THE JUVENILE COURT AND SOCIAL WELFARE: DYNAMICS OF PROGRESSIVE REFORM

JOHN R. SUTTON*

This analysis of the juvenile court movement is critical of both functionalist and social movement interpretations. Following Meyer and Rowan (1977) and Hagan *et al.* (1979), I suggest that the juvenile court was not a substantive reform but served primarily to extend conventional means of child-control through the legitimizing vocabulary of Progressivism. Descriptive analysis of state statutes shows the derivative, ambiguous nature of the juvenile court as a legal phenomenon. Dynamic analysis of the diffusion of juvenile court acts shows that neither functional need nor social movement influence provides a convincing explanation for the rapid institutionalization of the court.

I. INTRODUCTION

Current literature presents a contradictory picture of the initial impact and enduring significance of the juvenile court. On the one hand, the court is portrayed as an important legal innovation that broadened the legal liability of children, institutionalized the rehabilitative ideal in the treatment of delinquency, and set an agenda for delinquency control policy that remains dominant. On the other, it is pictured as merely an extension and formalization of the preventive ideology and discretionary methods of child regulation pioneered in the nineteenth century.

These interpretations have been offered at various times by both proponents and critics of the juvenile court. Court reformers themselves were at pains to demonstrate the innovativeness of the new institution. Judge Julian Mack (1908: 372), for example, portrayed the new court as a revolutionary improvement over the old reformatory system

* Thanks are due to several people who contributed to the analysis presented here, especially Terry Amburgey, Gary Hamilton, Michael Hannan, and John Meyer. Data analysis was supported through the NIMH Organizations Research Training Program, Department of Sociology, Stanford University. Richard O. Lempert and anonymous *Law & Society* reviewers contributed important suggestions for revising the original manuscript.

LAW & SOCIETY REVIEW, Volume 19, Number 1 (1985)

and as the first attempt to provide diagnosis and training to delinquents. More recently, Platt (1969: 3) has argued that juvenile court reformers founded the modern enterprise of delinquency control and invented the concept of delinquency, while Rothman (1980: 205) writes that these reformers "revolutionized social policy toward the delinquent."

But some of these same writers raise doubt about the real import of the juvenile court. Although reformers emphasized the court's distinctiveness, they also sought to demonstrate its continuity with Anglo-American common law (e.g., Lou, 1927: Ch. 1; Mack, 1912). Recent revisionist analyses have suggested that the ideology of the child savers was just a more professionalized version of the preventive ideology that had sustained the reformatories throughout the previous century, and that the first juvenile court in Chicago was an unintended consequence of attempts to reform the private child-caring system in Illinois (Platt, 1969: Ch. 2, 3; Fox, 1970). Supporters and critics seem to agree that the juvenile court was an important subtantive reform; they differ primarily on the issues of what interests the reform was intended to serve and what its effect was.

This paper offers an interpretation of the movement's history that crosscuts both the juvenile court's traditional mythology and more recent revisionist analyses. I will examine data on the juvenile court movement beyond Chicago in order to address two issues: First, what, if anything, was new and distinctive about the juvenile court as a legal phenomenon? Second, how can the rapid, nationwide success of the juvenile court movement be explained? My argument is that the juvenile court was primarily a ceremonial institution through which the ideology of the broader charity organization movement was enacted rather than an important substantive innovation. Its importance lies in the fact that it provided a setting in which the routine practices of child-saving established in the nineteenth century could be continued in a more legitimate form.

It is clear from the writings of both critics and proponents that the juvenile court offered no innovations in theories of delinquency prevention.[1] Nor, as I will show, did it represent a

[1] Despite reformers' rhetoric about "scientific investigation" and the uses of psychiatry, the theories of delinquency causation they espoused remained remarkably unsophisticated and were sometimes astonishingly odd. In addition to such hallowed causes as poverty, drunkenness, and poor home life in general, cigarettes were blamed by an Indianapolis judge for an increase in delinquent behavior (Stubbs, 1904: 356), and no less an authority than

distinctive organizational technology through which traditional theories could be put into practice. The analysis presented here suggests rather that the juvenile court was distinctive in terms of its institutional character and administrative ideology, and that it was readily accepted because it was an exemplar of the least controversial aspects of the general Progressive reform agenda. The juvenile court was notable not for the goals it sought to accomplish or the technology it employed but for the institutional ideology upon which its authority rested.

The concept of institutional ideology has been fruitfully explored in recent sociological theories of organizations. As Meyer and Rowan (1977) have written, institutional orders are broadly understood, taken-for-granted normative systems that can lend legitimacy to the organizations that constitute them despite wide variation in organizational task performance. Thus, the success of such "institutionalized organizations" as churches, schools, and hospitals depends more on their ability to enact the legitimizing myths of their parent institutions than on their ability to save souls, educate the ignorant, or heal the sick. As I will show, the juvenile court is an institutionalized organization whose formal structure (or lack thereof) derives more from the need to enact a legitimizing myth than from the technical requirements of judging and disposing of delinquents.

The argument of this paper is as follows: the Chicago juvenile court was invented as a means to protect the Illinois child-saving system from threats to its existence stemming from diffuse public skepticism of custodial institutions for children and legal attacks on the child savers' access to vital resources—specifically, their juvenile clientele (Fox, 1970; Mennel, 1973). The new court was an institutional compromise which drew on legal norms to provide a buffer of legitimacy within which discretionary social control activities based on a medical model of deviance could be continued. Societies of charity organizations helped standardize the normative structure of the court and propagated it nationwide, and states adopted it through a process of institutional modeling or "mimesis" (DiMaggio and Powell, 1983). Outside Illinois, the juvenile court did not spread as an instrumental response to social disorganization, social movement power, or juvenile crime but as a symbol of commitment to inoffensive Progressivism and to a vague array of child welfare objectives.

Judge Mack of Chicago (1908: 380) found that adenoids "lead to the penitentiary."

Juvenile justice reformers had long sought to protect children from the stigma and punitive sanctions applied to adult criminals, and the juvenile court was in part a means to that end. But the court incorporated two historically distinct sets of institutional rules, one deriving from the legal profession and one from the emergent social welfare profession. Juvenile justice functions were to be "decoupled" from the criminal courts to the mutual benefit of the court system and reformers. The juvenile court allowed the legal system to appear responsive to demands for individualized, therapeutic justice without any real alteration in routine decision-making practices and allowed juvenile justice agencies to maintain their ideology and discretionary authority. Hagan and his colleagues have analyzed a similar tradeoff in the creation of adult probation. Like probation in adult courts, the innovations of the juvenile court "had more to do with the making of legal myths than with the restructuring of the way decisions are actually made. . . . The source of this change was more ideological than material, resulting in ritualized court practices characterized more by ceremony than substance" (Hagan *et al.*, 1979: 507).

Of course, ceremonialism in the form of due process rules is an integral part of the ordinary civil and criminal law. The filing of a writ, the presentation of a motion, and the instruction of a jury are governed by procedural norms that by design have no specific reference to particular cases. Instead these norms refer to general value postulates and aim toward such long-run substantive goals as justice and fairness. They not only symbolize a party's right to adjudication based on impersonal rules but also provide a practical means of redress through appeal when norms are violated (Weber, 1978: 653-54). The ceremonialism of the juvenile court is of a different order, since it implies neither rights nor redress. While the procedural rules of the ordinary court have, ideally, substantive behavioral consequences, the rules of the juvenile court do not. In short, the juvenile court is characterized not by legal ceremony but by ceremonial legality.

