The History and Development of the Children’s Court of Victoria

*Mrs. Diane Alley

*Mrs. Diane Alley, B.A.(Hon) Melbourne, Dip Crim (Uni. Melb) is currently in her third year as President of the National Council of Women; she is a Member of the Equal Opportunities Advisory Council in Victoria; and Honorary Children’s Court Magistrate; Member of the Fairlea Women’s Prison Advisory Council and an Ordinary (Associate) Member of the Australian Crime Prevention Council.

“The endeavour of the Court should be to form their characters on a proper basis, so as to make them in the future honest, worthy, and respectable members of society. In order to do that they established the principle in America that these Children’s Courts must not be associated in any way with the ordinary criminal procedure, and that the policeman must be extinguished as far as possible, and in his place they put a very great stress indeed upon the appointment of probation officer”.


“Like pioneers in some newly-discovered country, those who are engaged in applying the principle of character formation under the conditions contemplated by the Act must to a large extent rely on their own resources”.

(2) Alfred Clarke, Children’s Court Act 1906 Handbook P.1.

The development of the Children’s Court is a 20th Century phenomenon. Its main impetus came from America, and from educated, middle-class women with a burning desire to “save” the children, and to have the State, through the agency of the Court, acting in “parens patriae”, and treating the children before it as would a good and wise father. This would provide individualised justice, with the principle of rehabilitation, or “formation” of character, rather than punishment as its mainspring.

Although a Children’s Court was set up in Adelaide in 1895, most writers attribute the setting up of the first court to Illinois in 1899, and from there the idea spread like wildfire throughout America, the United Kingdom, and the Commonwealth. A report was published in 1904 by American Judges and Court workers relating their experience of the working of these new Courts, and their enthusiastic accounts of the success are quite overwhelming. They evinced the most rosy optimism as to the effects of these Courts, how they would cut back the crime rate, and form splendid citizens for the future. This report was read here in Victoria, and there was the example of South Australia, New South Wales and Queensland having established such courts.

In 1904 a deputation of ladies, on which the National Council of Women was well represented, waited on the Minister of Justice, the Honorable J.M. Davies, to urge the establishment of a Children’s Court in Melbourne. The Minister gave them “a moderately sympathetic reception” (3). On July 10th, 1906 Mr. Davies introduced a Bill to establish and regulate children’s courts. In the debate that followed much reference was made to the American Report of 1904, although Mr. Davies was extremely sceptical of the extravagance of the views expressed in the Report, especially after such a short experience, and at first the Bill allowed for separate trials for children, with the public excluded, but did not include probation and some of the other main features of the American ideal.

Therefore, the National Council of Women called a special meeting at the Town Hall of those interested in children’s welfare work, and six important points were embodied in a circular which was forwarded to the Attorney-General and to the members of the Legislative Council. The Bill became very much amended and most of the desired provisions were incor-
corporated, so that it became a very different measure, as Mr. Prendergast stated, it aimed
"to do everything to relieve the child's mind of any fear, and merely to teach him to regard the Court as a benevolent insti­
tution formed for the purpose of doing him good."(4)

One of the main points advocated was that there should be specially qualified magistrate or Judge appointed for the children's courts, who would be in sympathy with the young and with the spirit of children's courts. Judge Lindsey of Denver, U.S.A., who had written the most remarkable of the 1904 reports, had said

"Upon the character, tact, skill and intelligence of the judge and his assistants — the probation officers — largely depends the success of the court."(5) and had further said

"Thus armed should be the Juvenile Court worker. He or she should have the magnetism of Moses, the patience of Job, the firmness of Abraham, the wisdom of Solomon, and the unselfishness and love of our Lord and Master".(6)

This ideal somewhat daunted our Victorian Parliament — arians as to where they would fine such a person, or persons, and as the Attorney-General was not anxious to expend much money on the scheme, whether the Magistrates should be paid or unpaid, whether they should be police magistrates or laymen was much debated. It was finally decided that children's courts should be established all over the State wherever there was a Court of Petty Sessions and that they should be presided over by a police magistrate or 2 or more justices, sitting in a room provided, or in the Petty Sessions Court when adult hearings were not in progress.

The Honorable D. MacKinnon, on the major point of probation officers, quoted Dr. MacKellar of New South Wales

"The importance of the probation clause cannot be over­estimated; it is from this form of dealing with delinquent children that the remedial effects are especially to be looked for, and the measure of success will be found in the manner in which the probation officers are able to apply themselves to this section of the work."(7)

The probation officer was to provide a pre-court social report to assist the judge in making an individualised dispensa­tion, and to supervise and direct any young person the judge considered would benefit from treatment within the community. Mr. Davies was hopeful that hundreds of ladies and gentlemen would be obtained for this on an honorary basis. Although some Ministers, including County Ministers, recommended that honorary probation officers should receive remuneration of their expenses, and "without remuneration" was dropped from the clause on probation, it is only in this year 1975, that the Government has agreed that probation officers should be given a small remuneration for expenses.

