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A SYMPOSIUM ON JUVENILE DELINQUENCY

FOREWORD

In recognition of the widespread realization by lawyers that they have an obligation to society above and beyond the services which they render for their clients, the editors of DICTA feel that it would be appropriate to present from time to time articles upon matters of a social, economic, or governmental nature which call for more attention by members of the profession. With this thought in mind, this issue presents a symposium on the subject of juvenile delinquency.

Such a symposium, of course, is a deviation from the established practice of dealing only with topics of a legal nature. However, a satisfactory solution to juvenile delinquency, as well as many other social and economic problems, may well be awaiting an enlightened leadership by members of the legal profession, either in an official capacity or as private citizens.

The first four articles presented herein point-up the fact that different approaches to the problem of juvenile delinquency may be expected from a judge, a law school professor, a psychologist, and a director of a social agency. Nevertheless, the reader will observe considerable area of common agreement among these contributors that could serve as the working basis for real progress in this field. The fifth article outlines the efforts that one state has taken in an attempt to prevent delinquents from becoming criminals. Also of interest should be the review of two recent publications of the U. S. Children's Bureau summarizing the laws and suggesting improvements in guardianship and adoption.

CHILDREN IN COURT

HON. PHILIP B. GILLIAM

Judge, Juvenile and Family Court, Denver, Colorado

In these days of widespread tensions arising out of the troubled times at home and abroad, it is not surprising to find the problems of juvenile delinquency occupying a prominent place in the thinking of our people. Radio stations and newspapers throughout the country have played up the increase in juvenile crime and delinquency. Magazines and other publications have made feature articles out of it.

Reports from throughout the country indicate a slight increase in juvenile delinquency, but not nearly so much as one would be led to believe from reading the news articles. Press sensationalism is an old and well-worn device for increasing circulation, and there is an avid, if not morbid and revealing, hunger on the part of many people for such news.

Alarmed by the rising tide of violence accompanying some of the juvenile crimes, there has come into being a regressive change in the perspective of many otherwise objective people, accompanied by a significant and disturbing demand for harsher measures in dealing with the juvenile offender. They would abandon the humanitarian gains of the decades and return to the repressive and brutal measures of an older day.

The gradual disappearance of home supervision partially explains the increase in complaints filed in the courts. This is verified by the great increase in complaints filed by the parents themselves regarding their unmanageable children, runaways, and sex delin-

quents. The broken home presents one of the greatest difficulties in dealing with the problem of youth delinquency. What escapes many students of this problem is that a broken home may exist despite the physical presence of both parents. No satisfactory substitute has ever been found to take the place of a good home. It is still the center of our present social order. There is, therefore, still much to be done in the field of training young people to be worthwhile parents. Parenthood should be looked upon as the greatest of professions and not as the accidental result of a biological urge.

The lack of proper supervision is the greatest single factor contributing to juvenile maladjustment. It has been the experience of the Denver Juvenile and Family Court that better than 90 per cent of delinquency could have been prevented by greater parental supervision.

Unfortunately, the parents themselves are often anti-social. They feel they cannot make a decent living for their children, or they can't obtain a suitable dwelling, or they never "get a break." Obviously, if the parents are dissatisfied and disgruntled, there can be no goal and no striving. Moreover, where the home conditions are sordid, the children, with their inborn instinct and longing for normal family relationship, will rebel.

So long as parental supervision of children is inadequate, our greatest immediate need is to provide the proper supervision and planning for the child, either through the schools and related agencies, or through the Court, as overparent, and its related agencies.

INFLUENCE OF ECONOMIC CONDITIONS

The boredom, monotony, and wants in the homes of economically underprivileged parents are a prolific source of much delinquency. Resentment toward the meager circumstances of his home is translated into resentment toward children who have things he doesn't have or can't have. Definite patterns of hostility and aggression are formed, and delinquent behavior results. Interestingly enough, despite the aggression and hostility, there is often an accompanying shyness and timidity which reveal the basically inadequate character of the delinquent. When he steals money, for example, he is seeking material substitutes for the love, affection, and social acceptance denied him. In this one way, too, he finds satisfaction in living and fulfillment of his strivings to be masculine. It is another way of displaying deep-seated feelings of difference. However that may be, it remains true that there are many parents who fail entirely to train their children, and when they get into trouble, they have a pathetic lack of understanding as to why it should have happened.

Economic underprivilege, with its concomitants of dire poverty, squalor, filth, and disease, is increased by the still serious hous-

ing problem. The war time and post-war influx of newcomers has gravely affected the housing problem, and this has further been aggravated by the annual inpouring of migrant laborers. Of some 40,000 new people acquired annually for harvesting the crops, some 5,000 to 10,000 remain each year, many of them drifting to Denver and nearby communities. At first, they are fairly well-supplied with funds, but because of drinking, gambling, and other vices, they soon lose what money they have and families begin to double up. A large number of these people are of low mental and moral development, and their children contribute a disproportionate share of the city's delinquents.

The social and economic environment in which such children are forced to live seriously affects their lives. Fundamentally, they are not hoodlums or dangerous characters, but normal kids reacting normally to a vicious and abnormal situation. Robbed of that basic sense of security and belonging, it is not surprising that they become embittered or join a gang or engage in destructive activities to gain recognition otherwise denied them.

Denver has achieved the unenviable distinction of being one of six large U. S. cities singled out by the Surgeon General of the Public Health Service for having slum conditions "that cause real indignation." He adds that in the poor housing areas juvenile delinquency is more than twice as high as in the better districts.

NEED FOR BETTER UNDERSTANDING

Delinquency can no longer be looked upon as a wrongdoing that must be stopped because of its effect upon society. The delinquent must be understood as a personality. We need to understand the motives at the base of his behavior, his desire for security in the home, his sense of achievement, his social contacts, and the recognition and acceptance of himself as a personality. All these normal desires cry for satisfaction in the delinquent just as they do in the non-delinquent. When these natural desires fail to find a satisfactory outlet, they lead to the dissatisfaction and delinquent behavior already pointed out. If our society can find no activities to offset these frustrations, the child is then left to find his own solutions to the problem. Too often he does not have inhibitions strong enough to restrain his delinquent impulses. Yet we know that everyone has the capacity to build a conscience. In delinquents, goals and ideals are not well-defined objects, and that is part of the picture invariably encountered in economically underprivileged groups.

In this period of stress and strain many communities also have failed to maintain their educational and recreational activities at a high enough level to satisfy the increased desires of young people. They have failed to supply wholesome outlets for the natural desires and urges of youngsters so that these children have been forced to turn to delinquent behavior in an endeavor to fulfill their

needs. To work with delinquents requires limitless patience, and at times it seems almost an endurance test to those so engaged.

THE INSTITUTIONS THAT CAN HELP

In combating delinquency, new agencies are not necessary. The greatest help will not come from the purely recreational agencies. It will come from those firmly established and already functioning centers such as the home, school, court, and church. It is usually during his school days that the child's most serious delinquencies develop. The school is therefore most deeply involved in the whole question. The fact that nearly all juvenile delinquents are of school age does not mean that the school is responsible for their delinquency. But a child's revolt against school authority and discipline may be an indication of some difficulty that is deeply rooted in his past or home environment. Truancy, called the kindergarten of crime, is often an early indication of some maladjustment in school or in the home.

The cost of crime in the United States is so large that it staggers the imagination. It is estimated that the average boy, lost to society through lack of adequate probation services, costs the taxpayers \$25,000 to \$40,000 if he ultimately winds up in the penitentiary.

The probation and parole officers in this country are performing a magnificent service for the people, not only from a humanitarian standpoint, but also economically in the savings of untold dollars. Certainly there should be more public recognition of the valuable professional services contributed by these earnest and sincere men and women. They have dignified their profession by lofty concepts of duty and daily demonstrate the truth of the saying: "Every calling is great if greatly pursued." When these probation and parole officers are accorded compatible monetary rewards, the community will profit not only from the higher standards thus established, but from the still greater savings hence made possible.

In conclusion, I should like to reiterate the well-known fact that there is no such thing as a child that is intentionally bad. Those rare instances of a boy or girl who is apparently intentionally bad involve, almost without exception, pathological cases.

If the world is full of confused, unhappy and maladjusted boys and girls, is it not because their parents are confused, and because the world itself seems to have lost its sense of direction? We adults have failed to provide our children with a society that meets their needs. How then can we halt juvenile delinquency unless a more adequate society is provided for the children? Parents could well set a better example along religious lines too, and see that their children receive more religious training.

Finally, society itself must raise its thinking and feeling to a higher level. At present, society appears to enjoy first, its own

suffering, and secondly, punishing its members who have become unsocial because of its own negligence and stupidity. This is something like a man burning his finger, then cutting off the injured member because it pains. Only progressive changes in our perspective will provide the gradual amelioration and ultimate solution of the problem.

THE BROKEN HOME AND JUVENILE DELINQUENCY

FRANCES HICKEY SCHOLOW

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With the suggested minimum fee for divorce at \$125.00,¹ perhaps the practicing attorney will tend to overlook a dissertation which might prove that by helping in the breaking of the home, he is helping in the making of the juvenile delinquent. But let the modern Cicero be of good cheer. Things are not always as they seem.

"If the old bird dies, the eggs are addled." So goes a proverb of the Bantu Tribe of Southern Africa.² And the home broken by death, divorce, or separation has long been believed to be an important reason for juvenile delinquency.³ There is no doubt that broken homes are a social factor favoring unorthodox behavior,⁴ but the evidence may indicate the *observable* break is not the real cause of the delinquency.

The range of broken homes among delinquents is now believed to be from 30 to 40 per cent, with the percentages tending to cluster around 40.⁵ These figures are not so significant, however, when one notes that it is estimated that about 25 per cent of all children in the United States are reared in broken homes.⁶ Data from a recent Connecticut survey of juvenile delinquents, including 4,035 cases, indicated that a larger percentage of delinquent children came from broken homes than did members of the general population.⁷ In 1940, only 11.4 per cent of the families with children had been broken by death, divorce, or separation, while 30 per cent of the families in the survey were so broken.⁸ But even in this survey, it was observed that broken families where children get along well far outnumber those in which there is delinquency.⁹

¹ Recommendations of the Committee on Minimum Fee Standards adopted by the Colorado Bar Association in 1948.