By understanding the juvenile court as a strategic administrative reform rather than as a substantive legal reform, one can see with greater clarity the relationship of the juvenile court movement to Progressivism as a whole, and particularly to the organized charity movement for which the juvenile court was a major objective. Like the juvenile court, much of the important "social legislation" of the Progressive

Era was intended as a means to circumvent the limitations of nineteenth-century common law. The courts proved unwilling or unable to become instruments of social reform and placed barriers before such important goals as compensation for injured workers and the regulation of public utilities. In response, reformers called upon state legislatures to establish a host of boards, commissions, and agencies, each of which was aimed toward amelioration of a specific social ill and each of which wielded quasi-judicial power within a specialized bureaucratic context. Thus, the juvenile court was part of a general transfer of legal authority from the regular courts to other institutional areas of government.[2]

The analysis below is presented in two parts. First, I describe the legal parameters of the juvenile court. The data suggest that the court itself was a legally and organizationally ambiguous phenomenon for both reformers and legislators. Moreover, those legal innovations in the labeling and treatment of juveniles that are associated with it were further rationalizations of the nineteenth-century reformatory ideology. Second, I present a causal analysis of the diffusion of juvenile court legislation among the states. Documentary sources show how charity reformers adopted the court as a focus of their child welfare efforts. Event-history techniques are used to model the diffusion process quantitatively. Special attention is devoted to the question of whether the strength and efficacy of the charity organization movement help explain the passage of juvenile court legislation. Hypotheses, data, and methods are described more specifically below.

II. THE LEGAL IMPLICATIONS OF THE JUVENILE COURT

In this section I first describe the juvenile court as it was realized in state statutes, not only to portray its inherent ambiguity but also to develop an operational definition of the court for later use. Then I describe the changes in the treatment of juvenile offenders that followed in the wake of the juvenile court.

---

[2] The best known example of this trend is the passage of workmen's compensation legislation, which effectively abolished existing tort law in the area of employer negligence, only to have litigation emerge again before industrial accident commissions rather than courts (Smith, 1914; Friedman and Ladinsky, 1967; Nonet, 1969). Several Progressive-Era commentators agreed that specialized administrative tribunals were a legislative response to judicial conservatism (Bowman, 1906; James, 1913). Roscoe Pound (1907) was particularly critical of this trend.

The Ambiguity of the Juvenile Court Idea

Contemporary reformers seem to have shared no common vision of how the juvenile court should be organized. They all seemed to agree that it was *not* an adult criminal court, just as earlier reformers and several appellate courts had agreed that reformatories were not prisons. There was also general agreement that juvenile courts should be created by state statute, as was the first juvenile court in Chicago (1899 Ill. Laws 131), although this was by no means a prerequisite.

Indeed, the tendency to create juvenile courts by local fiat appears to have been common. Before a juvenile court law was passed in Indiana, reformers noted approvingly that an Indianapolis police court judge held children's trials privately in a room not used for adult trials (*Proceedings of the National Conference of Charities and Corrections*, 1902: 46).[3] By 1903 informal juvenile courts had also been set up in Baltimore and New Orleans (*Charities*, 1903: 56, 58). In at least one case, an informal court was set up as an example to prod legislators into action. Following a meeting of the National Conference of Charities and Corrections (NCCC) in Atlanta, the City Federation of Women's Clubs sponsored an informal court in that city which could be "pointed to by those who were primarily concerned in pushing through the juvenile court project as evidence of its ready success" (*Charities*, 1904-5: 85). In Massachusetts, by contrast, child welfare legislation was so well developed that legislators took a rather blasé attitude toward the new court. In 1905 they defeated a bill that would have required one municipal court judge in Boston to hear all children's cases, "largely . . . because it was not radical enough to seem worthwhile." The municipal court itself subsequently assigned separate rooms for children's trials, and the Boston Civic League began a statewide campaign to achieve compliance with an 1874 law requiring separate trials for children (*PNCCC*, 1905: 57).

Juvenile courts were eventually established by state legislation in all fifty states, but they varied greatly in the scope of their enabling legislation and in the place assigned to them in the state court administrative systems. It was common for legislatures to create courts only in the one or two largest cities

[3] The *Proceedings* are hereinafter cited as *PNCCC*. The NCCC was an umbrella reform association that was a prime sponsor of the juvenile court and eventually became the main organization of the social welfare profession. *Charities* magazine, also cited *passim*, is the influential review published by the New York Charity Organization Society.

or counties in the state. This was the case in Illinois, for example, where section 3 of the 1899 law authorized juvenile courts in "counties having over 500,000 population," i.e., Chicago. In Ohio, courts in Cuyahoga County (Cleveland) were given juvenile court jurisdiction (1902 Ohio Laws 785, § 1), and juvenile courts were established in Oregon counties with over 100,000 population (1905 Or. Laws, ch. 80, § 3). In California, on the other hand, all superior courts, justice's courts, and police courts were empowered to act as juvenile courts (1903 Cal. Stats., ch. 43, § 2). The contemporary literature did not prescribe any particular organizational form for the juvenile court, but a few modes of court organization were dominant. In his survey of courts, Lou (1927) observed three general types. The first and most common was the designated court, where a judge serving in the regular court system (whether of civil or criminal jurisdiction, and at whatever level) was assigned to hear juvenile cases. The second type was the separate court, an administratively distinct court with unique jurisdiction and a status equal to other courts in the system. The third type was the coordinated court, which had jurisdiction over family matters such as divorce and adoption as well as delinquency. To these may be added a fourth type of court, midway in status between designated and separate courts, which I have labeled divisional courts. This label simply means that state legislation established juvenile courts as "divisions" or "branches" of other courts. Divisional courts were often empowered to make their own budgets and rules but were clearly inferior to courts of general jurisdiction.

The trend in initial juvenile court legislation was clearly toward designated courts, the least differentiated of the four organizational forms. Over the eighty-year period covered by my data, there has been a weak trend toward increased formalization and autonomy, but this does not mean that juvenile courts in general have grown in practical stature or power. The data show no clear relationships between court organization and jurisdiction, procedural autonomy, or budgetary power.[4] Furthermore, states often established more specialized courts without abolishing less specialized ones, and two states established less formalized courts after more formalized courts already existed.

[4] No systematic, quantitative data were collected on the prerogatives of each court. The observations offered here are based on notes taken while recording legislative histories.

Differences in organizational form, however, apparently meant very little to the reformers. Their writings—especially those during the early period of the movement, before serious criticisms of the juvenile court began to be heard—offer so few prescriptions in this regard that it is doubtful they gave much thought at all to what the court should look like as a legal entity. Instead, reformers seem to have preferred to take the path of least resistance, establishing courts by the simplest legislative route and deriving prestige from their tenuous association with courts of general jurisdiction.