There were a great many children in the charge of the State in Victoria and they were dealt with in pursuance of the Neg­lected Children's Act of 1890. Mr. Davies pointed out that the children boarded out were all under the supervision of ladies committees in various districts, and these ladies, who were practically probation officers, looked thoroughly after the children. The total number was 2,378 in 1904 and 2,401 in 1905".(8)

Therefore there was a system of supervision already known, and there were also a number of industrial and reform schools whose establishment had been provided for in the Neglected and Criminal Children's Act 1864. In 1874 provision was made for the boarding out of children in foster homes, and in 1887 the Neglected and Criminal Children's Act was superseded by the Neglected Children's Act and the Juvenile Offenders Act. The feeling of the time was that there was very little difference between the delinquent child, and the neglected or dependent child who was often the forerunner of a delinquent child, and that all matters to do with children in trouble should be dealt with in the one Court, and this should be the Children's Court, which would have the true welfare of the child at heart, and save it.

Neglected or offending children could be dealt with by the Court up until the age of 17, but the child by a common law rule could not be considered capable of committing an offence until he had reached 8 years. The ladies had wanted to make the age limit 18 years, but Mr. Davies thought 17 was quite old enough to be considered for special treatment. Although the Court was to be a summary Court, indictable offences could be tried summarily for children under the age of 12, except in cases of homicide or offences which a Court of General Sessions has not jurisdiction to try.

Another essential point pressed was that children should not be placed in a gaol with its corrupting influences, but should be placed in a detention house. Many ministers pressed for the establishment of a large farm training school for young offenders, but there was no money forthcoming for this.

One of the most hotly disputed sections of the Bill was an amendment introduced by Mr. Bayles, a young lawyer, who suggested that -

"at the trial of any child the Court shall be guided by the real justice of the case, without regard to legal forms and solemnities, and shall direct itself by the best evidence it can pro­duce and which is laid before it, whether the same be such as the law would require or admit in other cases or not, and it shall be lawful for such Court to receive or reject as it may deem fit any evidence that may be given to it".(9)

The Legislative Assembly refused to agree to this depart­ure from the rules of evidence, which I feel was extremely sensible of its members, and finally it was agreed that the amendment could remain if all words after "whether the same" be struck out. As one minister pointed out it was very difficult to define "real justice" especially if you could accept or reject evidence at will. The right of appeal was included, and parents were entitled to be heard on the child's behalf, and to cross-examine witnesses. Probation officers could attend and speak for the child, but not members of the public, and a separate register was to be kept for the Children's Court.

After the Act was passed, the Government appointed Mr. Alfred Ernest Clarke; chief probation officer, and he entered on his duties on the 2nd March, 1907, as the first adminis­trator of the Act. He was paid 100 pounds per annum, then 250 pounds when clerical assistance was required. He appears to have been a remarkable man, who carried out his difficult pioneer work with insight and enthusiasm. As he said in his first report to Parliament in 1908 -

(9) Vic. Parliamentary Debates Vol.115 1906. P.3217
"A great experiment is now being made, and it is essential that it should be carried out with intelligence, tact and uniformity". (10)

He realised his first step must be educational. He prepared a handbook on the Act, with notes for the guidance of probation officers and others engaged in the administration of the Children’s Court Act, and set out the rules and regulations. He advised on the disposition of cases, stressed that the work was arduous, and advised all connected with the Court, to "Keep your minds young". (11)

In his first report he notes,

"So profound a change in the spirit of the Criminal Law cannot be brought about without much friction and much misunderstanding." (12)

One can appreciate the difficulties he must have faced. He continues -

"in general the justices do not yet seem to see how greatly they might aid the probation officers in the work of supervision . . . the success of the probation officers is bound up with the efficiency of the justices". (13)

This confirmed for him the need for a special Children’s Court magistrate to be appointed, so that there could be some uniformity, and less confusion in the Courts.

A Central Children’s Court had been set up in the Gordon Institute, and he had 115 probation officers on the roll, who worked at all metropolitan courts, and about six country courts. He was quick to point out that releasing children on probation for 1, 2 or 3 months was useless, if the probation officer was to have a lasting effect on the formation of their character, and dismissed criticism that the magistrates were taking too long over their deliberations. To the suggestion that they should impose a fine forthwith which would supply a sufficient deterrent and also shorten the proceedings he answered,

"that the duty of the Court is to deal with children on the formative rather than on the punitive principle, and that the surrender of a fundamental principle of the Court is too high a price to pay for the time gained by fining forthwith". (14)

Mr. Clarke, appreciating the need for training commenced to get together a library of literature on the subject, for the benefit of court workers. He arranged "instructional" meetings, and the great event of 1909 was a Conference of Probation Officers of the State of Victoria held over 3 evenings, 29th, 31st March and 2nd April. There were representatives from N.S.W. and S.A. and a paper furnished from N.Z., and the proceedings attracted great public interest. Then on January 16, 1911, Mr. Clarke brought out the first edition of a very good quarterly, The Probation Officers Record, as a medium for the education of probation officers, magistrates and others.