² SUTHERLAND, *PRINCIPLES OF CRIMINOLOGY* 158 (1947).

³ *Ibid.*

⁴ BARNES and TEETERS, *NEW HORIZONS IN CRIMINOLOGY* 216 (1946).

⁵ SUTHERLAND, *op. cit. supra* note 2.

⁶ *Ibid.*

⁷ Robinson, *Beneath the Surface of Juvenile Delinquency and Child Neglect*, 83 *SURVEY MID-MONTHLY* 44 (1947)

⁸ *Ibid.*

⁹ *Ibid.*

In 1949, there were 473 cases handled by the Boys' Probation Department of the Juvenile Court in Denver.¹⁰ The parents of 223 were living together, the parents of 97 were separated, and the parents of 65 divorced. Of the last group, 8 of the fathers were remarried, as were 57 of the mothers. In 4 cases, both parents were remarried. The father was deceased in 48 cases, the mother in 30, and in one the father was living with another woman. In 5 cases, the status of the parents was unknown. In the same year, there were 218 cases handled by the Girls' Probation Department. The parents of 92 were living together, the parents of 27 were separated, and the parents of 49 were divorced. In 17 cases, the father was remarried, in 44 the mother was remarried, and in 2 both parents were remarried. In 21 cases, the father was deceased, in 17 the mother was deceased, and in 3, both were deceased.¹¹ The percentage of delinquents from broken homes counseled by the Juvenile Court in Denver, appears, then, to be higher than the nationwide "30 to 40 per cent"—more than 50 per cent of the boys and about 60 per cent of the girls. But care must be taken in attempting to interpret figures on children brought into juvenile courts.¹² Perhaps a single parent feels less likely to cope with a delinquent child than he would had he a spouse to share the burden, and thus he determines to seek outside help. And there are, no doubt, other reasons why more delinquents from broken, rather than *normal*, homes reach the courts.

In comparing delinquency rates of boys and girls, it is interesting to note that the findings of Margaret Hodgkiss indicate a break in the home has a greater influence on girls than on boys.¹³ However, H. Ashley Weeks found that the broken home has essentially the same significance for boys as for girls when the comparison is restricted to similar delinquencies.¹⁴ It is also significant that the ratio between the broken home and delinquency decreases as the age of the child increases.¹⁵ Furthermore, delinquency is less likely to result where the break is due to death than where it results from desertion, divorce, or separation.¹⁶

LESS IMPORTANT THAN FORMERLY THOUGHT

Whatever the findings, figures, and percentages, the consensus among sociologists is that a break in the home is less important in creating the delinquent than previously believed.¹⁷

So far, the discussion has concerned the home *broken* in the sense that one (or both) of the parents is not present in the family.

¹⁰ *Report of the Juvenile and Family Court of the City and County of Denver, State of Colorado for the Year 1949.*

¹¹ *Ibid.*

¹² BARNES and TEETERS, *op. cit. supra* note 4 at 219.

¹³ SUTHERLAND, *op. cit. supra* note 5 at 160.

¹⁴ *Ibid.*

¹⁵ CAVAN, *CRIMINOLOGY* 95 (1948).

¹⁶ SUTHERLAND, *op. cit. supra* note 5.

¹⁷ *Id.* at 159.

But what of the "psychologically" broken home, with its discord and upheaval? May not constant bickering between husband and wife impair the emotions of all the members of the family, causing the children to become delinquent because they seek outside companionship or a feeling of security? There is no doubt the answer is in the affirmative.¹⁸ Delinquency may very well be caused by "conflicting situations, emotional tensions, failure to provide proper control and protection, and the like, as well as by an actual break in the home."¹⁹ A study by Clifford Shaw and Henry McKay indicated that the broken home is not an important factor in delinquency, and that the actual separation may not be so important as the tensions and emotional conflicts which result in the breakdown of family relationships.²⁰ In the broad sense, a home is *broken* when there is a break-down of *consensus and loyalty*.

The family is the outstanding primary group, and is, therefore, the most effective agency of social control. It is the first training school, and it may train for behavior or misbehavior. A study by A. M. Carr-Saunders, Herman Mannheim, and E. C. Rhodes disclosed that the chance of a delinquent's coming from a home with an *abnormal* atmosphere was three or four times as great as his chance of coming from a *normal* atmosphere.²¹ The Connecticut survey before mentioned disclosed that in the delinquency cases studied 10 per cent showed divorce, 7 per cent desertion, and 10 per cent separation, but in 18 per cent there was crime, in 30 per cent economic need, in 14 per cent quarreling and abuse, in 16 per cent alcoholism, in 16 per cent extra-marital sex relations, in 32 per cent truancy, and in 18 per cent irregular work.²² These figures can only lead to the conclusion that the undesirable home has a most devastatingly unfavorable effect on the behavior of the child.

BROKEN HOMES WITHOUT PHYSICAL SEPARATION

The physically broken home is an easily observed symptom of poor relationships, and a symptom that is sometimes mistaken for a source of difficulty. In fact, investigators have not always clearly differentiated between the different forms of family disorganization and inadequacies, which means that some of the published statistics are not as accurate as desired. Gordon H. Barker's findings indicated that both the delinquency and divorce rates were determined largely by other factors, such as the culture of the local community.²³ And even stable homes are significant for delinquency because of the contrast between their behavior patterns and those learned outside the home by those members who escape from the family circle.

¹⁸ BARNES and TEETERS, *op. cit. supra* note 4 at 220.

¹⁹ NEWMAYER, JUVENILE DELINQUENCY IN MODERN SOCIETY 113 (1949)

²⁰ *Id.* at 119.

²¹ *Id.* at 120.

²² Robinson, *op. cit. supra* note 7 at 45.

²³ SUTHERLAND, *op. cit. supra* note 5 at 153.

Broken homes are the result of the emotional disturbances of the family, and delinquency is often a result of the disturbances, rather than of the actual break.²⁴ The severance of the husband-wife relationship is not nearly as important a factor as the child's reaction to it, and to the conflict which has gone before. After all, family disorganization is usually a gradual process. It is often the emotional tension preceding the divorce, or the apparent necessity of siding with one parent which causes damage to the child's personality. Possibly, a quick divorce would save more children from delinquent lives than continual endurance of an impossible marriage relationship with its attendant emotional strain. Often a child's adjustment has been improved by desertion, divorce, or the death of one parent. The physically broken home is important primarily because it offers *fertile soil* for the development of conflict, and because it fails to give needed aid in personal development.²⁵

The same may be said of the broken home as of the other factors which are known to contribute to the causes of delinquency. As one writer has expressed it,

It is now generally agreed that the search for one cause or for many separate causes of problem behavior in children is futile, since behavior in any individual, whether conforming or creative or non-conforming, appears to be one aspect of a continuous, dynamic interplay between individual and environment.²⁶

A PSYCHO-SOCIAL APPROACH

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Two general approaches may be taken to the problem of juvenile delinquency, interrelated and difficult in practice to distinguish: (1) that related to the mores of our culture with primary emphasis on socio-legal aspects, and (2) that related to the individual delinquent himself with primary emphasis upon the adjustmental patterns of his behavior. In this discussion, the first will be indirectly considered with the latter receiving focal attention.¹

Following this division of approach, and in preface to the following discussion, it is necessary to propose, provisionally, functional criteria for the designation of behavior as delinquent. When

²⁴ BARNES and TEETERS, *op. cit. supra* note 4 at 200.

²⁵ CAVAN, *op. cit. supra* note 15 at 110.

²⁶ Nicholson, *Juvenile Behavior Problems*, 1949 *Social Work Year Book* 277.

¹ In the present publication this emphasis may require a note of justification. Let it suffice to say that the legal profession has recognized the need for clarification of psychological issues in the problem of juvenile delinquency. While the present paper merely focuses attention on such clarification, the writer hopes it will reward the non-psychological, law-oriented reader.

a youngster commits an act or acts which either (a) transgresses the moral and ethical standards of our culture, or (b) so disturbs learned modes of satisfying basic needs (love, attention, respect, status, security) as to motivate non-conformity of social response, we may designate such activity to be delinquent. Those oriented toward the usual approach to juvenile delinquency, namely (a), will tend to reject inclusion of (b) as a criterion because of the apparent loss of functional utility and socio-legal adaptability of the term. The present paper is an exploration and defense of criterion (b).

It is common practice to assign as a direct cause of delinquency the type of physical environment in which it occurs. This practice has been a long-time obstacle to an effective attack on delinquency and has so diverted attention from central issues that many important questions have no more than been verbalized in the literature. For example, why is not all delinquency focalized in "delinquency breeding" areas?

Perhaps the most alarming aspect of the "slum" environment is its almost total lack of normal activity channels. It is evident that prevailing poverty is the common denominator of such areas. Common to poverty are crowding of families, poor health conditions, lack of good recreational facilities, and other factors, all of which constitute effective barriers to adequate personality development. The availability of ideas of delinquency is ever-present. Though space freedom is reduced, child activity and sociability levels remain high for the growing, maturing youngster living in such an area. One consequence of this many times is membership in the neighborhood gang. Gangs are common to groups of children everywhere; however, the psychological needs of the individual gang member tends to determine what paths of activity the gang will follow. A fundamental factor in gang formation is that a consolidated group makes possible the acquisition of recognition and status for its members. Furthermore, the activities of gangs will surely consist of behavior which lends status to the group as a whole in its own environment. If delinquent activities fulfill the status need, then such activities will prevail.

Granted that gang formation and the slum environment are potent factors in influencing child and adolescent behavior, numerous studies and common observations suggest that they hardly constitute the *sine qua non* of juvenile delinquency. It is important to note that not all delinquency is fostered in a gang environment or stems from homes of low socio-economic level or is found in city areas generally labeled as deterioration centers.