The juvenile court was as unevenly realized in practice as it was defined in law.[5] Ben Lindsey noted that the 1899 Illinois juvenile court law was "much neglected" outside Chicago and observed that some large cities had made no moves at all to establish juvenile courts (Lindsey, 1905: 160). So amorphous was the juvenile court concept that reformers seemed willing and able to call any special provisions for children's hearings a juvenile court law. For example, in 1903 a Louisiana delegate to the NCCC announced the recent passage of a juvenile court law in her state (*PNCCC*, 1903: 54). The only delinquency-related bill passed by the Louisiana legislature in the preceding session never actually mentioned the juvenile court (1902 La. Acts, no. 136). Sections two and three of that bill require separate detention and trials for minors, standard elements of juvenile court acts, but section one requires the appointment of counsel for all accused juveniles after the preliminary hearing, a blatant violation of the spirit of the juvenile court (indeed, of juvenile justice throughout the nineteenth century). This situation was not corrected until a 1908 bill removed the requirement of counsel and allowed the court to consider evidence that would be inadmissible in adult court. Another delegate announced in 1904 that Minnesota had passed a juvenile court act (*PNCCC*, 1904: 64). The law in question (1903 Minn. Laws, ch. 387) again never mentioned the juvenile court but did require separate detention and trials for juveniles in Minneapolis-St. Paul. It is interesting to note that in the subsequent statewide juvenile court law (1905 Minn. Laws, ch. 285) the detention restriction was repealed, perhaps in deference to officials in rural areas.

[5] I am referring here to the juvenile court as a formal organizational entity, not as a philosophy or treatment mode. It is assumed on the basis of previous research that, even where juvenile court structure was carefully prescribed by statute, actual practice was informal and loosely coupled to statutory prescription.

A contemporary commentator acknowledged great differences among the states in their conceptions of juvenile courts:

> Precisely what is meant by a juvenile court there is difficulty in determining. The inference that it signifies a special court or judge to try all kinds of children's cases is, with respect to most states, erroneous. There are certain states that have the separate features of a juvenile court law and yet lay no claim to one, and *vice versa* (Bates, 1905: 333; see also Flexner and Baldwin, 1914: viii).

In sum, states were vague and unsystematic in their statutory definitions of juvenile courts, and actual court organization varied from statutory prescriptions. These features of the juvenile court movement are consistent with the notion that it was concerned more with legal symbolism than with legal procedures. The reformers' aim was to protect children from the law, not to bring more law to bear on them. They had little inclination to specify what the court should look like as a legal institution. Thus, they stressed the importance of the personal qualities of court personnel and largely ignored the formal aspects of court decision-making.

While the juvenile court did not have a distinct legal structure, it did have empirically observable effects on the treatment of children. In order to describe those effects, and to relate them to the foundations of the court, we must first settle upon an operational definition of the juvenile court. The strategy I have adopted is to rely on the words of the statutes themselves: for the purposes of the discussion to follow, states had juvenile courts when they declared they had juvenile courts, by name, in the language of the statute.[6]

The Legal Correlates of Juvenile Court Legislation

This definition will permit the analysis of quantitative data on the diffusion of juvenile justice legislation among the states. Previous interpretations suggest that such laws profoundly

---

[6] This definition includes, for example, legislation such as the Illinois act (and several others), which required only that a judge of the circuit court hear all juvenile cases and that such sessions would "for convenience" be called the juvenile court. It also includes any act that, in the body of the law, declares as its purpose the establishment of juvenile courts. It excludes the titles of acts when those titles are not specified in the statute. In a few cases, laws that never mentioned the juvenile court were given the short title "Juvenile Court Act" in collections of session laws and code revisions. These titles are created by editors and do not have the force of law. Finally, the term "children's court," as used for example in New York, is considered synonymous with "juvenile court."

broadened the state's discretionary authority over children by creating "preventive" jurisdiction over noncriminal juveniles and by explicitly permitting juveniles to be incarcerated without due process (e.g., Platt, 1969). But more recent studies, including my own, have shown that these innovations were adopted nationwide in the nineteenth century as states established reformatories (Fox, 1970; Sutton, 1983). The present analysis suggests that the new court effected the elaboration and entrenchment of the reformatory rather than a sweeping departure from past practice.

There are five legal innovations that reformers supported as a part of their juvenile court program and that tended to be accepted by legislators as such: 1) the explicit labeling and definition of delinquency as an offense category, 2) the labeling and definition of neglect and dependency, 3) the requirement of separate pre-adjudicatory detention for juveniles and adults, 4) the requirement of a separate trial and/or "docket and record" for juveniles, and 5) the establishment of a specialized juvenile probation service. As the correlations in Table 1 show, there are strong associations between the timing of the juvenile court and these innovations, once conspicuous outliers are controlled. Further attention will be directed toward the meaning of these legal changes and the functional forms of the associations.

Table 1. Correlation Coefficients: Year of First Juvenile Court with Year of Associated Legal Innovations

Innovation	Simple r	Outliers Removed
Label delinquency[a]	.76	
Label neglect[b]	.35	.71[d]
Separate detention[a]	.49	.74[e]
Separate trial, docket, or record[a]	.79	
Juvenile probation service[c]	.83	

[a] N=50
[b] N=49
[c] N=48
[d] Outlier states are Georgia and Maine.
[e] Outlier states are Ohio, Vermont, and North Dakota.

Labeling and definition. One subtle but notable feature of juvenile court legislation was the tendency to specify formal definitions for delinquent and neglected (or dependent) children. In prior legislation, the word "delinquent" was used

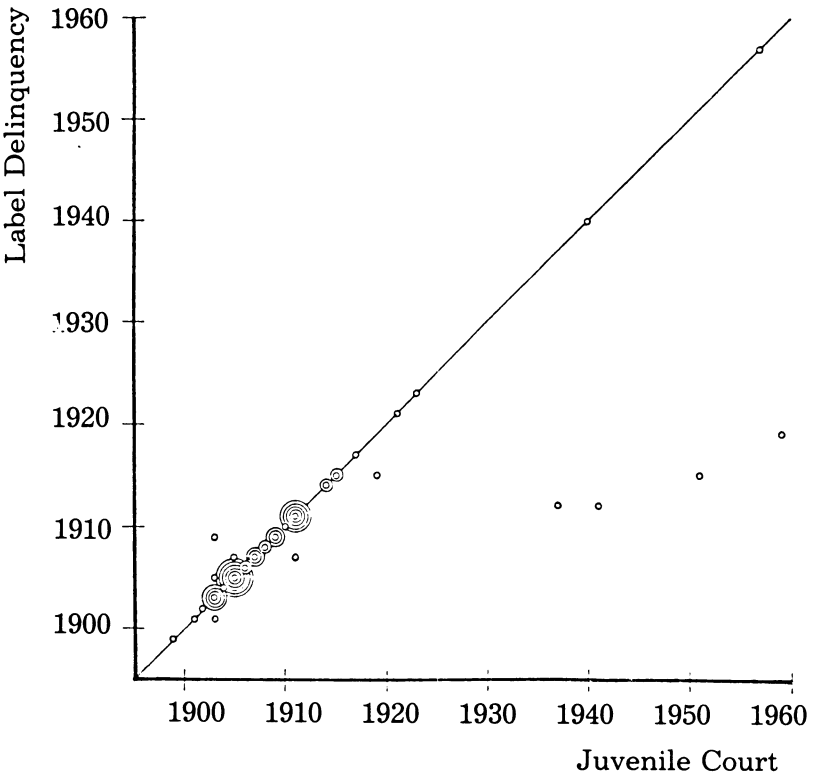
as a catch-all term, at times overlapping with dependency and at times indistinguishable from it. The relative specificity of juvenile court legislation is exemplified by the Oregon juvenile court law:

> The words "delinquent child" shall include any child under the age of sixteen . . . years who violates any law of this State or any city or village ordinance, or who is incorrigible, or who is a persistent truant from school, or who associates with criminals or reputed criminals, or vicious or immoral persons, or who is growing up in idleness or crime, or who frequents, visits, or is found in any disorderly house, bawdy house or house of ill-fame, or any house or place where fornication is enacted, or in any saloon, bar-room or drinking shop or place, or any place where spiritous liquors are sold at retail, exchanged, or given away, or who patronizes, frequents, visits, or is found in any gaming house, or in any place where any gaming device is or shall be operated (1905 Or. Laws, ch. 80, § 1).