He very early on realised that the Clerk of a Children’s Court, if he was to properly perform his work, especially with honorary magistrates needed to be a specialist. In his report for 1909, he pointed out that the clerk should -

"Besides a thorough knowledge of the Acts of Parliament relating to delinquent and neglected children, he should be familiar with the various institutions engaged in dealing with children. He would become a connecting link between Children’s Courts in the metropolitan area . . . the work would be capable of being better systemised . . . and the natural ten-

dency to regard Children’s Court work as of secondary importance would be checked". (15)

On October 1st, 1912, in the Argus, it was reported that a deputation of Probation Officers, including Mrs. Herbert Brookes and Miss Vida Goldstein of the National Council of Women, had called on the Attorney-General to see if Mr. Clarke’s Services were to be retained, as he had received a somewhat curt notice to the effect that his work was to be taken over by Mr. F.W. Bond of the Crown Law Department. Mr. Drysdale Brown, the Attorney-General, explained that the system was to be extended. There were no children’s courts at large centres like Brunswick, Williamstown, Footscray and Coburg, and they were badly needed in the country, Bendigo being the only inland city which had such a court. He needed an officer to go about the country and establish such courts, and only a public servant could do this work. Thus Mr. Clarke could look after the Melbourne and suburban courts as a district probation officer. His greatest difficulty he explained was in securing suitable magistrates for all the courts.

Mr. Bond remained Officer-in-Charge of Children’s Courts until 1923. In spite of some opposition and ridicule, he felt that the courts worked with a great amount of success. In 1917 as a result of suggestions made by special magistrates and probation officers, the Children's Court Act was amended, and a child up to 17 was allowed to be tried for an indictable offence in the Children's Court; and a child could be committed to a reformatory farm for a term of not more than 12 months, and there was a discretionary power to order the detention of a child during the Governor's pleasure, which dismayed some members of Parliament. There were several suggestions by Ministers that there was a need for women to be appointed, but with no effect. Mr. Billson during the Debate raised the problem of the children of deserted or widowed wives, who were in temporary difficulties financially, having to be convicted as neglected children, a strain which might remain on them for life.

Mr. R.H. Down was next appointed Officer-in-Charge of Children's Courts in place of Mr. Bond. In his annual report for 1924 he told of the incalculable harm being done by boys sent to reformatories who escaped, and of the need for a safe place to send them, he argued that although the honorary magistrates were undoubtedly performing good work, a more scientific handling of the problem was necessary. He recommended that a police magistrate should attend all children's courts in the metropolitan area, and sit with the special magistrates, and also that a paid probation officer should be appointed to follow up cases which did not respond to the work of the honorary officers. The police had been critical of the courts, and felt there was too much leniency. On June 11 they were reported in the Argus as saying -

"consistent child thieves have lost all respect or fear for Children’s Courts". (16)

On September 9th we read that Cabinet had -

"decided to appoint a Board to deal with such offenders. The Board will classify the boys and send them to institutions considered most suitable to deal with them". (17)

In 1927 the first 3 women magistrates were appointed one of them being Miss Edith Onions, the secretary of the Newsboys Club, who sat at North Melbourne, and who took a

(11) Notes for Guidance of P.O. Officers. F.E. Clarke P.13
(17) The Argus, Sept. 9th, 1925

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officers did not attend the court and therefore a knowledge of children who were to come before the court; probation officers, in that the police did not inform probation officers and co-ordination between the police and the probation

There were by this time 110 Special Magistrates in Victoria and it is obvious from reading his annual reports from 1929 to 1935 that he was an outstanding person for the position, and a man of most enquiring mind.

In May, 1929 representatives of the Children's Court Magistrates Association waited upon the Chief Secretary, and urged that the scope of the definition of a neglected child should be extended, on the lines of the Western Australian Act or the New South Wales Act. They also urged provision of a courthouse for the Central Children's Court instead of the unsatisfactory Gordon Institute.

