth. It is the intention of this law that in all proceedings concerning the disposition, custody or control of children coming within the provisions hereof, the court shall proceed upon the theory that the welfare of the child is the paramount concern of the State and to the end this humane purpose may be attained, the judge shall possess all necessary and incidental powers and authority, whether legal or equitable in their nature.

A child coming within the purview of this law, whose custody the court assumes, shall be for his or her minority subject to such watchful care, custody, discipline, supervision, guardianship and control as may be conducive to the welfare of the child and the best interests of the State.<sup>7</sup>

It has been held, consistently and repeatedly, that this exercise of the power of *parens patriae* is within the sovereign right of each state, and that each state has the right to determine the manner in which it shall be exercised. Virginia has legislated, fully and wisely, on the subject, giving our courts specific directions as to how we shall proceed in the accomplishment of the stated legislative purposes and intent. It is believed that, con-

7. VA. CODE ANN. 1950 § 16.1-140 (Repl. Vol. 1960).

sidering the magnitude of our assignment and the general inadequacy of rehabilitative resources at our disposal, our performance is quite acceptable.

Should we exceed or abuse the necessarily broad discretionary authority involved in *parens patriae*, two avenues of correction are constantly available:

1. Any interested party can have his case presented *de novo* before a court of record by simply saying, within ten days of the offending decision, "I appeal."

2. All juvenile court judges in Virginia are subject to periodic reappointment by the judges of the courts to which appeals from their courts are taken, and hence could be removed from the judicial scene quite easily.

During the fiscal year ending June 30, 1965, our courts in Virginia committed 5,601 persons under 18 years of age to jail. In this number it is not inconceivable that there were a few cases in which there might be a difference of opinion as to the total propriety of the decision. However, in taking such action in each case we acted in pursuance of Virginia statutory law.

If a child fourteen years of age or over is charged with an offense which, if committed by an adult, would be a misdemeanor, and the court deems that such child cannot be adequately controlled or induced to lead a correct life by use of the various disciplinary and corrective measures available to the court under this law, then the court may, in such cases try such child and impose the penalties which are authorized to be imposed on adults for such violations.<sup>8</sup>

Our profession exists by reason of differences of opinion. Of all the full-opinion decisions handed down by the

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8. VA. CODE ANN. 1950 § 16.1-177.1 (Repl. Vol. 1960).

Supreme Court of the United States since 1953, when Justice Warren became Chief Justice, 65.8 per cent were with dissenting opinions by one or more of the nine justices. Undoubtedly in a few of these cases of juveniles sent to jail, constitutional theorists and academicians who would convert the constitution into an exclusive weapon of the enemies of society could discover imperfection. However, having been in this field for quite some time, and knowing something of the character, philosophy and dedication of my brethren of the juvenile court judiciary in Virginia, I would safely venture that in each of these 5,601 cases two important conclusions preceded the jail sentence:

1. The accused was found to be clearly guilty, in a trial which was fairly conducted and in which every possible doubt was resolved in favor of the juvenile.

2. In the best judgment of the court, the juvenile had reached a point at which it would be impractical and present a clear hazard to society to attempt further effects toward rehabilitation.

It should also be pointed out that each case in which we conclude to punish rather than continue efforts toward rehabilitation is subject to trial *de novo* on appeal. In all felony cases counsel is provided the accused at public expense if he or his family are unable to employ an attorney of their choice.

4. *Does the state's juvenile court law deny to the judge of that court the power of imposing reasonable punishment?*

Response to the third question, wherein the statute empowering the court in proper situations to impose the penalties prescribed by law for adults is cited, answers this question completely. In misdemeanor cases, these penalties may be imposed by the juvenile court. In felon-

ies, the cases are certified to the Grand Jury. If the juvenile court fails to certify, the Commonwealth's Attorney may nevertheless present any felony to the Grand Jury if he be so advised.

5. *Is the administrative handling of juveniles by police and probation agencies fair and realistic?*

Any agency handling a substantial volume of behavior problems must have an arrangement of some kind for screening complaints. Otherwise the caseload would be so cluttered that proper attention could not be given matters which require detailed consideration. Such a screening process is particularly helpful to juvenile courts, allowing petty complaints and complaints clearly without merit to be handled by probation officers who are trained in resolving matters of this nature. This process involves the application of intelligence and discretion, and has been found to be quite satisfactory in Virginia. To an extent it might be argued that a probation officer is performing a judicial function when he suggests to the parents of a boy who admittedly broke a neighbor's window that the window should be promptly replaced, and follows the matter through to the satisfaction of all parties concerned. Officers assigned to the Juvenile Division of the Police Department are constantly called upon to make decisions as to whether acts committed by children represent delinquency, which should be processed for court, or indiscretion, which can properly be resolved without court action. However, under Section 16.1-164, Code of Virginia, provision for such informal adjustments is subject to the specific qualification that it shall not "affect the right of any person to file a petition if he so desires." Except as a subject for interesting academic discussion, I see no merit to the implication that this phase of our operation is constitutionally important.

*Conclusion*

It is believed that an examination and review of the juvenile court system in Virginia will not excite grave misgivings or serious apprehension on the part of the legal profession.

It is not intended that the impression be given that these courts are perfect or that they approach perfection. Doubtless many of them do not attain a high degree of excellence, and in some cases the infirmities of the system are aggravated by the personal deficiencies of those of us who administer the juvenile court law. However, we believe this law to be sound, practical and sensible. Appraised by the venerable Dean Roscoe Pound as "the most significant advance in the administration of justice since the Magna Carta," there is nothing wrong with the system which could not be corrected quite easily with a genuine concern and active participation by the legal profession. To those of our profession who feel that the deficiencies in our operation are basic and legally incurable, I would respectfully suggest an examination and appraisal consisting of three simple steps, in this order:

1. Carefully read and undertake to digest Title 16.1, Chapter 8, of the Code of Virginia, this being the statute law under which our courts are operated.
2. Spend one hour observing your local juvenile court in action, in cases in which you are not serving as counsel or otherwise personally interested.
3. Suggest, if you can, a better way in which to deal with the problems with which the court must deal. If you can formulate a better system, or write a better law, you will win the everlasting gratitude of millions of people, including juvenile court judges.

There is no easy or complete solution to the problem of

anti-social human behavior. It is the great dilemma of our civilization, rapidly increasing in gravity and magnitude, and presents a challenge with which society must deal if order is to survive. While the behavior of children is a part of the problem, their contributions would more accurately be classified as a result, rather than a cause, of the total disorder. Born into complexities not encountered by any prior generation, they find little that is worthy of emulation in the performance of those to whom they must look for guidance. While their elders look to government and courts to solve their problems, the quality and effectiveness of government sponsored solutions continues to decline. Statesmanship degenerates into the questionable art of minority manipulation, resulting in a general atmosphere of license and irresponsibility extending into the Supreme Court of the United States. In this dilemma it is the ultimate of over-simplification to suggest that children are the cause or their incarceration the cure.

In society's resistance to this wave of disorder, juvenile courts are in the first line of defense. Due to a lack of genuine concern by those in whose interest we undertake to meet the assault, ninety per cent of our juvenile courts do not have the basic tools required to do the job. We are fighting a space age battle with horse and buggy equipment and, in this rather unhappy picture, Justice Fortas and Judge Gardner interpret our efforts as an attack upon the constitution. This is, indeed, a new challenge, one in which we seriously need the interest, understanding and sympathetic support of the legal profession.