The "dependent child" is defined in the same section at similar length; the salient distinction is that dependency is defined as a manifestation of parental misconduct. It is worth noting that "incorrigibility" is included under delinquency. This was a general tendency until the 1960s.

The scattergrams in Figures 1 and 2 display the temporal relationships summarized in Table 1 between the definition of delinquency and neglect and the establishment of juvenile court laws. In these and subsequent scatterplots, the diagonal line represents the intersection of the two time scales (thus, circles lying on the diagonal indicate simultaneous enactment of both innovations), and concentric circles show reforms enacted by more than one state in the same year. The tight clustering of data points shows that the definition of offense types occurred in most states between 1900 and 1920, usually as part of a larger juvenile court bill. Reformers sought these offense classifications as a means for youth to avoid the stigma of an adult criminal charge. Thus, the very creation of the delinquency label symbolized the contradictory nature of the juvenile court: on the one hand, the label satisfied the legal requirement of a specified charge and signified that the court's clientele consisted of real, identifiable types of children on whose behalf appropriate action would be taken. On the other, the labels were so vague and all-encompassing that they placed no practical limits on the court's decision-making latitude.

Figure 1. Year Delinquency Defined by Year of First Juvenile Court

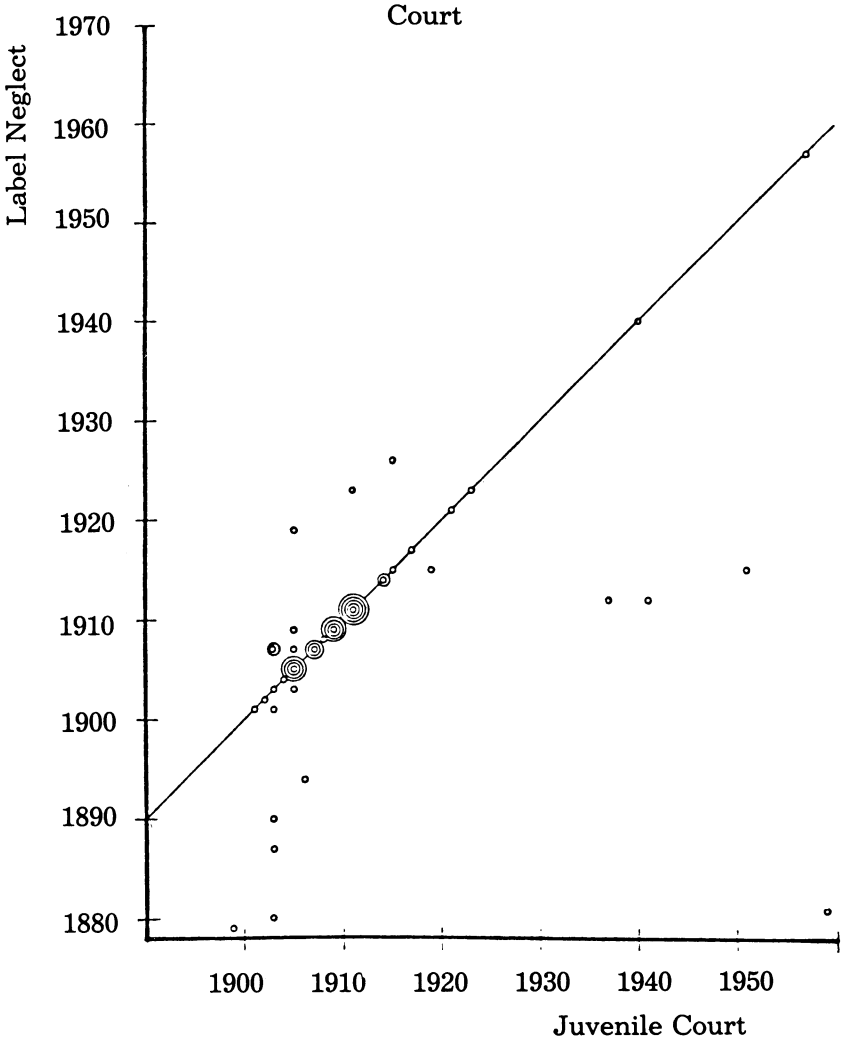


One reformer suggested that formal categories provided a means for rationalizing and controlling the participation of treatment agencies:

> It is found much more convenient . . . in dealing with cases affecting children to embody in definite statutory form the definition of delinquency and dependency, and to provide many details by statute, the working out of which without the statute would depend upon the co-operation of various officials, which might not be so easily obtained, and which would be largely voluntary (Kelley, 1904: 43).

Thus, the proposed reason for defining dependents and delinquents was to distinguish them for treatment purposes. This distinction was a direct echo of earlier reformers' desires to distinguish between "criminal" and "delinquent" offenders, amplified by the recognition that the delinquent label had acquired a stigma of its own. However, this new taxonomy was

Figure 2. Year Neglect Defined by Year of First Juvenile Court



purely symbolic, since there were almost no provisions that the two groups of offenders should receive different treatment. For example, significant numbers of states did not begin to prohibit the placement of neglected juveniles in reformatories for delinquents until the 1960s. This matter was a source of early conflict among reformers, with private institutional managers, in particular, resisting binding classifications. At the NCCC meetings in 1902, George Robinson of the New York Catholic Protectory defended institutional discretion:

> The distinction which may properly be made between the destitute and delinquent and the destitute and homeless is based on the individual character of the children. The separation into classes as indicated can

https://doi.org/10.2307/3053396 Published online by Cambridge University Press

> be done only by the teachers of the reformatory. They are all amenable to the same kind of attention and instruction (*PNCCC*, 1902: 442).

This position eventually became official NCCC policy (see Hart, 1906).

There is a final point to be made about Figures 1 and 2. While the data show that juvenile courts and definitions of delinquency and dependency were generally enacted together or at about the same time, there are numerous exceptions. As we see from the dots below the diagonal, states tended to define delinquency in the period 1900-1920 whether they had a juvenile court by name or not—a phenomenon which suggests that the juvenile court *movement* sometimes led to only the partial adoption of its institutional package. In Figure 2, the dispersal of data points is remarkable: six states had defined neglect by 1894, well before the juvenile court movement; three states waited between ten and fifteen years after establishing a juvenile court to define neglect, and one did not do so until 1971. Apparently, the juvenile court had disparate effects on the labeling and treatment of juveniles. In a few states, the court culminated a trend toward nominal differentiation that had begun in the 1880s. In the vast majority of cases, however, juvenile court legislation led merely to the *pro forma* differentiation of offenders, with no corresponding distinction in treatment.