Later in the same month another deputation of special magistrates waited on the Attorney-General, Dr. Argyle, who had said a search was being undertaken for suitable premises for a Central Children's Court. They wished to advance the reasons why all the work of the Children's Court should not be centralised in the city. Dr. Player said there were -

"About 60 special magistrates in the metropolitan area, and the change proposed would have a chilling effect on that body of earnest social workers. There were about 4,000 cases a year, and it would be a physical impossibility for one man to hear them, and to decide suitable treatment".(18)

Miss Onions had made a tour of the U.S. and England and made a special study of 16 Juvenile Courts, and held interviews with Judges, including the famous Judge Lindsey of Denver, and probation officers, and sat in on the Courts. In his Report for 1929, Mr. Morris included the recommendation that Miss Onions had since made; 'She favoured a central court, a specially qualified judge, a woman referee to hear all girls' cases, paid specially trained probation officers to give their whole time to Court work, and a Clinic which should be a separate branch of the Court for study of the child. The personnel required for the Clinic would be a physician, trained in psychiatry, a psychologist, and one or more social investigators. She had found that the magistrate in the States had placed before him a shooc report, a medical officer's report, a psychologist's report, and a social worker's report of home which were of great value to him in making his disposition.'

Mr. Morris remarked that the position in Victoria was far from satisfactory, cases overlapped, and because of the lack of knowledge of the history of the offender, some boys were placed on probation as first offenders, when they had already been before other courts. There was lack of co-operation and co-ordination between the police and the probation officers, in that the police did not inform probation officers of children who were to come before the court; probation officers did not attend the court and therefore a knowledge of the child's background was not available. He pointed out that all this brought the Children's Court into some contempt. He gave an example of the way a boy, or a girl, who had not been before the police and magistrates, had been placed on probation as first offenders, when they had already lapsed into a life of crime. He described the difficulty of dealing with boys like this and the need for getting a knowledge of the history of the offender, and said that he had found that these adolescents were apt to jump to conclusions - but they listen very carefully and weigh the evidence, and they can be just as stern as it is necessary to be".(20)

What Mr. Morris did keep urging was that former probation officers should be appointed as special magistrates because - "they come to the work well-equipped and with a first hand knowledge of the ways of delinquent children, which is invaluable to the Courts".(21)

However, he had to urge in more than one Report that where there were more than 3 Special magistrates appointed to a Court, they should roster themselves to no more than 3 at a time. Mr. Morris was also convinced of the need for a Clinic to assist the Court, and in his 1929 Report he included a report from Dr. James Booth of the work that was being undertaken at the North Melbourne Court where he sat with Miss Onions. Thanks to the Edward Wilson Trust and Professor Berry, Dean of the Medical Faculty at Melbourne, and a trained psychiatrist, North Melbourne Court had such a Clinic. A survey was made of the first 100 young delinquents tested, as to the relationship of mental deficiency to crime. Miss Lucy Barling assisted as psychologist. Frequently they had been able to find the occupation for which the child was best fitted.

In a letter to the Argus, Dr. Booth said the examinations conducted in the North Melbourne Court were being conducted on similar lines to those adopted by the Children's Bureau of the Department of Labour of the U.S.A., which of course had had a leading role in the development of Children's Courts in America. No doubt Miss Onions had been made aware of this in her study tour of the States. Dr. Booth said they hoped later to be able to make comparisons on an accurate and scientific basis between American and Victorian children. Mr. Morris "considered that the establishment of a Clinic was more important than the establishment of a central Court, and legislation to give the State power to take a child from the guardianship of unfit parents or to remove them from an unsuitable life."(22)

This latter had been worrying magistrates, especially women, for many years. Amendment to the Children's Welfare Act, 1928, which contained substantially the provisions of the Neglected Children's Act of 1890, became operative at the end of 1932. The two main provisions gave the Children's Court authority to deal with children who are lapsing or likely to lapse into vice or crime, and to deal with children who are living under unfit guardianship. These provisions resulted in a large increase in the next year or so of the number of children committed to the care of the Children's Welfare Department, as Mr. Morris said, it -

(18) The Argus, May 23rd, 1929
(20) The Argus, 25th October, 1929.
(22) The Argus, Oct. 22nd. 1929
"enabled the police and social workers to save many children from the most distressing circumstances. The magistrates have administered the law reasonably, and with a conservatism that such arguable and far-reaching provisions demand, they have used probation rather than the removal of the child whenever possible." (23)

In his 1935 Report he mentions that the number of cases heard at the Melbourne Court had largely increased because of the sitting of a special Court for "Neglected Children's Cases from the country and the whole of the metropolitan area. He found this had proved a great success, and the practice continues today with nearly all the probation applications heard at the City Children's Court.

Probation and after-care services were much reported on by Mr. Morris in his eight years as officer-in-charge of the Children's Court. In 1934 Miss Jocelyn Hyslop, B.Sc., and Director of the Board of Social Studies was appointed an honorary probation officer, and he said her methods were an indication of the need for the appointment of at least 2 trained Probation Officers, whose duty it would be to co-operate with the honorary probation officers. He included an article of Miss Hyslop's in his Annual Report. At this time there were 266 Probation Officers, many of them young, and said Mr. Morris probation continued to prove the most effective way of dealing with the more serious offences.

