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Virtue: BASIC STRUCTURE OF CHILDREN'S SERVICES IN MICHIGAN

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RECENT BOOKS

This department undertakes to note or review briefly current books on law and matters closely related thereto. Periodicals, court reports, and other publications that appear at frequent intervals are not included. The information given in the notes is derived from inspection of the books, publishers' literature, and the ordinary library sources.

BRIEF REVIEWS

BASIC STRUCTURE OF CHILDREN'S SERVICES IN MICHIGAN. By *Maxine Boord Virtue*. Published by The American Judicature Society for the James Foster Foundation, Ann Arbor. 1953. Pp. xxviii, 391. \$5.

While the title of this book would not, of itself, attract the attention of lawyers, it is a professional legal study. It should prove of real interest to all lawyers who desire to improve the administration of justice and of particular value to lawyers associated with juvenile courts or with other governmental agencies which deal with children.

The author is a practicing attorney. She has for some time been active in the Section of Judicial Administration of the American Bar Association. She is also a lecturer in the School of Social Work of the University of Michigan. She has the knack of testing procedures and practices against a standard of accepted legal principles and, at the same time, of recognizing the problems encountered by those grappling with current social problems right on the front line. This ability is also demonstrated by the acceptance accorded her first book, *Survey of Metropolitan Courts: Detroit Area* (Michigan Legal Studies, University of Michigan Law School, 1950).

The basic structure of children's services (in Michigan or elsewhere) is a legal structure. If we are to improve services for children we must first consider that structure. As stated by the author in her preface, "One of the primary objectives of the James Foster Foundation, which financed the study, is a thorough professional examination of the legal machinery including not only an assessment of the juvenile court, but of laws, cases and regulations governing services by agencies other than juvenile courts. The need for such a study has been felt for some years. A request for the University of Michigan Law School to undertake the research was made at one time, but the school, while appreciating the necessity for a study of all public services to children, felt that in order to be effective, such an inquiry would have to include materials and techniques going beyond conventional legal research, and that the spirited controversies among various rival groups concerned with public and private services to children would make the conditions of the study such that some entity other than a publicly supported educational institution should undertake the task."

Some of these controversies are revealed in the comments of Mrs. Virtue's advisers which appear in the footnotes and in an appendix and, incidentally, add spice to the text. They revolve around what is perhaps a fundamental difference in the orientation of the lawyer and the social worker. The lawyer

is interested in safeguarding individual rights in such a fashion that they will be protected regardless of the personality or the viewpoint of the particular administrator. The social worker tends to assume that all administrators are benevolent and often becomes irked by legal red tape. A comment by Roscoe Pound, formerly Dean of Harvard Law School, which appears on p. 348 is pertinent: "I entirely agree with those who think the approach in the children's study is original and valuable and the organization adequate. I agree also that the general point of view is fair and objective. As to those who think you are impossibly legalistic and unfair to the social work profession, I can not say that I am surprised, but I feel pretty strongly that such criticisms are not well advised. 'Legalism' in the sense of respect for the Constitution and the Bill of Rights is something that too many of my good friends among the social workers need to become aware of."

However, equally pertinent (and serving as a warning against a feeling of complacency on the part of lawyers) are the points made in the "Publisher's Statement" by Glenn R. Winters, Secretary-Treasurer of the American Judicature Society, after he expresses the hope that "this book may render a service to judicial administration by shedding new light on the twilight zone that marks the boundary of the court's jurisdiction and power": "For forty years the American Judicature Society has warred against the view of a court as a mere arena within which opposing attorneys match wits and witnesses, with a judge as an umpire calling balls and strikes, and has contended that the court should be an affirmative force in the administration of justice, taking the initiative in seeing to it that justice is done to all who come within its jurisdiction.

"Today great railroad systems and other business enterprises are operated under court-directed receiverships, and in a thousand ways courts are stepping out to take an active part in directing the course of justice. It was inevitable that in so doing they should now and then go too far, and that they should tread upon the toes of other instrumentalities and agencies. At the same time examples of the reverse have not been lacking.