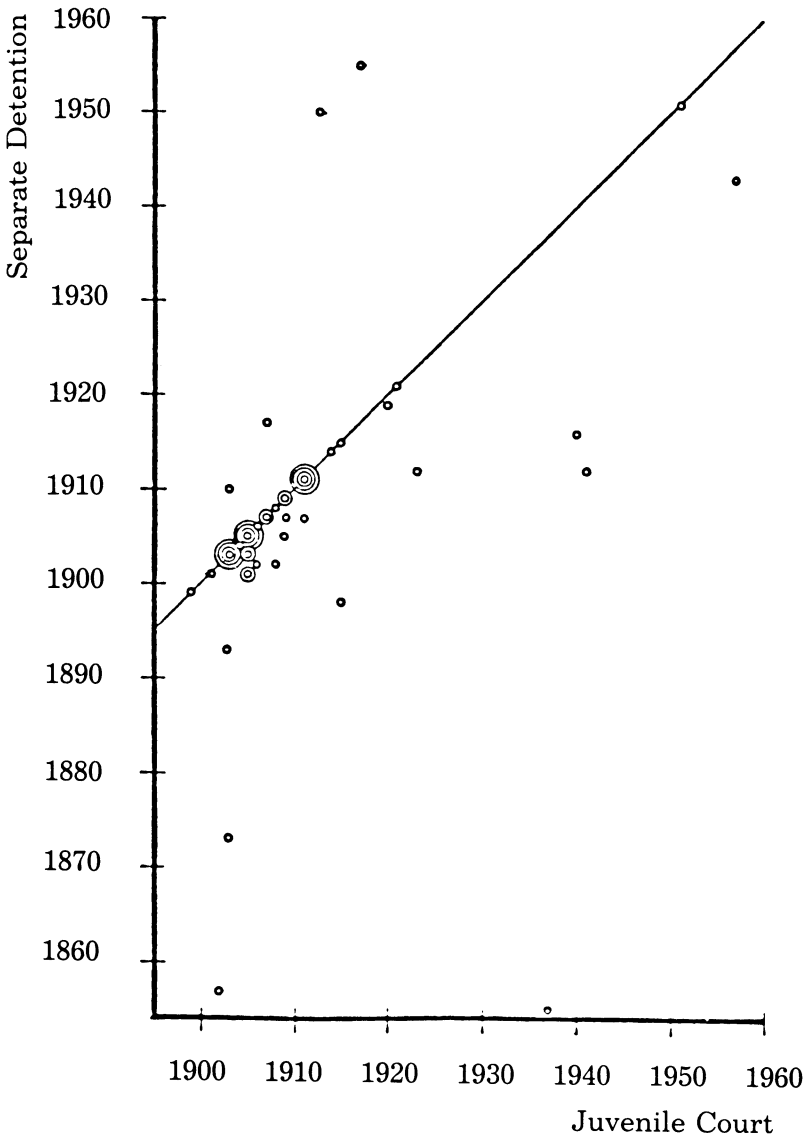
Separate detention and trials. The requirements that children under detention before trial be confined apart from adults and that children's trials be held apart from adult trials are straightforward extensions of the segregative tendencies of nineteenth-century juvenile justice. In the refuge and reformatory movements, the concern was to prevent hardened criminals from corrupting children in prisons. Juvenile court reformers sought to extend the principle of age segregation to the pre-adjudicatory and adjudicatory stages of court processing.

Legislation addressed itself to the detention issue in a variety of ways. In Arkansas, for example, authorities were prohibited from sending juveniles to jail if there was a juvenile detention facility available (1911 Ark. Acts, no. 215, § 11). Iowa prohibited the detention of juveniles in facilities with adults (1904 Iowa Acts, ch. 11, § 12). Colorado simply forbade the detention of children in jails or lock-ups (1903 Colo. Sess. Laws 101, § 6). Other jurisdictions allowed juveniles to be detained with adults but required separate rooms. For the purposes of

this analysis, all such restrictions are considered separate detention.

The scattergram in Figure 3 shows the relative timing of legislation establishing juvenile courts and laws requiring separate detention for juveniles. Once again, the presence of outliers is striking. In Table 1, three outlier cases had to be removed to arrive at a correlation of .74 between juvenile courts and separate detention. Interestingly, two of these

Figure 3. Year Separate Juvenile Detention Required by Year of First Juvenile Court

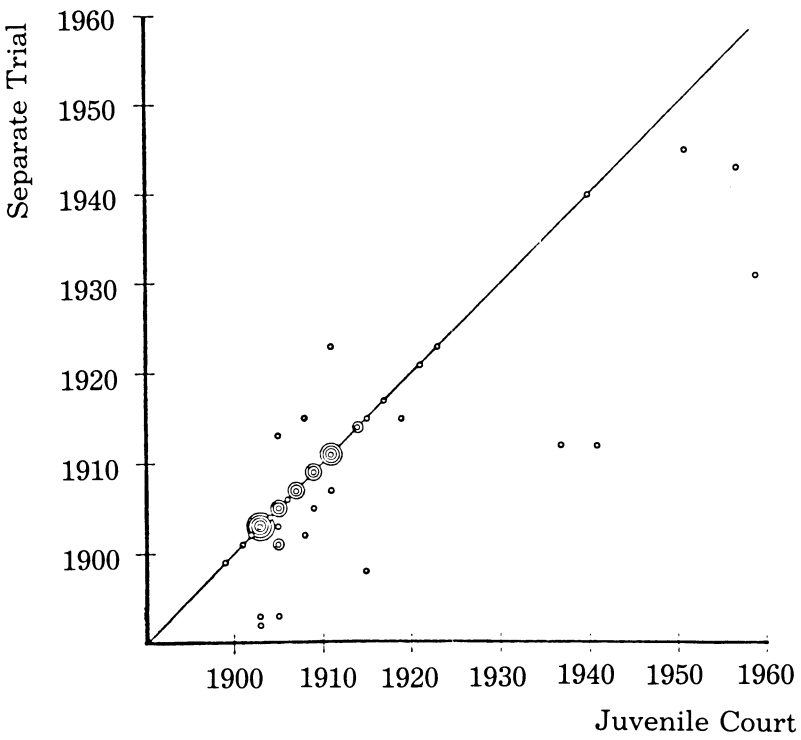


https://doi.org/10.2307/3053396 Published online by Cambridge University Press

cases—Ohio and Vermont—separated adults and juveniles at detention over forty years before the first juvenile court (they can be found at the very bottom of Figure 3). The third outlier, North Dakota, did not require separate detention until 1969 and is not shown in the scattergram for reasons of scale.[7]

Even with these cases removed, there is considerable dispersal of the data points. The most interesting are the ones lying below the diagonal. In all, five states required separate detention before the first juvenile court law was passed. Fourteen other states enacted separate detention laws two to twenty-nine years before creating juvenile courts. Again, because of the statutory definition of the juvenile court used here, and because the vast majority of changes in juvenile detention laws were enacted between 1900 and 1920, the effect of the juvenile court movement cannot be denied. But it is apparent that the formal adoption of a juvenile court was not a

Figure 4. Year Separate Juvenile Trial, Docket, or Record Required by Year of First Juvenile Court



[7] Maine is excluded from Figure 3 for the same reason. Maine established a juvenile court in 1959 and did not require separate detention until 1977.

prerequisite for the pre-adjudicatory separation of juveniles and adults.