"If the full story could be told it would read like a romance — and all this without admonitions or platitudes about good behaviour or any of the jargon of good advice that is so ineffective in dealing with children." (24)

He draws attention to the need for careful selection and training for the staff of "Homes". He favoured the cottage system and pointed out that palatial buildings cast-iron discipline and institutionalisation robbed children of initiative, and that unless there was capacity for adequate "follow-up" after discharge, much of the work could be regarded as labour in vain.

He reported on experimental schemes of self-government by the boys being tried at Tally Ho and at Seaside Garden Home for Boys at Newhaven. He pointed out the need of a home for mental defectives, who were very hard to place, and put forward the idea of provision for the systematic review of the progress of cases under treatment. He suggested a Child Guidance Council to secure co-ordination of all the child welfare work, on which the Children's Court would be represented, and which would be most helpful provided that it was constituted of members with true capacity to guide.

He drew attention to the problems of the slums and reproduced in his 1935 Report a number of graphs demonstrating the close relation that exists between the slum areas and the problems of the delinquent child, which had been compiled by Mr. F. Oswald Burnett in a treatise "Criminals in the Making". In 1935 he states "I am of the opinion that the less children of tender age have to do with Courts the better for all concerned, and the more they are educated in a positive way, the better it will be for the community". (25)

The reports of Mr. Morris are truly a goldmine. He was a man of great wisdom and insight, as was Mr. Alfred Clarke the first administrator of the Act, who remained a bulwark of the system even in Mr. Morris' day. They saw their work as entailing attention to the three levels of the judicial system, intake court procedure and after-care. In the words of Mr. Morris -

"we should be possessed by a divine discontent". (26)

He was much impressed by a sentence in an article in the Age on another subject which he felt applied to the work of the Courts, and whose spirit I feel he and Mr. Clarke adhered to -

"Every part of the organisation of a civilised society must pass through the crucible of fearless, unrestricted inquiry in search of the flaws". (27)

It is noteworthy that on retirement Mr. Morris ran a "Trouble Centre" in Church St., Richmond, where people could drop in and ask for advice or help.

Mr. Ripper who had served as clerk during Mr. Morris' time, replaced him as Officer-in-Charge of Children's Courts. The Attorney General, Dr. Argyle, and the Chief Secretary, Mr. Bailey, after further pressure had decided to appoint a special stipendiary magistrate to have exclusive jurisdiction in the metropolitan Children's Court, to visit suburban courts, and to train other magistrates. There was considerable delay because of the difficulty of defining the nature of the magistrates duties and of obtaining a man possessing the necessary qualifications. In a report in the Argus on 15th May, 1939, it was stated that paternal administration of Victorian Children's Courts would be replaced by receipt of funds from the government. In 1935 he states "I am of the opinion that every part of the organisation of a civilised society must pass through the crucible of fearless, unrestricted inquiry in search of the flaws". (27)

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Finally on 7th June, 1939, Mr. L.R. Ripper was appointed special stipendiary magistrate at 728 pounds per annum. He had been Officer-in-Charge since the end of 1936. He had made, according to the Argus, an exhaustive study of sociology and child psychology with particular regard to child delinquency and mental deficiency, and had devoted much time to study of Australian, British and American systems of Children's Courts. He was also a member of the Victorian Council for Mental Hygiene, and all this, plus his legal training as a magistrate, and his experience under Mr. Morris seemed to make him an eminently suitable choice.

Mr. Ripper appointed Mr. Arthur Meadows, a teacher at Melbourne Technical College, who took a keen interest in "problem children", and who for 5 years had conducted "problem" classes at Port Melbourne, and also one at Melbourne Technical College, as a stipendiary probation officer. The Argus of July 5th, 1939, reported -

"This appointment marks another stage in the substitution of parental for strictly judicial administration in Children's Courts". (28)

Mrs. Trigellis-Smith, a nurse, a full-time psychologist and a worker in Children's welfare movements was then appointed the first paid female probation officer.

The Central Children's Court was moved to Carlow House 289 Flinders Lane. As Mr. Ripper said in his Report for 1939 -

(23) Children's Court Annual Report 1934, P.1.
(26) Children's Court Annual Report 1934, P.8.
(27) Children's Court Annual Report 1934, P.8.
(28) The Argus, July 5th, 1939.
"This has been a year of outstanding importance in the history of Victorian Children's Courts". (29)

Mr. Ripper attended 21 Courts regularly, sitting at two each day. There were 117 special magistrates in the metropolitan area, and 29 in the country. Mr. E. Slattery was appointed Clerk of the Children's Court in the year. Mr. Meadows conducted a survey of delinquency areas, and made an effort to place on the delinquency and truancy mat all amenities such as boys clubs and playing areas. This report was duly appended to the Annual Report.