"In no field have these problems been more acute than in the area of public services for children. The question of guilty or not guilty which looms so large in a trial such as that of Julius and Ethel Rosenberg for treason is all but non-existent in juvenile cases. Children characteristically admit their wrongdoings, and the only question before the authorities in charge, whether judicial or otherwise, is, where do we go from here? To ask a court to receive a child's confession, pronounce a judgment of guilty, and then turn the child over to others from then on, would be to ask the court to abdicate an essential part of its judicial function, for the sentence, with all that it involves, is a part of judging and has been since the days of Solomon and before. On the other hand, there is certainly a point beyond which the arm of the court cannot reach without exceeding any reasonable definition of judicial power.

"This book makes no effort to draw these boundaries, but it does present for the first time a complete picture of what there is to be done and who has

been doing it, and it cannot fail to help those involved to see for themselves how best to apportion the work and how to make the court the efficient instrumentality for the administration of justice that it ought to be and that citizens of all ages have a right to expect it to be."

This might be called a "reference-type" book, for it is encyclopedic.

In Chapter I, Scope and Purpose of the Study, the author sketches a picture of the events which led to a feeling "that in order to develop adequate statutory machinery and keep all the parts in working order, the entire battery of services to children should be subjected to a legal inventory." She points out that she is looking only at "the child who receives public service because someone has decided that the normal family and community relationships have left him with an unsolved problem to meet which a service is involved to supplement or to supplant these relationships." Thus, she is not concerned with the many important public services rendered to all children by educational, recreational and health authorities, but with those involved because of the child's physical or mental condition, neglect by his family, his own behavior, etc. These services are dispensed in the executive and judicial branches of government and, at the outset, Mrs. Virtue cautions the reader to remember the doctrine of separation of powers.

In Chapter II the chronological development of children's services in Michigan is briefly presented to indicate the background for the present arrangement of functions among agencies. To provide dimension and objectivity, some material about the allocation of services among agencies in other jurisdictions is included, but the main focus is on Michigan.

In Chapter III Mrs. Virtue enumerates each agency which dispenses public services to children in Michigan and describes its authority, location in the hierarchy of governmental agencies, administrative structure, financial base and general caseload. This material should be invaluable not only for reference, but it should give any judge or administrator a new perspective of this whole field.

In Chapter IV legal doctrines affecting public services to children are discussed. Under what circumstances can an agency substitute its control for that ordinarily exercised only by parents? As a child passes from one agency to another, do the legal consequences vary according to the nature of the proceedings taken in each case? What are the relationships between support-enforcing judicial agencies and the relief-dispensing administrative agencies?

Chapter V is an account of the practices and interpretations of the public agencies with regard to the legal framework. Full inquiry into the operations of all child-serving agencies was not possible, but enough is presented to demonstrate that there are difficulties in practice because of conflicting interpretations. For example, the author points out differences from county to county in interpretations of the relative jurisdiction of circuit and probate courts where children of divorced parents are involved.

In Chapter VI Mrs. Virtue, drawing upon the factual material set forth in preceding chapters, relates particular situations to the language of the

governing statutes and cases. She analyzes the legal functions of each agency as a part of the whole system and thus identifies areas of concurrence, conflict, overlap and confusion.

Chapter VII summarizes the problems uncovered and points out the type of activity required to solve them—whether constitutional amendment, statutory change, further inquiry into administrative practices or change of attitude of non-cooperating personnel. No attempt is made to resolve particular issues. That is left to groups equipped to work for direct action. However, the issues are raised and the alternatives are presented.

The agencies and the laws are well-summarized. Outstanding characteristics of the present legal system for serving children are catalogued; importance of the interaction among agencies is stressed; gaps and duplications are identified; particular conclusions regarding our juvenile courts are presented; and possible remedies are enumerated.

Reading (perhaps we should say "studying") this book should be a requirement for anyone assuming or seeking to assume a position of public service which in any way involves relationships with children: judges, welfare directors, teachers and others.

As pointed out in an excellent Foreword by Honorable Arthur T. Vanderbilt, formerly Dean of the New York University School of Law and presently Chief Justice, Supreme Court of New Jersey, this is a book of interest and value not alone to the citizens of Michigan: "The only regret I have concerning this book is that its title may lead many to suppose that it is of interest only to Michigan. This would be unfortunate because as some of the author's advisers have well stated, what she has said of Michigan is largely true of New York or New England—or even of England. One advantage of the title of the book is that, now that the trail has been blazed, others may be encouraged to publish similar volumes in every other state. Such volumes might in turn inspire our author to write another book setting forth the best legislation and the best judicial and administrative practice everywhere as standards toward which every state might work."

I recommend this book to you. It is revealing. It is good reading.

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