Figure 4 shows the relationship between the requirement of a separate trial, docket, or record for juvenile cases and the juvenile court. These are used to indicate the existence of separate juvenile proceedings. Strictly speaking, a docket is a court schedule and a record is a written summary of court proceedings, but for coding purposes the three terms were taken as synonymous. There are several reasons for this. First, the concept of the separate trial was interpreted in several different ways. In some cases it meant a hearing in the judge's chambers, in others a special day or hour set aside for children's cases, and in a few, a separate room outfitted and used only for juvenile court hearings. Second, the designation of a separate docket and record implies separate hearings—as signified, for example, in the common distinction between the civil and criminal dockets. Third, the literature of the juvenile court movement shows that all three forms of separation had the same purposes—to avoid mixing adult and juvenile offenders and to assure the privacy of juvenile hearings.

The scatterplot in Figure 4 again shows a fair number of cases in which the legal innovation preceded the institution. In four states shown in the diagram, separate trials were required before 1899. The most interesting outlier is excluded from the scatterplot for reasons of scale: Massachusetts required separate juvenile trials in 1874. The majority of cases lie on the diagonal, indicating simultaneous establishment of a juvenile court and separate trials, and only three states lagged in requiring separate hearings.

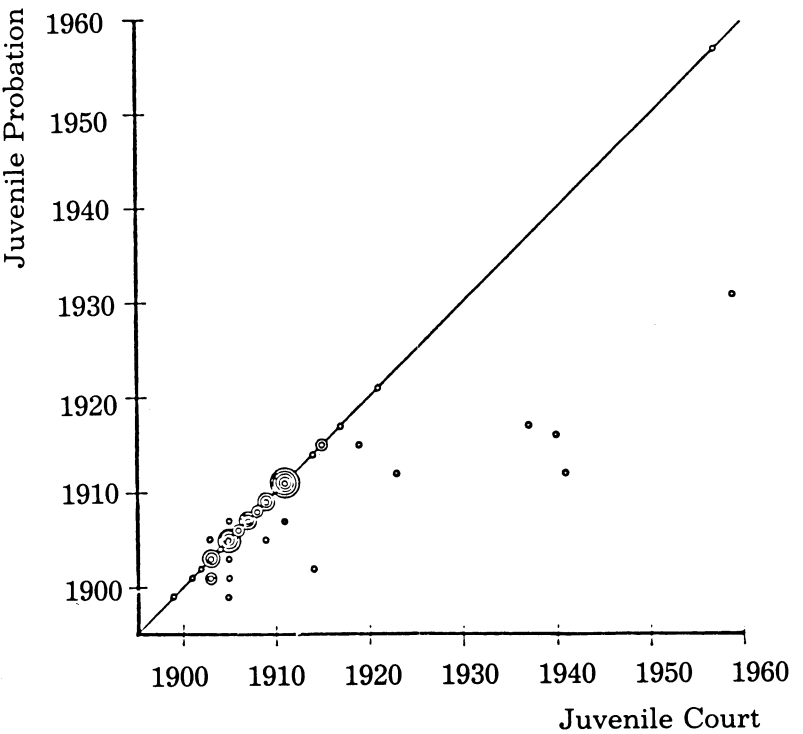
Juvenile probation. Probation was the means by which juvenile court reformers sought to reduce the number of juveniles committed to institutions and to provide professional social work to wayward children and their families. But like the other innovations reviewed here, probation did not originate with the juvenile court. As Julian Mack (1909) noted, Massachusetts provided formal probation services to adults for forty years before the juvenile court was invented. Court reformers simply included juvenile probation as part of their comprehensive reform package.

The data I collected for this project do not indicate when probation became a dispositional option for judges because provisions for probation, either formal or informal (home

placement), were a universal feature of juvenile court legislation. Because of this, I focus instead on the appointment of juvenile probation officers. The data show when such appointments were authorized and whether officers were to serve on a paid or volunteer basis. However, these data must not be taken as indicators of the extent of probation services actually offered since in many cases it was left up to judges or other local officials to employ as many officers as they wanted, and in others only one paid officer was authorized while others were expected to serve voluntarily. These data record only the first year in which *any* volunteer probation officers were provided for, and the first year in which *any* paid probation officers were authorized.

Twenty-one states established volunteer probation services before paid staffs were authorized, but most of these quickly established paid probation services. Twenty-seven states set up probation on a professional basis at the outset, and two states have made no provision for specialized juvenile probation units. Because of the generally strong trend toward professional

Figure 5. Year Juvenile Probation Service Established by Year of First Juvenile Court



https://doi.org/10.2307/3053396 Published online by Cambridge University Press

probation, subsequent analysis will not distinguish between paid and volunteer services.

Figure 5 shows the timing of probation in relation to the establishment of juvenile courts. Little comment need be made here, since the pattern is similar to those seen already. In most cases, it was the juvenile court legislation that provided for the appointment of probation officers, but in fourteen states probation came before a juvenile court was established by name. Only two states had juvenile courts without probation services, and they fell into line within two years. Again, states that set up probation before they established juvenile courts tended to do so during the peak years of the juvenile court movement, presumably spurred on by the strength of the movement's ideology.

Summary. This analysis has shown that, while the juvenile court is associated with several changes in the legal status of children, it did not inaugurate the "new era in our criminal history" that its proponents foresaw (Fox, 1970: 1229). Various collateral innovations often associated with the juvenile court movement were derivative in nature, had few binding practical consequences, and were, without exception, pioneered in other states and later incorporated as part of a single institutional package. The juvenile court movement did, however, help promulgate them throughout the nation.

But more important, these innovations symbolically linked the juvenile court with the charity organization movement and, ultimately, with the broadly legitimate Progressive drive for reform. Four types of linkage are apparent. First, Progressives in general sought "structuralist" reforms through which traditional moral goals could be achieved by more efficient means (Schiesl, 1977). Similarly, charity reformers sought to show that "organized charity is organized love" (*Charities*, 1904: 323), and juvenile court laws sought to rationalize access to troubled youth through improved schemes of classification. Second, juvenile court and charity reformers claimed that efficient administration required nonpartisanship (*PNCCC*, 1899: 241; Hart, 1906: 90-91) and thus allied themselves with the Progressive struggle against the spoils system. Third, Progressivism emphasized the centralization of administrative functions, particularly in government (Wiebe, 1967: 173-74). Similarly, charity organizers sought to centralize welfare administration, preferably at the state level (Griffin, 1909; Richmond, 1901a; 1901b), and saw the juvenile court as an ideal

means to centralize child welfare services locally (*PNCCC*, 1908: 385-86). Fourth, the Progressive demand for professional expertise in administration was echoed in the call for a "science of charity" (deForest, 1904: 17) and in the exaltation of the probation officer as the embodiment of scientific expertise in the juvenile court (Ramsey, 1906).

These linkages are symbolic and ideological. The next section will explore how political linkages were formed and the direction in which they flowed. Specifically, I will ask whether the juvenile court diffused through the strength of the charity organization movement or through some unique impetus of its own, derived from its almost purely ceremonial legitimacy.

III. THE DYNAMICS OF JUVENILE COURT REFORM

Support and Opposition

The remainder of this paper is concerned with discovering those factors that led to the acceptance of the juvenile court outside of Illinois. One prominent hypothesis, offered most forcefully by Platt (1969), is that the juvenile court was accepted because of its relationship with the charity organization movement. It will be worthwhile at this point to outline the history of that relationship.