Towards the end of 1941 a Clinic was established and Dr. K.H. Bailey, Assistant Government Medical Officer, was in charge. It functioned on two afternoons a week in Carlow House. In 1942 an extra clerk was appointed, so that all metropolitan courts could be controlled and visited by a clerk from the Central Office, which led to better and more uniform administration. Mr. Meadows made a survey on the problem of truancy and its relation to delinquency, and it was appended to the 1942 report. Obviously, Mr. Meadows was another man with a very enquiring mind and enthusiasm for his work.

In 1943 Mr. E. Slattery was appointed the Chief Probation Officer and Officer-in-Charge of the Court. A survey of delinquency since 1911 and of preventive agencies relative to the problem was made by Mr. Meadows, and appended to the Report. In 1944 Mr. Meadows brought out a Handbook for probation officers, which was the first since that of Mr. Alfred Clarke which was produced at the very beginning of the administration of the Children's Courts. In May 1944 the Clinic ceased to function.

In his 1945 Report, Mr. Ripper referred to the need for the appointment of a second stipendiary magistrate, so that he could preside at all metropolitan courts, as well as Ballarat, Bendigo, Geelong. In this year the Clinic was established on a full-time basis, and Mr. Meadows became the psychologist at the Clinic. The next year we find Mr. Knox Brown was appointed to the staff as a clerk.

In 1947, Mr. E. Read, an officer who had served at Turana, a practical man with experience in the handling of delinquents, was appointed stipendiary probation officer to replace Mr. Meadows. He was not the intellectual that Mr. Meadows was, so there were no more addendums to the Annual Report. The Children's Court Act regulations were changed in this year, alternating the system of notifying Probation officers regarding children who were to appear before the Court. Police were to notify the Officer-in-Charge of Children's Courts, who was Mr. Slattery, who would in turn advise the appropriate probation officer. In 1948 Mr. Slattery was appointed a special magistrate for all Children's Courts, he states it was because he was considered the only one who could keep the peace. There were 75 special magistrates appointed to particular courts in the metropolitan area, but only 43 adjudicated in 1948, many because of advanced age. Mr. Ripper did not think there was any need to appoint any more at the time, because of the availability of Mr. Slattery.

In April, 1947, Mr. Oldham, brought the 1928 Children's Court Bill up for debate in Parliament. He told the members that the Government was seeking accommodation of a more suitable type for what would be a Central Children's Court. He paid tribute to Mr. Ripper, and the 2 stipendiary probation officers for their work. He said they would be placed on a statutory basis, and provision made for others to be appointed. He also stressed the value of the Clinic, which could supply a psychiatric, psychological, and a social report giving the home conditions and personal information about a child which the Court might refer to them. One of the most important reforms envisaged in the Bill was the institution of a Central Children's Court, the closure of suburban courts and the transfer of their business to the Central Court. Mr. Oldham had visited the Sydney Court and had sent Mr. Ripper to assess conditions there, and was most impressed with the big old villa in about 7½ acres of ground there, which had remand sections for children of 7—12 years, and 12—17 years, all in close proximity to the magistrates and the Clinic.

Carlow House, in Melbourne, was most unsuitable for the work of the Children's Court. It was a commercial building and the Children's Court had a number of rooms on the third floor, so that the children had to be taken up in the lift amongst other people, and there was little privacy.

Other amendments were that probation officers were to be excluded from the Court, except the one concerned in the particular case and the Chief Probation Officer could request a probation officer to furnish a report prior to a hearing. A child defendant could be ordered out of the Court while discussions took place with parents or probation officers, and the magistrate was to be given power to dispose of a child pending the hearing.

The honorary special magistrates and probation officers were very disturbed by this Bill, and a pamphlet was prepared and distributed to all members of the Legislative Assembly and Legislative Council. They objected to the setting up of a central court to replace suburban courts, the abolition of honorary special magistrates, and the exclusion of probation officers from the Court. As a consequence of this, these amendments lapsed.

On 11/10/49 Mr. Ripper died suddenly, Mr. Williams, an elderly stipendiary magistrate, was appointed for the 2 years before his retirement in September, 1951. He was followed by a Mr. Thompson, another stipendiary magistrate, who was replaced by Mr. Tingate in January, 1952. Annual reports continued to be produced until 1955, but they became briefer and briefer, rarely recording anything more than the statistics of the number of offences, whether they were males or females, the dispositions, the class of case, the probation statistics etc., and opinions as to the success of same. These statistics could be found in the Police Annual Reports, and the Clinic was reported in the Mental Health Annual Report, and, as the Children's Court Report was expensive and time consuming to prepare, it was decided to discontinue it. When I consider the value of the reports of Mr. Morris and Mr. Ripper, this seems a real loss. In the final report in 1955, Mr. Tingate drew attention to the pressing need for additional stipendiary probation officers. Another need was the establishment of adequate Juvenile Schools to house the persistent absconders from the Children's Welfare Department custody.