SIBLINGS USED FOR CONTROL PURPOSES

Both the Healy and Bronner² study and that of Merrill³ are outstanding for their investigative methods in uncovering data on

² HEALY and BRONNER, NEW LIGHT ON DELINQUENCY AND ITS TREATMENT (1936).

³ MERRILL, PROBLEMS OF JUVENILE DELINQUENCY (1947).

the evaluation of slum environment influence and other factors frequently taken as principal causes of delinquency. In the former study, the authors were meticulous in selecting sibling controls, i.e., members of the same homes as the delinquents with factors such as age, sex, out-of-home environment, etc., held as constant as the situation would allow. The controls were in all cases non-delinquents and were examined as closely as the delinquents themselves. The authors were continually impressed by the implications of a common situation, namely: a seriously delinquent child of a given family growing up side by side with a strictly non-delinquent sibling. This aspect of their investigation required much more than the superficial examination of both delinquent and non-delinquent personality patterns and personal histories that usually has been considered necessary in other studies. In each of the paired cases the basic root of deviate behavior appeared to be a direct result of emotional maladjustment. For 100 pairs of controls and delinquents, contrasts in developmental histories gave clear evidence of emotional stability differences.

Merrill,⁴ in her California studies, found that intelligence was not a determinant of delinquent personality; rather, for her experimental group, intelligence was distributed approximately normally. Even more significant was the fact that every delinquent was matched with a non-delinquent from the identical community environment, i.e., slum areas. She found that the area itself was hardly primarily responsible for the deviant behavior of her delinquents.

EMOTIONAL MALADJUSTMENT THE REAL CAUSE

These and other investigations have tended to eliminate most of the usual "excuse" sources of juvenile delinquency (in respect to primary cause) with the notable exception of emotional maladjustment. No significant differences were found in well-run studies between delinquents and controls for physical habits, intelligence, out-of-home environment, sex, age, position in the family, movies attended (frequency and kind), reading of questionable literature, father's occupation, etc., when any of such factors were considered in primary causal relationship to juvenile delinquency.

If one is looking for "explanations" of delinquency (rather than descriptions of its social effects) he could perhaps fruitfully shift his attention from behavioral community-level examinations and focus for a moment on the pattern of adjustment for the individual.

It is important to note that once delinquent acts have been committed, and through their commission personality needs have been satisfied, the child or adolescent may pursue such activities

⁴ *Ibid.*

indefinitely. If a personality need develops and is not satisfied, it is translated for the youngster in terms of frustration. At this point the child is "wide-open" to suggestion, the out-of-home environment playing its most influential role. Perhaps the usually well-mannered, respectable boy or girl needs status security, revenge experience, or feels an affect-deprivation or distortion. Actually, whatever signpost is at hand at the psychological moment of need may determine the path taken toward the satisfaction of that need.

THE TENDENCY TOWARD DELINQUENCY

In point of clarification, it will be worthwhile to consider the role of frustration by examining a "tendency toward delinquency" ratio:

$$\frac{F}{M} = t.d.$$

where F represents frustration due to deviated interpersonal relationships,⁵ M the degree, or level, of balanced emotional maturity,⁶ and $t.d.$ the tendency toward delinquency. Thus, if a high degree of frustration has been brought about in an individual with a low level of emotional maturity, the consequent ratio will be high, and the tendency toward the ever-present paths of delinquency will be great. On the other hand, if the F factor is low, though the M factor remains low (as is the case even with the typical well-adjusted child), the $t.d.$ will be minimal. It should be noted that inasmuch as "tendency to maladjustment" (in the broadest sense) may be substituted for $t.d.$, the behavior dynamics of the above formula are most closely identified with basic emotional adjustmental patterns.

This may be considered the primary, or first, causal formula. Once a large $t.d.$ is in effect, however, a secondary relationship (or secondary causal formula) may come into play: the $p.d.$, or "prolonged delinquency" ratio:

$$\frac{(t.d. + F + A.L.)}{P.E.} = p.d.$$

where F again represents frustration but with aspects of chronicity and generalization, $A.L.$ the activity level of the individual, and $P.E.$ referring to the net positive value of the environment. If the sum of continued frustration and high activity level is coupled with a pre-existent tendency toward delinquency ($t.d.$), and is a high value in respect to a low net value of the environment, the $p.d.$, or prolonged delinquency tendency, will be correspondingly high. Where this is the case over a period of time, it is inevitable that the child learn, through constant reinforcement (reduction of con-

⁵ Deviated human relationships refers to imbalance or absence of genuine affect-security in parent-child relationships.

⁶ Emotional maturity is here a "measure" of ability to supply adequate socially acceptable satisfactions effectively without necessary recourse to outside sources.

flict and tension), that the consequences of delinquency may be more satisfying than punishing in respect to his personality needs.

If the "set" toward juvenile delinquency is assumed here to be a high *t.d.* ratio, then, in any consideration of reduction of the incidence of delinquency and of its treatment as a social problem, a careful delineation of factors bringing about a high frustration level must be made. Actually, the *M* factor is a function of age, sex, and life experience in terms of maturation; there isn't a great deal of opportunity to modify it significantly. Assumed then, is the contention that adequate reduction of the frustration factors of formulae one and two is the basic problem in attacking juvenile delinquency. In effect, this means competent psychiatric treatment. Most of the present approaches appear to be centered upon the secondary ratio with a community level perspective. This is due to the fact that it is the level of easiest approach; it deals with aspects of the problem that are most apparent. While, in formula two, the positive value of the environment (*P.E.*) must be increased (slum clearance, etc.), it is the *F* factor of the first ratio that must be dealt with in order to sever the main roots of juvenile delinquency, that is, faulty developmental relationships.

White⁷ and others have pointed out that the process of socialization begins early and continues late in life. In broad terms, one may consider three general groups of individuals by way of their differences in reacting to the socialization process. First is the diffuse group of individuals who have been enabled to "strike an ideal bargain" in life between interests and social demands, i.e., the well adjusted persons who, perhaps through sublimation, satisfy their deepest needs in a manner both socially acceptable and of benefit to their fellowmen. A second group, the neurotics, have accepted the process of socialization, though in order to feel interpersonal security they have been forced to over-emphasize the process and find it necessary to renounce, repress, or distort aspects of it abnormally. A third group tends not to accept the process of socialization. Within this latter group falls much of juvenile delinquency. The antisocial behavior of this group may be passive or active, general or focalized, and with a very broad range of severity (i.e., rejection of the process).

OPPOSITION TO SOCIALIZATION CAUSES DELINQUENCY

Opposition to socialization is directly related to both motivation and a lack of ability on the individual's part to subordinate his core frame of reference (ego) to authority without punishing conflict.⁸ In turn, both motivation and mal-developed or dysfunctioning superego are functions of parental standards and their acquisition (or lack of it) by the child.

⁷ WHITE, THE ABNORMAL PERSONALITY (1948).

⁸ AICHHORN, WAYWARD YOUTH (1925).

The likelihood of distorted acquisition may be the product of over-satisfaction of the child's needs by the parents. A dependency pattern is adopted with the result that the child is unable to later "bargain" with societal demands in an acceptable manner. He may learn to assume the availability of satisfactions and "take" them when not offered. He has been provided little motivation to accept socialization with its compromises. In this case the child has suffered no loss of rewards in response to the antisocial tendencies inherent in normal development. At an apparent opposite pole of reaction, is the child whose parents have offered little or no rewards for socialization tendencies (expressions of love and compliance). Such parents expect the child at all times to simply accept the process of socialization according to their rigid short-sighted interpretation of it. Here it is impossible for the child to give up, adult-like, all infantile strivings on demand. However, he cannot remain indifferent to the demand, and thus will eventually demonstrate some degree of hostility toward socialization.

CONFLICT WITH PARENTAL STANDARDS SPELLS TROUBLE

Even more difficult for the child is the matter of parental inconsistency in standards, the variation of complete satisfactions with imposition of rigid demands. The nature of parental standards thus will gauge the degree and determine the manner in which the child acquires or rejects such standards. If standards are inconsistent, the child may have learned to both love and hate the parents to an unusual degree. If he persists in his attempt to find a consistent love, development may tend to neurotic over-acceptance of socialization while, if hate becomes the stronger, delinquent rejection of socialization may occur. Underlying developmental trends are molded in large part then by the degree and nature of affect-liaison between parent and child. Specific kinds of delinquent acts may thus reflect personal and symbolic meanings in respect to reaction to parental (societal) standards.

Redl⁹ writes of the gang as providing a medium through which the affect-frustrated child may be enabled to "afford" delinquency, i.e., "afford" in the sense of being able to "enjoy otherwise guilt-loaded or dangerous gratification without the expense of guilt feeling and fear." For example, the gang provides (1) easy seduction through precedent and visualization of guilt, (2) ego support through organization of ways and means, and (3) moral tax-exemption, i.e., guilt-insurance through coverage by the group code.

This rationale is seen to suggest that the affect-frustrated child may participate in gang delinquencies as a product of his own *normal* press to socialization; being unable for one or another reason to accept parental (and to him societal) standards, the

⁹ REDL, *THE PSYCHOANALYTIC STUDY OF THE CHILD*, v. 1 (1945).

child seeks recognition and status in a separate "societal group" the excitement and suspense provoking standards of which *allow* and *reward* aggressions against the former and substitutions for affect-deprivations.

In terms of the formulae previously cited, the primary ratio may then be thought of as the affect-distortion ratio, and the secondary as the distortion-reinforcement ratio. And it is readily seen that any approach to delinquency must be concerned with both. The *M* factor of ratio one, and the *A.L.* factor of two, are, for the most part, unmodifiable; the inadequacies of environment of ratio two, however, can and must be directly altered to achieve a permanent lowering of delinquency rates. But this in itself is hardly enough. The latter attack will, in terms of criterion (a), surely reduce delinquencies but, in approach, must remain partial. Any practically complete psycho-social treatment of delinquency must sooner or later come directly to grips with the *F* factor of ratio one: the distortion of affect-liaison and affect-security (long years of understanding love, attention, and respect in the home) as basic relationships between parent and child, and as basic foundations in the matter of both deviant and acceptable behavior.