The first mention of the juvenile court before the NCCC was the announcement by Illinois delegates of the creation of the Chicago court (*PNCCC*, 1899: 53). The Illinois law was not a product of a national movement but rather a practical response to problems in the local child-caring system (Fox, 1970; Mennel, 1973: 127-28). The NCCC did not immediately endorse the court or make it part of the child-saving agenda. Ohio delegates reporting on the progress of legislation in their state in 1902 made no mention of the juvenile court law that had been passed that year (*PNCCC*, 1902: 89-91) and mentioned it only in passing in the next year's report (*PNCCC*, 1903: 93). But in those 1902 meetings, Judge Ben Lindsey of Denver took the floor in informal discussion to advocate nationwide juvenile court legislation, describing the Chicago and Denver courts and urging subscriptions to their respective publications (*PNCCC*, 1902: 423-25, 448-49).

In 1903, Lindsey made a special presentation on the subject of the juvenile court in the NCCC section meeting on juvenile delinquents (Lindsey, 1903). That same year, *Charities* magazine devoted an entire issue to the juvenile court, in which it was reported that a special juvenile court exhibit had been

set up at the St. Louis Exposition (*Charities*, 1903: 395). Clearly, the juvenile court's time had come. In contrast to the nonchalance of the Ohio delegates to the NCCC two years earlier, the Texas delegates at the 1904 meetings had discovered a conspicuous need for juvenile courts in that state, and the West Virginia committee simply and reluctantly reported, "We have no juvenile court" (*PNCCC*, 1904: 100, 109). At the same meetings, a special section was devoted to juvenile courts. A permanent subcommittee on juvenile courts was established in 1905, and the ubiquitous Lindsey, serving as chair, delivered a progress report (Lindsey, 1905: 150-67).

The NCCC's adoption of the juvenile court as an officially sanctioned cause was undoubtedly an important step. Questions of power and influence aside, it is apparent that within the charity organization movement the simple notion of a court for children was elaborated into a coherent institutional model that reflected the broader ideals of the movement. Further, the NCCC in particular was a formidable communications network for the dissemination of reformist ideology, for the distribution of model juvenile court acts, and for lobbying state legislatures through its constituent state Conferences of Charities and Corrections. Thus, at the very least the charity organizers provided a rationalized vocabulary through which the juvenile court was made part of a larger doctrine that was promulgated from the urban centers to the nation's periphery.

The evangelical promotion of the juvenile court became a common task of prominent activists. Timothy Hurley, President of the Chicago Visitation and Aid Society, reported that Illinois reformers had been invited to other states in the wake of the 1899 juvenile court act to "explain the measure and the method of administering the law in Cook County" (Hurley, 1903: 424). Hurley himself spoke on behalf of the court at the 1904 meetings of the Minnesota State Conference of Charities and Corrections (*Charities*, 1904-5: 275), and Judges Tuthill and Mack of Chicago visited Minnesota as well (Lindsey, 1905: 160). Lindsey was by far the most active evangelist. In 1904, he and Julia Lathrop went to state charities conferences in Washington and Oregon. While Lathrop stumped for charity organization, Lindsey spoke on behalf of the juvenile court. Lindsey went on to the California charities meeting as well, thus visiting three states in a single month (*Charities*, 1904: 270-78). Perhaps encouraged by Lindsey's efforts, Oregon and Washington passed juvenile court laws in 1905. California

already had a juvenile court, but in 1905 it amended its legislation to add probation officers. A juvenile court bill was passed in Iowa after Lindsey addressed the legislature and the Iowa Congress of Mothers lobbied on its behalf (*Charities*, 1904: 405), and Lindsey was given credit for the 1906 Massachusetts juvenile court law (*PNCCC*, 1906: 36). When Washington, Oregon, Nebraska, Kansas, and Utah all passed juvenile court laws in 1905, one commentator remarked that "They are all scalps for the belt of Judge Lindsey" (*Charities*, 1905: 649).

This evangelical effort may explain the consistency among the state rules affecting the labeling, detention, trial, and probation of children in their juvenile court acts. States often copied their bills from laws already in force in other states, with Colorado and Illinois providing the most copied models. Through borrowing and cross-fertilization by reform groups that disseminated model acts, there was eventually a general consensus on the major points that characterized the juvenile court. But the work of these evangelists does not explain why many states were such willing converts to the juvenile court gospel, or why some were more receptive than others.

The reformers saw the movement spreading "spontaneously" because of its universal appeal (e.g., *Charities*, 1905: 871; Lindsey, 1905: 151). This is a self-aggrandizing view, but perhaps it should be taken seriously. While I have argued that the juvenile court offered little in the way of clear, substantive reforms, it did fit quite well with broader Progressive trends toward rationalized administration and socialized jurisprudence. Unlike more controversial Progressive reforms such as mothers' pensions and workmen's compensation, it cost nothing to enact and threatened no property interests. In short, the court could accommodate a broad base of support because there was little about it that was likely to be controversial.

The literature reviewed here provides only fragmentary evidence of the court's broader base of support, but in general it appears that the same sorts of groups were active in the diffusion of juvenile court laws as were prominent in Illinois—that is, voluntary civic organizations, especially women's clubs. I have already mentioned the influence of the Iowa Congress of Mothers. The California Club, "a San Francisco organization of women of high standing," was credited with originating the drive for a juvenile court in that state (*PNCCC*, 1903: 29-30). The women of the New Century Club were given credit for the first Pennsylvania juvenile court act and for a second one that

was adopted after the original bill was declared unconstitutional (*PNCCC*, 1901: 90; Schoff, 1903: 426). After visits to Nebraska by NCCC representatives, women's clubs lobbied for juvenile court and child labor legislation (*PNCCC*, 1907: 557) with apparent success: the juvenile court bill passed without "a dissenting voice in either branch of the legislature" (*PNCCC*, 1905: 65). In Boston, the Civic League supported reform (*PNCCC*, 1907: 548); in Louisiana, the Prison Reform Association, the women of the Era Club, and the Society for the Prevention of Cruelty to Children were active (*Charities*, 1905: 758); and the Kentucky juvenile court law was credited to "the influence of the men's and women's clubs of the State" (*PNCCC*, 1906: 30).

Opposition to the new court was, on the other hand, diffuse and largely mute. Some rank-and-file police officers opposed the probation and parole provisions (Rothman, 1980: 78-79), but reform police administrators such as August Vollmer (1923) were anxious to jump on the delinquency-prevention bandwagon. Movement literature itself is curiously vague on the reasons for occasional legislative setbacks. The failure of a proposed bill in Washington was blamed on inadequate lobbying (*Charities*, 1903: 396), and "much opposition" was reported to an unsuccessful proposal to extend the juvenile court in Ohio beyond Cleveland (*PNCCC*, 1904: 91). In neither case is any organized opposition described. The situation is similar in reports of juvenile court bills that failed to pass in New Hampshire, North Carolina, Maine, and Tennessee, and of one killed by governor's veto in South Carolina (*PNCCC*, 1905: 67-68, 73; 1908: 469; 1911: 460).

Where did legal professionals stand on the issue of the juvenile court? The Chicago Bar Association was active in lobbying for the Illinois act, but movement sources contain no mention of support by legal organizations in other states. Appeals judges tended to sustain juvenile court legislation on the basis of the 1838 case *Ex parte Crouse* and the *parens patriae* doctrine. In the few cases where juvenile court acts were struck down, it was always for technical reasons—as, for example, in Georgia (cited above), Pennsylvania, and Nebraska (*PNCCC*, 1903: 96; 1904: 67). Criticism on constitutional due process grounds began to mount only after the court was thoroughly institutionalized (see, e.g., E. Lindsey, 1914; Pound, 1917; Murphy, 1929).