In 1956, the Government set up a Committee to Inquire into Juvenile Delinquency in Victoria, and it was chaired by Mr. Justice Barry. It expressed some concern at the use of honorary magistrates and Probation Officers. These were not trained to recognise symptoms of psychological maladjustment, and there was danger that cases that should be referred to the Clinic would not be referred. It was felt that there were substantial grounds for thinking the Children's Court system outdated and in need of re-organisation. It recommended training courses for the honorary magistrates, and said the major court should be presided over by a properly qualified magistrate, with status, prestige and salary in accordance with the special duties involved.

"Necessary equipment includes legal training, an understanding of child behaviour and knowledge of social problems, as well as personality which is not authoritarian or rigid. The business of the court should be so arranged that sufficient time may be
available to enable full consideration to be given to each case".

It was also thought that there should be a professionalisation of the probation system.

In November 1956 a Bill was introduced into the Victorian Parliament to amend the Children's Court Act 1928. The Government had consulted with Mr. Tingate, the Honorary Special Children's Court Magistrate's Association, and had considered the Barry Report. The Bill attempted to co-ordinate and reconcile the suggestions advanced by the various people concerned, and by members of the Labour Party. It was decided to keep the suburban courts and the honorary magistrates and it was suggested that it would be most desirable for the probation officer to be attached to the Children's Welfare Department, and not the Court. The Bill was consolidated and became the Children's Court Act 1958.

At about this time Mr. Tingate was promoted to the position of Chief Magistrate, and a Mr. Kelley took his place briefly in the Children's Court. Finally the Attorney-General, Mr. Rylah, decided that Mr. Slattery, who had had long experience in the Court as Officer-in-Charge and Chief Probation Officer, and had passed the legal subjects of criminal law and evidence, should have his position of paid special magistrate made permanent. Shortly afterwards, Mr. Knox Brown, who was qualified to sit as a magistrate in Courts of Petty Sessions, was also appointed as a stipendiary magistrate to the Children's Court, but because of Mr. Slattery not being a stipendiary magistrate, Mr. Brown had to resign from the Public Service and could not return to other Courts.

In 1958 the Government gave permission for 5 stipendiary probation officers to be appointed to the Children's Court, and advertisements were placed in the paper, and Mr. Knox Brown was given the task of selecting them. Although none had any particular academic qualifications, Mr. Brown considered he had chosen 5 excellent people, one of them a woman, and one who could speak several different languages, which was useful because of the growing number of migrants.

One of these probation officers was sent to Morwell, because of the great industrial growth there, and the many problems which eventuated. Mr. Slattery retired this year and no-one has as yet been appointed to take his place. There is great need for a third stipendiary magistrate, and there is talk of adding the Children's Court to the Bill were needed in the probation orders, to bring it into line with some of the provisions in the adult Act. The supervision order is one of the greatest advances, in that a probation officer can be appointed to supervise the parents, as well as the child. It was also provided that in future only trained stipendiary magistrates will be appointed to sit in all Children's Courts, and so they will be members of the Public Service. The position at the moment is uncertain, as Mr. Slattery retired this year and no-one has as yet been appointed to take his place. There is great need for a third stipendiary magistrate, and and there is talk of adding the Children's Court to the Magistrate's suburban circuit, which means that there would be a change every two years. This would be disastrous I feel, as the Children's Court is such a specialised jurisdiction, there is so much to learn about the after-care services, the various workers, and Clinic practices and something of the behaviour of children, also the far more informal procedures, that a magistrate would be just finding his feet at the completion of two years.

In 1960 the Central Children's Court moved to its present premises in Batman Avenue. Mr. Slattery had much to do with the design of this. He claims, as does Mr. Knox Brown, that when they first came to work in the Children's Courts, the system with the honorary magistrate was like a circus. Apparently the informal system so eagerly sought by Miss Onions and others, had degenerated into somewhat chaotic conditions. Many of the magistrates were deaf and silly, they sat around a table with the probation officer interjecting, the clerk of courts more or less running matters, and on one occasion a barrister in the Court had asked Mr. Loftus, the Police Prosecutor, would he please tell the clerk-of-courts to be quiet. All was somewhat confused. Mr. Slattery considered that more dignity and formality was needed in the setting, so that it might be obvious who was in control. He felt it was most important that a child should be proven to have committed an offence, before anyone thought of his treatment or corrections. Consequently he designed two small court rooms with a judicial chair and small Bench, but although the setting was more formal, he said he made the proceedings informal by always using the Child's Christian name and talking to him quietly and gently.

The Probation officers had their offices in the new building, and the Clinic was set up in the same complex, so that great co-operation and co-ordination, could take place between the various disciplines, and court workers.