A SOCIAL WORKER LOOKS AT JUVENILE DELINQUENCY

ROTHE HILGER

Executive Director, Colorado Children's Aid Society

It sounded like the usual case when the police officer began telling the court that he had arrested the fourteen year old boy, standing in front of the judge, for larceny, but it became evident that it was not the ordinary type of case when he related that he had arrested the young offender for stealing women's underwear from the clothes line of the neighbors. He also told the court that when he went to the boy's home he found stored in the attic great bundles of underwear which the boy had stolen in the past months.

At another time the court was baffled by the story of an eighteen year old boy who was charged with setting fires. The evidence showed that the young man, who was a volunteer fireman in a small community, would go to some outlying section of the community, set a fire, and then race back to the fire station so he could have the opportunity of driving the fire truck when the alarm was turned in. Another problem was presented to the court when a warehouse used for storage of large bales of scrap wool and materials was being broken into repeatedly. Facts presented in court told the story of how boys, or groups of boys, would go into this warehouse and use it for a play house. They would swing from a long rope, which hung

from the ceiling, and jump in the bales of wool and cloth.

Still another incident which presented itself to the community as a problem in delinquency, but which never became officially recognized as such because it was handled by the community without resort to the police or the courts, was the case in which a number of boys, living in a community adjacent to a powder manufacturing company, were constantly harrassing the company by playing with the many fire plugs which surrounded the plant. The boys would unscrew the caps from the plugs and fill up the hollow portion of the plugs with rocks, sticks, glass or any other debris which they could find, and then tamp it down into the plug hard enough so that it was impossible to flush it out.

These four cases of so called juvenile delinquency are samples picked at random from a large number of delinquency cases occurring in various communities. Looking at these cases and others as a whole, there seem to be several major characteristics which present themselves in relation to the problem of delinquency. First, the problem is not only one of urban communities, but it is concentrated largely in certain sections of the community. Second, in dealing with these problems of juvenile delinquency there is no single causative factor. To study the problem of juvenile delinquency and its causes is to study economics, psychology, sociology and psychiatry and the inter-relationship of these disciplines. Third, contrary to popular opinion, delinquency is not associated with economic depression, rather it increases in inflationary times and diminishes with economic recession. This correlation seems to be due to the fact that young people's desires for possessions are stimulated as the general community becomes inflationary in its spending. Also the family remains more at home when money for recreation becomes less available, thereby providing more family life and its attendant supervision.

THE CHILD'S ATTITUDE OF HOSTILITY

Certainly one of the major elements present in most cases of juvenile delinquency is an expression of hostility. An analysis of cases brought before one juvenile court in a year's time indicated that more than 87% of the cases studied showed a direct expression of hostility or aggression in which the delinquent expressed his hostility by destruction of property, hurting another individual, larceny from other individuals, etc. In a study of many of these cases it was evident that the hostility shown by the delinquent was closely related to his early childhood experiences.

At birth a child not only has none of the social characteristics of a human being, but psychologists observe that in the first few weeks of life the infant responds to such noises as the crumpling of paper or the rattle of a spoon on a dish more readily than to the human voice. Early, however, he not only becomes cognizant of the

adults about him but also learns to play a role in relation to them. He promptly discovers that by crying he can get attention and satisfaction from these persons in his environment; when he is wet, they change his clothes; when he cries with hunger, they bring him food. This role quickly establishes a psychological pattern in the infant. He develops an attitude of self-centeredness and begins to feel that the world operates for his benefit. This attitude of individualism has led one psychologist to state that if a child had the strength of an adult he would be the world's most dangerous criminal. In other words, the infant does not respect the rights, property, possessions or pleasures of others. His own needs and interests come first above all other considerations.

However, as the child grows up he is made aware of the necessity of repressing or otherwise dispensing with some of his own wishes in order to fit into the pattern of behavior required by his associates. Consequently, growing up comes to mean giving up. That this process makes the child hostile and aggressive is logical. Stepping out of the spotlight is difficult at any age but especially so for the young child.

GIVING UP WHILE GROWING UP REQUIRES COMPENSATIONS

Of most significance, however, is not the fact that the child develops hostility but that the hostility is handled by surrounding adults in such a manner that it subsides and does not persist into later life. If the child receives adequate satisfactions from the grown persons who are providing the discipline, he can give up his selfish demands with greater ease and without developing attitudes of hostility at the same time. On the other hand, if the growth process means continual giving up by the child without adequate return of satisfactions or compensations, a serious pattern of hostility and aggressiveness may result. Love and affection are the most adequate forms of gratification, although material compensations may frequently be sufficient to neutralize the hostility.

This view regarding the emotional development of a child can contribute much to our understanding of the problem of juvenile delinquency, since delinquency in practically every case is the result of the young person expressing hostility, aggression, or retribution towards the persons representing the authority of the community. This partly explains the concentration of delinquency in certain areas of our urban communities. In these areas, called slum areas, a large majority of the children are deprived of material benefits as well as emotional satisfaction. They are required to give up selfish individualistic wishes without any form of gratification in return. A commentary on this is that certain cultural groups of children, such as Jewish and Chinese, frequently live within high delinquency

areas in cities and at the same time do not contribute proportionately to the current delinquency rate. Family solidarity and unity in their culture are pronounced, and the child has compensating emotional satisfactions for giving up this selfish individualistic interest.

OTHER CAUSATIVE FACTORS

While we may feel that this aspect of child development and child training may have major bearing on the dynamics of juvenile delinquency, there are, nevertheless, other significant factors which enter the picture as positive influences. Many of these factors represent very normal development in the individual, and given sufficient or adequate economic surroundings, the child would be able to carry out his needs without becoming involved in delinquency. Such a case is the one described above in which the boys were constantly being brought into court for breaking into the warehouse and playing among the bales of wool. These were very normal boys expressing normal interests, and had there been an opportunity for them to have participated in a well-organized community resource, such as the Y.M.C.A. or a boys' club, they would have been swinging on ropes in gymnasiums or diving in swimming pools, while at the same time obtaining satisfaction for the identical motive which in another instance caused them to be classified as juvenile delinquents.

In many cases the causative factors in the delinquency are not easily defined. This is particularly true in the so-called cases of neurotic delinquency. In fact, one psychiatrist has said that all delinquency can be divided between practical delinquency on the one hand and neurotic delinquency, or acts which meet some unconscious or neurotic need in the individual on the other hand. Such a case indeed is the one described above in which the boy was brought into court for the larceny of women's underwear from the clothes lines. The understanding of such delinquent acts lies primarily in the realm of the psychoanalyst or psychiatrist or those professions best equipped to help the individual understand his unconscious motivations and needs. Just as there is no single discipline which explains the causes of delinquency, there is no single professional group which can provide all of the treatment necessary in the variety of individuals involved in delinquency. Indeed, many times we even confuse ourselves by the term "juvenile delinquency" because we tend to imply that we are confronted with a single type of problem, whereas the delinquency is only an overt symptom, and the causes may be numerous and complex. The common denominator—that these individuals are out of step with society—hardly justifies treating them categorically. Asking the question, "How do you treat juvenile delinquency?" is comparable to saying "How do

you treat sick people?". The answer to both questions should be similar to the answer we give regarding sickness, that is "It depends upon what type of illness the individual has."

THE APPROACH OF SOCIAL AGENCIES

In view of the fact that the practice of social work has drawn so heavily upon all of the social sciences for much of its material and many of its concepts, it cannot claim any uniqueness in the understanding and treatment of juvenile delinquency. However, because of the very nature of social work practice and because of its close relationship to families and children in hazardous emotional and economic situations, it is in closer contact with the major problems of juvenile delinquency than any of the other professions. In general, social agencies can be divided into case work agencies, which work primarily with individuals, and group work agencies, which work predominantly with groups of individuals. Although social case work agencies may number many delinquents among its clients, few of them exist to work only with juvenile delinquency. However, a great deal of the work of some of the case work agencies is aimed at preventing juvenile delinquency, either through direct placement of children in supervised foster homes, institutions, schools, or by bringing about better relationships between parents and child by working with the child in his own home and helping the parent deal with the child in such manner that hostilities and tensions are lessened.

MAKING THE GROUP SPIRIT A SOCIAL ASSET

The social group work agencies deal with far larger numbers of children than do the case work agencies. The primary benefit of a group work program is that it gives an opportunity for the child or adolescent to belong to a group and to develop a feeling of worthwhileness which he may not have in his own family group or in a limited neighborhood group. For this reason those community agencies which are the most successful with juvenile delinquents or other young people in groups are those which are the most successful in importing to the individual a feeling of possessiveness in regard to the program in which the child is participating. This point of view was used with the group of boys who were preying upon the powder company by constantly filling up the fire plugs. The powder company employed a young man and gave him the job of coping with the boys' hostility. The worker handled the problem very simply by inviting the boys of the community to come to the powder company and become members of a junior fire brigade which was being organized under the sponsorship of the company's fire department. On the first day of their visit to the plant the boys were taken for a ride on the fire engine. When they returned to the fire house, they were given small assignments of polishing the truck, rolling up hose, and filling water fire extinguishers. The next visit

to the fire station was devoted to several other interesting tasks around the fire house, and the boys were also given a brief talk regarding fire prevention, the cost of fires in the community, and the danger of a general fire in relation to the houses of the community. The net result of the whole process was that the company never again had to dig up a fire plug and dump out stones and debris. The company had followed the simple principle of giving the boys a sense of possessiveness in relation to the control of fires in the community.

