

# A century of change at the Children's Court



Prior to the creation of a separate Children's Court, the treatment of children was similar to that of adults, and punishment was the primary focus of sentencing. During the course of its one hundred year history, the court has responded to the changing needs of children in both the care and criminal justice systems. The following is an edited version of a

speech delivered by Attorney General Bob Debus at a ceremonial sitting on 5 October 2005.

It is my great pleasure to be asked to speak on this occasion, the centenary of the Children's Court of New South Wales. While we are here to celebrate this important milestone, I wish to reflect on the origins of the court and the landmark legislation that established it.

The *Neglected Children and Juvenile Offenders Act 1905* was assented to on 26 September 1905. This legislation provided for the Children's Court to have jurisdiction over both care and offending. Indeed, its main aims were:

- protection, control, education, maintenance and reformation of neglected and uncontrollable children and juvenile offenders;

- establishment and control of institutions; and
- contributions by near relatives towards the support of children in institutions.

The first children's courts were proclaimed in New South Wales at Sydney, Newcastle, Parramatta, Burwood and Broken Hill on 29 September 1905.

In Sydney, the court commenced sitting at Ormond House, Paddington, in October 1905. Two 'special magistrates' were appointed from the ranks of existing magistrates. It moved to new premises in Albion Street in 1911. This court came to be known as the Metropolitan Children's Court and also housed the Metropolitan Shelter for Boys. Female detainees continued at Ormond House until 1923 when the Metropolitan Girl's Shelter was opened at Glebe.

In 1920 there were still only two special magistrates appointed in NSW. Further legislative changes were made in the 1920s and 1930s, but the law remained relatively static for the next 30 years.

However, forces for change were building. Groundbreaking research in 1962 changed the focus of protection from the rebellious or neglected young adolescent to babies and toddlers.

## The 1970s

The 1970s heralded many changes. For instance, legislative amendments afforded additional protection for child offenders while they were being interviewed in police stations and the minimum age of criminal responsibility was raised from eight to ten years of age.

In 1975 the Law Society of New South Wales created a roster of private practitioners for legal representation of children. In 1979 the scheme was taken over by the Legal Aid Commission. Since that time, most children before the Children's Court have been legally represented, with their costs being met by the state.

In 1979 we celebrated the International Year of the Child, which heightened public awareness of children's issues generally.

## The 1980s

In 1980 the position of senior special magistrate was created and in 1982 the Local Court Act removed the system whereby special magistrates had been placed on a lower grade than magistrates presiding on the general bench in the metropolitan area.

In April 1983 the Metropolitan Children's Court at Albion Street, which had served the community for 72 years, closed and the Bidura Children's Court was constructed. The Bidura

5 Ess. VII. *Neglected Children & Juvenile Offenders. 1905.* 187

### ACT No. XVI., 1905.

No. 16.

An Act to make better provision for the protection, control, education, maintenance, and reformation of neglected and uncontrollable children and juvenile offenders; to provide for the establishment and control of institutions and for contribution by near relatives towards the support of children in institutions; to constitute children's courts and to provide for appeals from such courts; to provide for the licensing and regulation of children trading in streets and in certain places open to the public; to amend the State Children Relief Act, 1901, the Children's Protection Act, 1902, the Infant Protection Act, 1904, and the Crimes Act, 1900; to repeal the Reformatory and Industrial Schools Act, 1901; and for purposes consequent thereon or incidental thereto. [Assented to, 26th September, 1905.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

#### PART I.

##### PRELIMINARY.

1. This Act may be cited as the "Neglected Children and Juvenile Offenders Act, 1905," and shall come into operation on the first day of October, one thousand nine hundred and five.

Remand and Assessment Centre (that was originally intended to hold in custody those male offenders formerly on remand at Albion Street) now only holds in custody those appearing in court that day.

In 1987 a suite of legislative reforms was introduced to create Acts which separated the concepts of welfare and delinquency. Young people were no longer to be 'saved' from a life of crime by being removed from their circumstances, and opportunities for rehabilitation were to occur through new programs aimed at encouraging responsibility of the young person, families and the community.

The *Children's Court Act 1987* provides, amongst other things, for the appointment of a senior children's magistrate (with the status of deputy chief magistrate) by the chief magistrate, and for reports to be submitted to the attorney general on the activities of the court.

#### The 1990s

The 1990s saw many changes, most notably the introduction of the *Young Offenders Act 1997*. This Act provided for the first time a hierarchy of increasingly intensive sanctions for dealing with young offenders, starting with warnings and cautions, and progressing to youth justice conferencing and court attendance. It also provided an opportunity to divert less serious and first time offenders from the Children's Court, and established a range of options that require active participation by young offenders.

Successive studies of the Young Offenders Act have endorsed this approach for dealing with juvenile offenders. In particular, the use of conferences has been shown to have a significant impact on both offenders and victims.

#### Today

I am sure that those involved in the drafting of the 1905 legislation and the establishment of the first Children's Court would be proud of the evolution of this jurisdiction over the last 100 years.

Geographically, the Children's Court operates from Nowra in the south, north to Maitland, and west to the lower Blue Mountains. The bulk of other matters in the country continue to be heard by Local Court magistrates, but all now have experience of the Children's Court. Children's magistrates also undertake special fixtures in rural areas.

There are currently 13 specialist children's magistrates hearing matters at such places as St James, Lidcombe, Campbelltown, Werrington, Port Kembla, Woy Woy, Wyong, and Toronto.

The Legal Aid Commission provides representation to children charged with criminal offences through its specialist Children's Legal Service. The commission also operates the statewide telephone advice service, known as the Youth Hotline.

There are a number of specialised programs for offenders such as the innovative Youth Drug and Alcohol Court that provides a specialised justice service closely tailored to the needs of children and young people affected by an addiction to drugs or alcohol.

The Children's Court now has its own dynamic web site, publishes a monthly newsletter and provides a mentoring program for solicitors representing children in care and protection matters.

In addition, the Children's Court Clinic makes a wide range of expert clinicians available to the court to undertake assessments and reports.

Children's registrars, with expertise in care and protection matters now attend rural courts to provide support and advice.

Today's Children's Court is also aided by technology that permits children and young people in custody to attend court via video link and for evidence to be given from distant locations.

This important work is assisted by the Children's Court Advisory Committee, comprised of members from all stakeholders within the Children's Court, which performs an important communication and advisory role.

#### The future

I look forward to the completion of the new Newcastle Children's Court due to open in the first half of 2006 and the six- court Metropolitan Children's Complex that is now being built at Parramatta. These state of the art, purpose built facilities will enhance the operation of the Children's Court.

The Children's Court continues to professionally and efficiently dispose of criminal proceedings against juvenile offenders. It has maintained its strong links with its origins as a summary court, while maintaining its distinct identity. It has adapted to the changes in society and has been given the flexibility to assess an individual's requirements for rehabilitation that would be unimaginable 100 years ago.

The Children's Court has continued to respond to the special needs of children in both the care and criminal justice system. For all the challenges it has faced, the Children's Court continues to be one of the primary and most enduring institutions in New South Wales.