Often the informal contacts, especially in the tea room, were extremely educational for all concerned. Liaison was facilitated. As the probation service has grown it had to move into a new building next door to the Court, which does eliminate some of the informal contact there, but it is still very close. Dr. Chatz, the former head of the Children's Court Clinic, made a tour of the States and some other countries looking at Children's Court Clinic, made a tour of the States and some other countries looking at Children's Courts, and he considered the Melbourne set-up was better than anything that was available elsewhere.

In 1974, a new Children's Court Act was passed. This was the work of Mr. Knox Brown, who some eight years before had set out to amend some of the anomalies in the 1958 Act, and to tidy it up. Finally, the Attorney-General, Mr. Wilcox, put it through, after he had made some changes without consulting Mr. Brown, but this Bill was never meant to be innovatory. Mr. Brown did not see that as his task.

There had been a large increase in the work-load of the Children's Court, about 100% over ten years. The most changes to the Bill were needed in the probation orders, to bring it into line with some of the provisions in the adult Act. The supervision order is one of the greatest advances, in that a probation officer can be appointed to supervise the parents, as well as the child. It was also provided that in future only trained stipendiary magistrates will be appointed to sit in all Children's Courts, and so they will be members of the Public Service. The position at the moment is uncertain, as Mr. Slattery retired this year and no-one has as yet been appointed to take his place. There is great need for a third stipendiary magistrate, and there is talk of adding the Children's Court to the Magistrate's suburban circuit, which means that there would be a change every two years. This would be disastrous I feel, as the Children's Court is such a specialised jurisdiction, there is so much to learn about the after-care services, the various workers, and Clinic practices and something of the behaviour of children, also the far more informal procedures, that a magistrate would be just finding his feet at the completion of two years.

Honorary magistrates have almost gone out of existence, there only being three to my knowledge in the metropolitan area. Mr. Blashki at Frankston, Mrs. Brown at Preston, and myself at Oakleigh. There is no training for us, except what we can achieve ourselves. I agree with the former Officer-in-Charge that honorary's have an important role to play sitting along with a stipendiary magistrate. For one thing it maintains community involvement.

Many people are now questioning the Children's Court system and subjecting it to keep appraisal. There are advocates (29) Children's Court Annual Report. (30) Vic. Juvenile Delinquency Committee Report. P.84.
of Family Courts and Juvenile Aid Panels. One of the main problems of children who pass through the Courts is the stigma that attaches to them, particularly when you have the neglected and the dependent being processed along with the offenders. Many have questioned the necessity for bringing the children to court as exposed to moral danger or likely to lapse into a life of vice or crime, particularly with the changing of community attitudes.

The role of the lawyer in the Court is also being canvassed. Now that Legal Aid is available, more lawyers are appearing in the Courts. If a child pleads guilty, or he is on a serious charge, or he is a migrant, or it is a case of neglect or mistreatment on the parents’ part, it would be of value for the child to be represented. But will it be in the best interests of the child if being guilty of an offence, he is found “not guilty” because of a technical legal point? Lawyers, if they are to be used constantly, would need special training in Children's Court procedures and philosophy.

Also when one considers how often the after-care services fall far short of the ideal, should the Social Welfare Department have to justify itself in Court? Should there be a review of cases after a certain time, and should it have to prove in court to the magistrate, that what the Department has to offer a child is better than that child’s family can provide for him?

Too many cases of children appearing in Court are for trivial matters, in fact the majority of cases are not very serious, and children, especially in early adolescence, are going through a difficult period, and delinquent behaviour of some kind is almost the norm. Opinion is strongly gaining ground that there should be more diversionary processes from the Courts. What is needed in the community are more community centres of multi-purpose, which could provide help and counselling for parents and children with problems.

When one looks back at the enthusiasm with which these Courts were founded, with the idea of “saving” the children, one cannot see that their rosy ideals have been fulfilled. Crime has not lessened, or recidivism, the numbers passing through the Courts have increased tremendously, over and above the increase of population, in fact one might be excused for thinking like Platt, that they had resulted in the invention of delinquency.

As Lemert says:

"Evidence that it has prevented crime or lessened the recidivism of youthful offenders is missing, and our sociological critics urge that it contributes to juvenile crime or inculcates delinquent careers by imposition of the stigma of wardship, unwise detention, and incarceration of children in institutions which don't reform and often corrupt". (31)

I will conclude with Dean Pound's wise counsel:

"the law is not equal to the whole task of social-control. Delinquency presents a problem far too complex to be dealt with by any single method. Hence in this field co-operation is peculiarly called for in a very wide field. If a socialised criminal justice is to achieve all that it may, we must be thinking about more than co-operation of judge and probation officer and social worker. These must cooperate, or at least be prepared to co-operate with the community organiser, the social engineer, the progressive Educator, the social co-ordinator, the health officer, the clergyman, and the public-spirited promoter of legislation". (32)

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