A similar experience is related by a boys' club in an upstate New York community. A small group of five or six boys were re-appearing in the juvenile court, and each time it was a repetition of small petty delinquencies in which the kids were involved in destructiveness and other mischief in the community. A social worker, who was employed by the juvenile court, took it upon himself to work with this small group of boys. He went down into their neighborhood and sat down on a curb stone with them one afternoon and talked about organizing a club. The boys said, "All right, what shall we call the club?" The answer was that the club should be called by any name that the boys themselves chose. Each question that the boys asked about membership, dues, club discipline, and so forth was answered by the worker in the same vein, that is, that the club belonged to the boys and they, themselves, must take responsibility for the answers to these questions. The long term result was the the club membership grew to nearly two hundred, and in nearly two years time only two boys out of the group were again involved in any kind of delinquency. Furthermore, the boys built a club house themselves. Even though it was located in a neighborhood where there had been a high rate of destructiveness, and even though this club house was never locked, it never suffered a loss or destruction of any property.

Unfortunately, the children in need of the services of the community resources seldom get them until the deprivations and warping influences have wrought major damage. Of course, intelligent and affectionate care in the family gives the child the security and stability that makes delinquency unnecessary, but until all families can supply these satisfactions there will be children who will need the services of agencies outside the home.

MARTINDALE-HUBBELL CHANGES DUE

Information regarding changes in listing in the Martindale-Hubbell Law Directory (1951 edition) for subscribers as well as non-subscribers including the address of a former member or associate, if known, should reach the publisher at Summit, New Jersey, not later than September 5th. If so requested, this information will be held in confidence until the publication date which will be about January 1, 1951.

CURRENT DEVELOPMENTS IN TAXATION

BY ALBERT J. GOULD AND KENNETH L. SMITH

of the Denver Bar

PENALTY FOR UNDERESTIMATING TAX

In *Wall*, T.C. Memo 4/18/50, the Tax Court approved the 6% penalty of the difference between the amount paid on the declaration and the increased tax as finally determined by the Commissioner. This case in effect holds that the penalty will apply even though the tax payer in good faith paid more than 80% (66⅔% for farmers) of the tax computed by him.

ALIMONY DEDUCTIONS

Without citing cases it is plain at this time that the property settlement agreement should be incorporated in the interlocutory decree verbatim. Briefly, an alimony agreement must be incident to the *decree* of divorce, not merely incident to the divorce.

PARTNERSHIP INTEREST A CAPITAL ASSET

In GCM 26379, IRB 1950-10, the Commissioner finally recognized that the sale of a partner's interest is a sale of a capital asset rather than a sale of an undivided interest in each specific partnership asset.

The selling partner's share of income for the current year to the date of sale is taxable income to the selling partner but is added to the capital contribution of the selling partner in determining the cost basis of his interest in the partnership. The amount of the selling price in excess thereof is a capital gain.

RENTAL DEPOSIT

In *Lyon*, 97 F. 2d 70, the tenants paid a deposit of \$75,000 to the landlord upon which the landlord paid 6% interest during the term of the lease and applied the \$75,000 to the payment of rental for the last year of the term. There were no other restrictions on the landlord's use of said sum and said deposit was held to be income to the landlord in the year when received. If the lease had provided that the \$75,000 was to be returned to the tenant at the end of the next to the last year of the term, said sum would not have been income to the landlord in the year when received. Anyone interested in this problem should check the late decisions.

REHABILITATION v. RECIDIVISM—THE CALIFORNIA YOUTH AUTHORITY PLAN

MICHAEL G. RYAN*

They may say "there's no such thing as a bad boy" (or girl), but what about those boys and girls who "go wrong," the five per cent¹ who incessantly offend against the rules of society observed by their contemporaries? How should they be handled? Should they be allowed to drift in and out of prison associations with older and more hardened criminal types to become recidivists² in their later years, or should they be retained for useful roles in a society whose pressures contributed to their digressions?

These are questions to which law enforcement authorities, legal minds, sociologists, and experts in the mental and psychological fields in every state in the country have been addressing themselves with particular emphasis in view of the rising incidence of what is known as "juvenile delinquency" in these post-war years.

Nearly a decade ago the State of California cast its lot with a program for retraining its maladjusted when, in 1941, the state legislature set up the California Youth Authority,³ modeled after the Youth Authority Plan submitted to the nation in 1940 by the American Law Institute.⁴ California, in 1943, shifted the responsibility for youth correction schools from the then existing Department of Institutions to the newly organized Youth Authority,⁵ officially removing any remaining vestiges of a "reform school" atmosphere connected with the plan.

The main objectives of the new approach made possible under the Youth Authority Act⁶ were: (1) substituting methods of rehabilitation for young persons⁷ afoul of the law, and (2) prevention of re-occurrences of delinquency. In attaining these objectives the boys and girls are given the same quality of treatment irrespective of race, color or creed. There is no segregation and no favoritism.

The three members of the California Youth Authority Board, charged with responsibility for organization and operation of

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¹ "Youth, California's Greatest Natural Resource," Address: Honorable Earl Warren, Governor of California, Sacramento, January 23, 1948.

² BOUVIER'S LAW DICTIONARY (Baldwin's Century Edition) "Recidivist: a habitual criminal. One who makes a trade of crime. Reformation in such cases is rare . . ."

³ CALIF. WELFARE AND INSTITUTIONS CODE, §1700 (Deering 1937).

⁴ "Organization of the Youth Authority and Outline of Its Program" (May, 1949, by Vandyce Hamren, Assistant to the Director).

⁵ CALIF. PENAL CODE, §6002 (Deering 1949).

⁶ CALIF. WELFARE AND INSTITUTIONS CODE, §1701 (Deering 1937).

⁷ §§1731.5 and 1732. Young Persons, Age: " . . . less than twenty-one years of age at the time of apprehension . . ."

the Youth Authority, are appointed by the Governor. One is appointed directly; the others are appointed by him from a list⁸ of persons recommended by the advisory panel.⁹ All appointments are subject to confirmation by the senate and are for four years.¹⁰

Powers of the Youth Authority Board regarding classification, education, and rehabilitation are outlined in the law¹¹ passed by the California Legislature:

The powers and duties of the Authority in respect to classification, segregation and parole of persons committed to the Authority or to, or for placement in correctional schools shall be exercised and performed by the Authority as such, shall not be delegated by it to, nor exercised or performed by, any individual member. . . .

The Youth Authority, after careful examination of any offender entrusted to it for retraining, may accept or reject the individual as a ward depending on need for treatment such as Authority facilities afford and the probability that the youth will benefit. The Youth Authority exercises its responsibility only in regard to those youths who are considered, after careful examination and evaluation, reasonable risks for rehabilitation. The feeble-minded, insane, mentally ill, sexual psychopaths, or psychopathic delinquents may be returned to the committing court for discharge from the control of the Authority.¹²

CAREFUL SCREENING

Rehabilitation is sought through use of the latest techniques: (1) diagnosis of factors entering into anti-social behavior; (2) classification of offenders on basis of age, mental capacities, emotional stability, and retraining accordingly; (3) individualized treatment and retraining through a program of work and re-education; (4) adequate parole supervision to guide individual re-entry into the conventional social life. At the initial appearance interviews, the assembly line program of even the best operated reformatory is broken down.

The Youth Authority concept is that the delinquent youth is a person in difficulty and in need of guidance, discipline, and re-education. The Authority believes that actual experience has long since proved that the "treat 'em rough and throw away the key" school of penology is a totally erroneous approach to the solution of problems of delinquency and crime, neither does the

⁸ §1712.

⁹ §1713, "The following persons are hereby constituted the Advisory Panel: The President of the California Conference of Social Work, the President of the California Probation and Parole Officers Association, the President of the State Bar of California, The President of the California Medical Association, the President of the California Teachers' Association and the President of the Prison Association of California.

¹⁰ At \$12,000.00 per year plus travel expenses for the Youth Authority member designated "Director" by the Governor, and \$10,000.00 per year plus travel expenses for the other two members.

¹¹ CALIF. WELFARE AND INSTITUTIONS CODE, §1725 (Deering 1937).

¹² §1756.5.

Authority seek an answer in the over-sentimentalism sometimes referred to as the "sob-sister" approach.¹³

After a boy or girl is assigned to the Division of Diagnosis and Classification for initial study of personality traits, mental aptitudes, historical, psychological and sociological factors, heredity and environment, the next step is to the Division of Training and Treatment for placement in the type of school or camp designed to be most helpful in retraining. There are six schools and four forestry camps operated by the California Youth Authority.

Programs and facilities are created for younger, intermediate, and older boys. The facilities for girls are so arranged as to make it possible for separation of the younger from the older girls, and these from girls with a more confirmed delinquency pattern.

A program on a pre-vocational or pre-apprentice basis with extensive shop and farming operations is maintained for the older boys. The training received is largely of a terminal nature, and its cost would be prohibitive unless it served a comparatively large number. Within any group of older boys there are members who would not benefit from technical training and who need an active *work-habit-forming* program. For this type the forestry camp is an ideal unit. Forestry projects, with a supplemental program of recreation, education, and religious training, can also be used for a tapering-off period for boys who have been referred on parole from the larger institutions, making their re-entry into normal living less abrupt.¹⁴

TEEN-AGE PROBLEMS

Governor Earl Warren of California has pointed to the dilemmas regarding teen-age delinquency:

There appears to be a mounting wave of serious law violations by boys and girls, 16, 17, and 18 years of age. They need to be protected from the serious effects of their own actions and society is entitled to be protected from them. Soft and sentimental treatment is no favor either to this type of youth or to our citizenry.

One increasing problem is the matter of employment for teen-age boys and girls. They have no veterans' employment rights. They find difficulty in securing vocational training. Many are not interested in academic instruction.¹⁵

For the younger boys a formal type of program is advocated where academic education and simple vocations are the foundation of the training. It is recommended that the population of this type of school should not exceed 300. Also, for the younger

¹³ California Youth Authority: Report of Program and Progress (1943-1948, By Karl Holton, Director), p. 35.

¹⁴ *California Youth*: A summary of speeches and recommendations at Governor Earl Warren's Conference on Youth Welfare (Sacramento, Calif., Jan. 29 and 30, 1948), p. 73.

¹⁵ Warren address, *loc. cit.*

boys, there should be a ranch or camp type of school, where simplicity and informality is the basis for the program.

After a rough, natural separation on the basis of age, sex and physical maturity, the breakdown for day to day living while under Youth Authority guidance is made into smaller groups to lend emphasis to individual retraining. The size and type of the living units will vary somewhat with the age of the youth. Cottage-type buildings, housing not more than 30, have been found preferable to large dormitory-type buildings.

NO CORPORAL PUNISHMENT

The interpretation of discipline has broadened with the growth of the training school movement and the development of the cottage unit type of living. It has been learned that youth respond more readily to reward and encouragement than to punishment. Corporal punishment and other abuses are not tolerated and the particularly vicious monitor system, which permits older and more aggressive children to exercise force and authority over the more timid and less matured, has no place in the modern concept.¹⁶

Vocational training, as it has been carried on in most of the correctional schools throughout the country, consists too often of maintenance and production work and has little relationship to the needs of the individual. Under the Youth Authority training program there may be transferred to the California Vocational Institution any boy whom the Authority believes will be benefitted. The tendency is to transfer youths 17-21 years. The California Vocational Institute had a population of 475 wards in 1948 of which all but 7 were under Youth Authority guidance. There is vocational training in 20 trades: airplane mechanics, auto mechanics, baking, cooking, building construction, drafting, dry cleaning, electrical work, general shop, mattress making and renovating, laundry, mill cabinet and carpentry, plumbing, radio, sheet metal, shoe repairing, welding, machine shop, clothing repairing, painting, and decorating.

FORESTRY CAMPS

Wards at California Youth Authority forestry camps are between the ages of 16 and 21 years—in general, they fall into three classes: (1) those who cannot or will not profit by a strictly academic training course—generally have limited mentality and cannot do normal school work—a few of superior ability who have rebelled against any attempt at academic training; (2) those who because of background and temperament would actually be harmed by the regimentation of one of the training schools; (3) mild offenders who need maturing more than training.

In addition to an agricultural program which includes animal

¹⁶ Conference Summary, *op. cit. supra* note 14 at 79.

husbandry, poultry raising, dairying, vegetable gardening, field crops and farm mechanics, the Authority has a program which gives boys practical *on-the-job* training in the construction, alteration and repair of buildings and facilities. Boys have participated in these construction projects all the way from layout to completion.

HEALTH IMPROVEMENT PROGRAM

The Youth Authority takes responsibility for improving the physical health of the wards, which is generally found to be on a lower level than for the rest of the population. This includes medical and dental treatment and everything in the way of minor and major surgery. Proper and just discipline is considered one of the most important phases of training and rehabilitation. A year-round schedule of intramural sports, under the supervision of trained athletic coaches and physical education instructors is considered invaluable as an aid toward instilling effective discipline on all age levels. The Youth Authority facilities are equipped with adequate athletic fields and evening activities are made possible through night lighting.

The age range of wards of the Youth Authority is from 8 to 21 years, they are of all races and creeds, and their offenses represent every type of social maladjustment from homicide to truancy. Tests have shown regarding their mental abilities that some are superior, some defective, and the general distribution of a slightly lower mental endowment than that of the total population. Their physical conditions are below the standard of an average group the same age in the public schools.

MALADJUSTED TO PUBLIC SCHOOLS

Typical of delinquent youths within the age group 8-15 years is that most of them have a history of truancy; nearly all of them have developed a dislike for some teacher or, in many instances, for all teachers. A great many delinquents began their antisocial behavior as a result of continuous failure and inability to adjust within the public schools. Faulty work habits are another frequent contributing cause.

Boys and girls are not considered for Youth Authority re-training unless their behavior characteristics have become so severe that they cannot be handled on the community level, either under probation, detention homes, or in county forestry camps.

Almost invariably the factor of poor home conditions has been found. The majority come from homes substandard materially, and totally inadequate otherwise. In almost every case behind those who have come under Youth Authority jurisdiction there has been a history of household conflict, rejection, humiliation and frustration due to family inadequacies.

Experience indicates that juvenile delinquency is a symptom

of failure to meet the needs of children and youth adequately; that delinquency is in the main *acquired* and that environment plays an important part in causation. The factors involved are inextricably related to all the processes of social and economic life.

Governor Warren has explored possible causes:

The automobile, the motion picture, the radio, the complexity of our industrial civilization, have vitally affected family life. There appears to be a weakening of family ties, a lessening of the mature responsibility which parents and children owe to each other.¹⁷

CONSTITUTIONALITY OF ACT SUSTAINED

The constitutionality of the California Youth Authority Act was established at an early date. In the case, *In Re Herrera*, decided by the California Supreme Court on November 18, 1943, in a unanimous opinion, it was determined that the responsibilities of the Youth Authority as set forth in the act were constitutional. The opinion stated:

By establishing the authority as a central agency to cooperate with hitherto uncoordinated public and private agencies in the reformation of socially dangerous persons, the act provides for a unified program of correctional treatment. . . . The authority is vested with wide discretionary power in the treatment of a person committed to it. . . . The great value in the treatment of youthful offenders lies in its timeliness in striking at the roots of recidivism. Reaching the offender during his formative years, it can be an impressive bulwark against the confirmed criminality that defies rehabilitation.¹⁸

In the case of *People v. Ralph*, the supreme court of the state again ruled upon various phases of the Youth Authority Act and again sustained its constitutionality. This case was decided on July 21, 1944.¹⁹

PROGRAM FOR GIRLS

The Youth Authority's training schools for delinquent girls attempt to educate them into well-adjusted and mature individuals. However, its subjects differ from the usual school group in that nearly all the girls are emotionally unstable, suffer from the results of disorganized family and community situations, and usually have been frustrated by at least relative failure experiences in academic schools. A number of the girls have been married and are mothers, which is an added problem in emotional control.

Physically the girls are usually below par. Many have venereal or other infectious diseases and skin afflictions. A surprising

¹⁷ Warren address, *loc. cit.*

¹⁸ 23 Calif. 2d 206 (1943).

¹⁹ 27 Calif. 2d 866 (1944).

number have low basal metabolism. Intellectually they rank a little lower than California children in general of the same age. Temperamentally they are less stable, are unpredictable in behavior, harder to interest, more easily swayed by impulse of the moment, and have less regard for the consequences of their acts.

The Youth Authority tries to build up in them a positive attitude toward acceptance of responsibility and to develop in them feelings of self-respect and self confidence. Surveys have shown that most of the girls so re-oriented toward civilian life and eventually paroled have married and become mothers, capable of running their own homes.

The life in the girls' school is built around the *living cottage*. The program for each cottage is planned as a complete unit in which the girls are taught to care for a house and all that goes with it, such as housekeeping, cooking, and simple personal laundry. Each house has its own kitchen where all food for the cottage family is prepared by girls under supervision.

Woodworking, leather craft, clay modeling, printing greeting cards for school and individual use, and similar activities are especially useful with emotionally disturbed girls. Adequate recreational activities are organized and provided. Weekly feature motion pictures and educational movies, monthly birthday parties, dances, swimming, softball and other group contest games, picnics, amateur hours, library reading, radio, handicraft, and table games are an integral part of the schedule.

ASSISTANCE TO COMMUNITIES

Other activities of the Youth Authority are designed to assist in the raising of better citizens. A major role in its program has been delegated to the problems of delinquency prevention. Effective prevention can be accomplished through encouragement of attitudes within the family, in the schools and on the community level conducive to the raising of children with healthy social attitudes. Desirable recreational outlets and activities are an important consideration in prevention, as is the fight against economic factors contributing to juvenile delinquency on the community level. Youth Authority field services provide representatives to confer with communities and make recommendations in regard to solutions of these problems. The Youth Authority can contract with institutions of higher learning on research projects in the field of delinquency and crime prevention.²⁰

In the field of recreation alone the Youth Authority was among those groups instrumental in advocating the desirability of surveys and consultant services throughout the state. Recreational facilities were obviously inadequate to meet the needs of an ex-

²⁰ CALIF. WELFARE AND INSTITUTIONS CODE, §1752.6 (Deering 1937).

panding young postwar population. Surveys and recommendations on the recreation needs in 22 California counties, 60 cities and 7 unincorporated communities have been made and many of the recommendations have borne fruit in new facilities, new programs, additional personnel and interest, all deterrents of juvenile delinquency.

To meet the need for an up-to-date statement of principles of operation to govern detention of boys and girls, the Director of the Youth Authority approached the Rosenberg Foundation for a grant with which to make the study of detention homes in California. Through the findings of this study²¹ the Youth Authority has participated in improvement of detention home conditions in various counties throughout the state.

In 1943 leaders from University of Southern California, the Attorney General's office and from the Youth Authority, joined with the representatives of sheriffs' and police departments to establish a pilot course in the field of delinquency control. This formed the basis for what has grown into the Institute on Delinquency Control, now in operation at the University of Southern California.

In the selection of training staffs for each Youth Authority facility, care is given to the qualifications, personality and temperament for the work. Persons assigned to the schools are expected to have understanding, patience, and leadership as well as the technical knowledge required in their particular type of work. The salary scale is high enough to attract people trained in the field and to hold them. It has been recommended that the training at the universities and colleges and state teachers' colleges give special consideration to the programs for enrolling and interesting persons entering the field of youth rehabilitation.²²

OBJECTIVE: RETURN TO NORMAL SOCIETY

The entire planning should be done on a basis of what is to happen to this boy or girl when he returns to the community, and a complete record of the progress, the successes and failures, should be kept to assist the placement officer in finding the proper niche within the social structure of the community. As the boy and girl goes on parole, regular reports should be returned to the institution showing results of the training that has been given, permitting the institution to strengthen weak points and to evaluate their work on a basis of the end result—the ability of the boy and girl to adjust in normal society.²³

Over a five-year period, 17.6 per cent of all youths released

²¹ TOLMAN and WALES, *JUVENILE DETENTION IN CALIFORNIA* (1946).

²² Conference Summary, *op. cit. supra* note 14 at 80.

²³ *Ibid.*

to parole were returned to facilities of the Youth Authority. All results have not been successful, but the short experience of the Youth Authority indicates that the methods now employed by the Authority are highly beneficial and are paying dividends as expected by the legislature when it created this new agency.

RECENT PUBLICATIONS OF THE CHILDREN'S BUREAU ON ADOPTION AND GUARDIANSHIP

GUARDIANSHIP—A WAY OF FULFILLING PUBLIC RESPONSIBILITY FOR CHILDREN. By Irving Weissman in association with Laura Stolzenberg, Harry S. Moore, Jr., and Robbie W. Patterson. Federal Security Agency, Social Security Administration, Children's Bureau. U. S. Government Printing Office. Price 54 cents.

ESSENTIALS OF ADOPTION LAW AND PROCEDURE. Federal Security Agency, Social Security Administration, Children's Bureau. U. S. Government Printing Office. Price 15 cents.

The needs of the child as an individual member of our society receives scant consideration under the guardianship laws of the United States.

That is the conclusion of a study "Guardianship—A Way of Fulfilling Public Responsibility for Children," recently completed by the Federal Security Agency of the Social Security Administration. The study was based upon records and cases in 12 selected courts in the states of California, Connecticut, Missouri, Florida, Michigan, and Louisiana.

The courts, where the problem of guardianship is involved, have generally considered the minor's estate and not his personal welfare, as the most important problem before them. And the Federal Security Agency survey report indicates the courts have frequently done a poor job in safeguarding the minor's interests even in this respect.

Specifically, the report charges that appointment of guardians is made in a perfunctory manner, the courts are poorly equipped to give proper attention to guardianship cases, supervision of the guardian after appointment is lax, and the great increase in the number of children becoming financial beneficiaries of veterans' and social-security programs has greatly complicated the problem during the past decade.

In a brief historical summary of guardianship laws, the survey discloses that these laws have tended to remain static, with few changes of any kind since such laws were originally adopted by the states included in the survey.

"The only changes in guardianship laws for more than a century have been to recognize the rights of the mother in her chil-

dren, to restrict the father's power of testamentary appointment, and to remove the disabilities for guardianship under which married women have suffered," the report states.

"As a consequence of this neglect," it continues, "the guardianship laws are probably the most archaic laws relating to children on the statute books of the states. Examination of the laws of the states included in the study disclose inadequacies of structure as well as substance."

The lack of uniformity among the states, and of any certainty of the law in some of the particular states studied, is complicated by the fact that provisions relating to guardianship of children are usually scattered throughout the statute books. Such provisions may be found in chapters governing estates, adoption, probate laws, and laws affecting real and personal property and trusts.

Another factor that has led to difficulty in interpretation and administration of guardianship laws is the failure therein to distinguish between the minor who is incompetent because of immaturity, and the incompetent adult, who has been adjudged insane, feebleminded, an alcoholic, or a spendthrift.

Once the guardian has been appointed, he is frequently left to his own devices in carrying out the duties of his office. Inability to distinguish clearly between guardianship of person and guardianship of estate appeared to be a common source of misunderstanding and difficulty, the report states.

So far as could be learned, the courts in most instances had not explained the office (of guardian) or provided instructions for the guardian to go by. In consequence, some guardians appeared to have distinctly individual conceptions of their job, and some these were definitely misconceptions.

LAXITY IN REQUIRING REPORTS

This lack of instruction to the guardian on his appointment was followed up in many instances by a surprising laxity in requiring reports from the guardians.

Although guardianship actions are predominantly concerned with the estates of children, it was surprising to discover that the courts often lacked definite record of the nature and value of the property which was turned over by them to guardians and for which they are supposed to hold the guardians accountable and liable.

Lack of supervision is even more pronounced where guardianship of the person is involved. The survey reported that none of the courts studied maintained any supervisory contact with guardians of person or in any way required them to account for their stewardship.

The 2,282 cases involving estates included in the survey showed a lack of descriptive information in the court records in from 20 to 25 per cent of the cases. While total figures are im-

pressive, the usual guardianship estate is small. Forty per cent of the cases reported involved amounts of \$500 or less; estates ranging from \$1,000 to \$2,500 accounted for 21 per cent of the cases; estate of \$25,000 or more comprised only one per cent of the cases studied. The bulk of cases originated with the Veterans Administration, usually involving relatively small monthly benefit payments or cash settlements.

On the whole, costs of guardianship were not found to be excessive. In the cases studied it was found they ranged from five up to about 50 per cent of the total value of the minor's estate at the time the guardian was appointed. The higher relative costs were generally found where small estates were involved. Numerous cases of needless appointment of a guardian, with its attendant costs, were noted.

Attorney's fees were usually found to range from five to ten percent of the value of the estate, ranging somewhat higher percentage-wise where small estates were involved. Veterans Administration claims are limited in some states to a maximum of \$25 for attorney's fees.

While the Federal Security Agency report does not recommend the appointment of a guardian for every child who lacks parental guardianship, it does urge increased attention by the courts to the need for guardianship of the person, as distinguished from guardianship of the estate. A special court proceeding tailored to this end is recommended, preferably to be administered by a court of general jurisdiction in children's cases instead of in probate courts, as is usually the case. The court conducting the proceeding for the appointment of a guardian of the person should have the benefit of advice of local social services under direction of the state welfare department.

The report recommends the guardian of the person should be entitled to act for the child when the child's whole estate is valued at \$500 or less, or consists of \$50 or less per month. Where a larger estate is involved, the survey recommends that the guardian of the person be allowed to handle it wherever feasible. However, it urges that appointment of guardians for the estate be made by a court of record; that an inventory of the estate should be required; and that adequate supervision be given, with periodic accounts and inventories a prime requirement.

THE ESSENTIALS OF ADOPTION

Closely allied to the problem of guardianship is that of adoption. In a brief pamphlet, "Essentials of Adoption Law and Procedure," the Federal Security Agency presents its suggestions on what a modern statute on adoption should include.

The agency does not urge the adoption of these recommenda-

tions in toto, and does not recommend its proposals as a uniform adoption law. Rather the recommendations are offered as a basis of study of present state statutes to see if they adequately meet requirements for the protection of the child, his natural parents, and the adopting parents.

In the main, the adoptive procedures recommended are designed to do away with the evils brought about by a lack of supervision of adoptions by the state and its courts, particularly as to those children born out of wedlock. This would be achieved by legislation requiring court sanction of voluntary relinquishment or surrender of parental rights, social investigations of the background of the child and the prospective adoption home, and for a period of residence of the child in the home under the supervision of an agency qualified to place children.

Step by step, the pamphlet outlines the contents of a model law designed to protect the interests of the child, his natural parents, and the adoptive parents. Each of the proposals is the subject of a brief discussion. The proposals must be keyed to the needs of the individual states, the agency warns.

Each state must consider its own special needs and situations and determine whether its court system and the structure and state of development of its welfare program make it advisable for that state to follow closely the suggestions given or whether certain deviations may be necessary.

JASON KELLAHIN, *Student*
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VA POLICY IN PAYING ATTORNEYS FEES ON FORECLOSURE OF GI LOANS

The Minimum Fee Committee of the Denver Bar Association, under the chairmanship of Merrill A. Knight, recently had a conference with officials of the Regional Loan Guaranty Office of the Veterans Administration concerning the matter of fees paid for foreclosure on G. I. loans. The substance of the Veterans Administration's position on this matter, which would become of increasing importance to lawyers should economic conditions take a turn for the worse, was summarized so well by Loan Guaranty Attorney Harold F. Mudge in a letter to Mr. Knight, that *Dicta* is printing Mr. Mudge's letter in its entirety for the benefit of interested parties:

"Reference is made to the conference held with your Committee in the office of the Loan Guaranty Officer at the Veterans

Administration Center on Tuesday afternoon, May 23, 1950, at which you requested from the writer a letter setting out briefly some of the matters discussed. Primarily, the objective of the conference was a clearer understanding of the theory behind the establishment of a maximum amount that may be charged to the *Administrator* on account of attorney fees paid by the lender in connection with foreclosures of loans guaranteed or insured by the Veterans Administration. This letter is in response thereto.

"After World War II, the Congress enacted a great deal of statutory law beneficial to veterans. Some of this legislation was primarily protective of the veteran's civil rights to help in his adjustment to civilian life after his return from service, such as the Soldiers and Sailors Civil Relief Act of 1940 and its amending Act of 1942. Other legislation made available certain direct benefits, such as disability and pension benefits for veterans, their widows and dependents. An example of such legislation is Public Law 702, 80th Congress, which provides direct grants of money to paraplegic veterans so that they might purchase or construct their own home with special features to accommodate their disability. The third group, and by far the greatest in practical and administrative extent, are the laws passed to *assist* the veteran to obtain an education and practical training to advance his economic status and raise the standard of living for himself and his family and to obtain a home, farm or business of his own.

THE STATUTORY BACKGROUND

"The housing of veterans and their establishment in business or on farms of their own are the objectives of Title III of the Servicemen's Readjustment Act of 1944 and the amendments thereto. This Act, together with the regulations made from time to time applicable thereto, constitute the Loan Guaranty program. Congress placed the duty of administering it upon the Administrator of Veterans Affairs. The Act makes it possible for any eligible veteran of World War II to *borrow money* over long terms on easy, amortized payments and minimum cost from conventional lending institutions for the purposes expressed in the Act. In order to make such loans attractive to lending agencies generally the United States through the agency of the Veterans Administration acts as guarantor or insurer of the loan to the veteran. By the provisions of the Act, real estate loans may be guaranteed for not more than 50% of the loan and not to exceed \$4,000.00 on real estate loans or \$2,000.000 on non-real estate loans. As to home loans only, the guaranty entitlement has recently been increased to a maximum of \$7,500.00 or 60% by Public Law 475, 81st Congress, effective April 20, 1950.

"The amount guaranteed by the United States, as a practical matter, amounts to a down payment in similar amount made to

the veteran's credit on the loan. The Government also allows, as a gratuity to each veteran making a guaranteed loan, an amount equivalent to 4% of the amount guaranteed. (Sec. 500 (c) of the Act.) This sum is paid promptly to the lender upon the lender's report of the loan closing to be applied as a credit to the veteran's obligation to the lender. These protective features provided by the Act make such loans extremely desirable to the great secondary loan market, such as the large insurance companies, and the lender has no difficulty in disposing of "blocks" of these loans as soon as they are made. However, in order to assure such a market for these loans, the Government buys a number of them through the Federal National Mortgage Association.

"In the event of a default on the loan the holder may file claim with the Veterans Administration and, upon approval, be paid at once up to the guaranteed amount of the loan. He is not required to liquidate the security first but may do that afterward, then make his accounting to the Administrator of the proceeds of the foreclosure sale and remit to the Administrator any excess over the amount necessary to make him whole. He is also paid the costs of closing the loan (Reg. 36:4312), his court costs, money advanced by him for taxes, hazard insurance premiums, trustee's or receiver's fees, other expenses reasonably necessary for collecting the debt or repossessing the security and for 'a reasonable amount for legal services actually performed not to exceed 10 per cent of the unpaid indebtedness as of the date of the first uncured default, or \$250.00, whichever is less' (Reg. 36:4313).

CONDUCTING THE FORECLOSURE

"The holder through his attorney conducts the foreclosure sale involving real property and upon the date for the sale having been established the Administrator may specify a 'minimum amount to be credited to the indebtedness,' commonly referred to as the 'upset price' (Reg. 36:4320 (a)). This upset price is usually less than the normal re-sale value of the premises and generally less than the balance of indebtedness due on the note. The holder may then bid any amount *not in excess* of this figure at the public sale and, if he is the successful bidder, he has his election during the 15 day period after the sale to either keep the property or transfer the same to the Administrator in which event he will be paid the specified amount of the upset price as consideration therefor. The upset price is usually made low enough to tempt the holder to keep the property and resell at a profit. The Administrator will accept transfer of the property subject to the redemption period so that the holder does not have to wait for the official deed before conveying to the Administrator.

"It may be readily seen that these features are sufficient to protect the holder against loss in practically any case involving default of a guaranteed real estate loan.

"However, the loans are guaranteed or insured on a business basis and the veteran obligor is accountable to the Government for any loss suffered through payment of claim on the loan. This on the equitable principle of indemnity inherent by law in a guarantor. It is embodied further in the regulations which, after publication in the Federal Register, have the effect of law. Reg. 36:4323 (e) provides:

"Any amounts paid by the Administrator on account of the liabilities of any veteran guaranteed or insured under the provisions of the act shall constitute a debt owing to the United States by such veteran.

"Therefore, the amount of any payment so made by the Government is charged to the veteran and collection procedure by the proper agencies is instituted. Any benefits otherwise being paid to such veteran by the Veterans Administration may be equitably applied to his indebtedness. The veteran may apply for a waiver of the collection of the debt upon the grounds of 'undue hardship' and that the default occurred through no fault of his own. Evidence is submitted and in meritorious cases the waiver will be granted.

"Reg. 36:4323 (a) provides in substance that after payment of the holder's claim and upon his receiving 'the full amount payable under his contract with the debtor,' that the Administrator shall be subrogated 'to the contract and the lien or other rights of the holder' as against the veteran and subsection (b) of the above regulation requires the holder to 'execute, acknowledge and deliver' an instrument to that effect.

"All this indicates that amounts paid out by the Government on behalf of defaulting veterans is not a gift to him but constitutes a legal debt of the veteran which he owes to the United States.

VETERANS PROTECTED AGAINST UNFAIR CONTRACTS

"The legislation would not accomplish its purpose unless the veterans were protected against onerous and unfair terms in their loan contracts which would tend to throw them into default. Also, this would result in a greater loss to the United States as guarantor. When a veterans makes a loan to finance a home, farm or business the Government wants to see that he retains it and does not become a liability both to himself and the Government.

"Therefore, a number of *protective* features were found necessary to implement the terms of the Act. Sec. 501 (2) of the Act concerns home loans and states that terms of payment must 'bear a proper relation to the veteran's present and anticipated income and expenses' and that the purchase price shall not exceed the reasonable value as determined by the V. A. appraisal (Sec. 501 (3)). All loans having a maturity date of over 5 years from date must be amortized in 'approximately equal periodic payments' (Reg. 36:4309 (a)). By Reg. 36:4311 the interest rate (except

for non-real estate insured loans) was limited to 4% and brokerage charges or commissions charged to the veteran borrower were prohibited by Reg. 36:4312. Trustee's fees were limited to 5% of the unpaid indebtedness by Reg. 36:4313 (iv) and the attorney's fees allowable *to the lender* in his accounting to the Administrator is limited to 10% of the unpaid indebtedness or \$250.00 whichever is less (Reg. 36:4313 (v)).

"Further, a service charge is precluded by Reg. 36:4312 (a) and these prohibitory provisions are implemented by Regs. 36:4316 and 36:4317 which prohibit the institution of proceedings until the expiration of certain time limits specified therein. Finally, Reg. 36:4334 in effect incorporates all the provisions of the regulations (current at the time the loan was made) into every loan contract approved for guaranty or insurance with the effect of amending and supplementing the terms of any such contract inconsistent therewith.

SUMMARY OF VA'S POSITION

"In summarizing, it was considered that in return for the protection furnished by the Government's guaranty, the lender might well be expected to forego some of the penalties and special charges which it normally charged on conventional loans. *As to the attorney's fee allowance, it is merely a figure used by the lender in his accounting to the Administrator and in no way indicates the amount actually paid by the lender to his attorney, except that the lender must have actually paid that amount or more, for his services.* The Veterans Administration does not employ the attorney and is not concerned with the amount of his charge to the lender. We are concerned, however, that the amount charged to be paid by the Veterans Administration and thereupon to become part of the veteran's indebtedness to the United States be reasonable and within the limitations of Reg. 36:4313 (b) (v). In case of default and foreclosure the attorney's fee is determined separately in each individual case within the limits set by the regulation. The work performed by the attorney is indicated to great extent by the copies of procedural papers which he submits under the provisions of Sec. 36:4319 of the regulations. Other factors considered are whether the foreclosure is judicial, resulting in an assignable judgment, or conducted by power of sale through the Public Trustee, whether the attorney must travel some distance to the county seat, the appointment of a receiver, appearance, and resistance of the action by the defendant or controversies involving adverse lien claimants, the location of the office of the attorney, geographical location of the property, fees charged generally in the community in which the attorney has his practice, and many other features of the specific case to ultimately determine 'What is reasonable?' The amount of the attorney's fees in these matters is set by the Loan Guaranty Officer with the advice of the Chief Attorney.

"We wish to thank both the Denver and Colorado Bar Associations and in particular the members of their Committees for taking the time and interest for a correct understanding of this situation and requesting a conference for that purpose. It is felt that great good will result from a proper presentation of this matter of attorney fees in connection with foreclosures of loans guaranteed or insured by the Veterans Administration and it is hoped that your Committee will now be able to correct any erroneous impressions in this regard which may be held by members of the Bar.

"Finally, the attorney fees discussed herein should not be confused with attorney fees paid to attorney title examiners *employed* by the Veterans Administration for the purpose of examination of the title and proper conveyance to the Administrator. In such case it is our practice to employ local counsel who are paid the conventional fee for their work in that respect, of course assuming it to be reasonable. To this date we have never had any contention over the amount of attorney fees paid in such cases."

FOUR NEW REAL ESTATE STANDARDS

Four new real estate title standards were promulgated by the Denver Bar Association through its Real Estate Standards committee on June 7, 1950. Edwin J. Wittelshofer, committee chairman, stated that these new standards were also being forwarded for the consideration of the members of the Colorado Bar Association committee. Together with Standard No. 63 (Title Acquired Through Foreclosure As Affected by the 1942 Amendment to the Soldiers' and Sailors' Civil Relief Act), promulgated on November 30, 1949, the new standards Nos. 64-67 will be offered for adoption on a state-wide basis at the 52nd annual convention of the Colorado Bar Association at Colorado Springs, October 12-14, 1950.

The text of the new standards follows:

Standard No. 64—Sidewalk Certificates.

Problem: An unreleased sidewalk certificate has remained of record for more than 15 years subsequent to the due date thereof. Should an attorney render an opinion showing the title free and clear of such sidewalk certificate?

Answer: Yes.

Note: The above problem does not refer to tax sale certificates based on special assessments for sidewalk improvement taxes, but refers only to those certificates issued under Sec. 54 of the Denver Charter.

Standard No. 65—Corporate Seal—Omission of.

Problem: If a corporate conveyance has been of record for at least twenty years in the office of the recorder of the county

in which the real estate is situate and contains in its body or acknowledgment a recital to the effect that the seal of the grantor was affixed to it, is the title merchantable even though the record copy does not show a corporate seal?

Answer: Yes.

Standard No. 66—Soldiers' and Sailors' Civil Relief Act—Liens of Judgments.

Problem: The Colorado statute provides that the lien of a recorded transcript of judgment shall continue for six years from the date of the judgment. Does such lien expire at the end of such six years notwithstanding the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 and the 1942 amendment thereto?

Answer: Yes. This supersedes Standard No. 23. See Note to Standard No. 49.

Standard No. 67—Power of Attorney—Where No Record of Military Service.

Problem: An instrument is executed by an Attorney in Fact under a Power of Attorney. There is no instrument of record indicating that the principal was in military service. Should an examiner require an affidavit by the Attorney in Fact under the provisions of '35 C.S.A. Supplement Chapter 128 A, Secs. 10 to 12, if the Power of Attorney is otherwise sufficient?

Answer: No.

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