In summary, the juvenile court movement was driven from the top by a national organization of charity reformers and

fueled from the bottom by local civic groups who seized upon it as a safe focus for their varied efforts to do good. Documentary evidence suggests that charity organizers were particularly effective as an information network promoting uniformity in the language of state acts but provides only anecdotal evidence that they hastened the enactment of juvenile court laws in a systematic way. Subsequent quantitative analysis will address this issue.

The Diffusion of Juvenile Court Legislation

Hypotheses, data, and methods. In an effort to understand the diffusion of juvenile court legislation, I will examine several general hypotheses using quantitative data. The first hypothesis suggests that the juvenile court is an example of structural differentiation in the legal order and, as such, is a byproduct of general processes of modernization and increasing societal complexity. This "legal evolution" hypothesis is a mainstay of functionalist social theory (e.g., Maine, 1917; Durkheim, 1933; Parsons, 1964; Schwartz and Miller, 1964) but has been conceptualized best by Turner (1980), who argues that changes in the economic, educational, political, and religious aspects of social structure are likely to have discernible effects on rates of legal differentiation. I will employ a modified version of Turner's model, with special attention to three types of variables: economic development, measured by per capita manufacturing output and urbanization rates; educational development, measured by school enrollment ratios and percent literate; and political centralization, measured by rates of state government employment per 10,000 population.[8]

A second major hypothesis, introduced above, is that the "moral entrepreneurs" of the charity organization movement created a felt need for juvenile justice reform independent of structural conditions. To test this possibility I shall examine collateral areas of reform agitation to see whether the general legitimacy of the charity reform agenda was conducive to the early adoption of juvenile courts. First, a series of three dummy variables will indicate whether states established centralized boards of charities and corrections (a) by 1900,

[8] The fourth factor in Turner's model—religious secularization—is not examined for two reasons: first, I assume that all states were equally constrained to frame reforms in secular language, even when they were clearly informed by religious ideas. Second, the juvenile court in practice did not segregate the spheres of state and religion; instead it sanctioned the involvement of "private sectarian interests" in child welfare work (Fox, 1970).

(b) between 1900 and 1910, or (c) after 1910 or not at all.[9] If the social movements hypothesis is correct, the first dummy variable should have a strong positive effect, the second should have a mild positive effect or none at all, and the last should have a negative effect. Second, I will examine per capita expenditures on charities, hospitals, and corrections; here a positive effect is expected. Third, percent manufacturing employees under sixteen—a measure of reliance on child labor—will be treated as a negative indicator of child welfare. Insofar as high levels of child labor imply a lack of social movement influence, they should be inversely related to rates of juvenile court adoption.

The analysis will also examine some substantive hypotheses drawn from the literature on Progressive reform. Two of these specify causal effects endogenous to the legal system. Many writers have suggested that reform legislation was incited by judicial conservatism.[10] Canon and Baum (1981) have developed a composite index of state court innovativeness for 1902-1938, which will allow a test for an expected inverse relationship between judicial and legislative innovation. Fox (1970) has suggested that the juvenile court was intended to reduce commitments of juveniles to institutions.[11] A variable consisting of the ratio of committed delinquents per 100,000 juvenile population will permit a test of that relationship. It has further been suggested that Progressive reform in general (Schiesl, 1977) and the juvenile court in particular (Platt, 1969) were neo-nativist attempts to control immigrant populations. If this is the case, a variable indicating the percentage of foreign-born residents in each state should show a positive relationship to juvenile court adoption rates.

In support of the institutional argument offered here, three types of effects will be examined. First, as Turner (1980) has emphasized, it will be important to take critical note of the patterns of associations shown by evolutionary and social movement variables. I have purposely chosen multiple

---

[9] Ideally, this variable would be treated as continuous. There are, however, two reasons for not doing so: the distribution is extremely uneven, and data, drawn from the *PNCCC*, were not published after 1911. At that point 17 states had no charity boards.

[10] See note 2 above.

[11] Mennel (1973: 125n.) further observes that there were several court decisions in the late nineteenth century that released children held in reform schools. He suggests that these cases reflected a general public skepticism toward institutions and may have helped usher in the juvenile court. See *People ex rel. O'Connell v. Turner, State ex rel. Cunningham v. Ray, Ex parte Becknell*, and *Angelo v. People*.

indicators wherever they were available, and many variables can yield multiple interpretations. Urbanization, for example, is not just a proxy to measure the density of exchange relations and thus economic development, but also a simple measure of the proportion of people living in cities. Where models yield weak or contradictory results on a series of indicators, it may be more illuminating to discard abstract functional arguments in favor of more direct, concrete interpretations. Second, the temporal dynamics of reform will be of interest: if reform is driven by institutionalization processes, rates of statutory change should increase over time in response to the growing legitimacy of the reform without regard to exogenous factors. Methods for discerning such "institutional momentum" will be described below. Third, it is hypothesized that diffusion effects occur most powerfully among states that consider themselves similar and therefore form something like a reference group. Classic studies of state legislative innovation by Walker (1969) and Gray (1973), as well as research on municipal reform by Knoke (1982), have discovered patterns of regional influence, with states tending to follow the lead of their nearest neighbors. This "spatial diffusion" hypothesis will be tested using dummy variables that group the states into eight census regions.

As I have already pointed out, whether a state did or did not have a juvenile court at a given time is not always clear, and the formal definition I have chosen for this discussion is somewhat arbitrary. It may be argued that such a definition will bias the analysis, and that we should not be surprised to find that a purely nominal reform was adopted without regard to functional requisites or social movement influence. As a check on such definitional bias I present a parallel analysis on the adoption of laws requiring separate juvenile trials. The latter innovation was chosen because it lies at the core of the movement's ideology, because it seems to represent the minimum commitment necessary for a state to consider itself to have a functioning juvenile court, and because it is the most binding and substantive of the six innovations described.

Data are drawn from several sources. Dates of juvenile court acts and of laws requiring separate juvenile trials come from legislative histories of state juvenile justice codes. Data on charity boards were published annually through 1911 in the *PNCCC*. Most of the items have been calculated directly from census publications. Demographic measures are from regular decennial census reports (U.S. Bureau of the Census, 1904a;

1904b; 1913; 1914; 1923a; 1923b; 1933), and others are from special surveys of state finances (U.S. Bureau of the Census, 1915; 1924) and custodial institutions (U.S. Bureau of the Census, 1907; 1918; 1927).

Information on the timing of juvenile code reforms will be treated as event-history data. Event-history techniques are intended for the analysis of qualitative changes over time. These changes must be discrete, but otherwise may be of any sort and at any level of analysis, including marriages and divorces (Tuma *et al.*, 1979), organizational birth and mortality (Carroll and Delacroix, 1982), changes in political structure (Knoke, 1982), or, in this case, adoption of a legal innovation.

Dynamic techniques are superior to more conventional static methods for innovation-diffusion problems, even when one is concerned as I am with the simplest of all transition processes, a two-state model in which only one transition is possible. One important advantage is that they allow for changing levels of the independent variables over time. Static models must assume constant relative rates of, for example, industrialization or educational development during the diffusion process. If this assumption is incorrect, the rates used are unreliable measures. With a dynamic model this obstacle is turned into a potential source of analytic insight. Also, it is possible that even where *levels* of independent variables do not change, their effects over time might. Dynamic methods permit estimation of time-dependent parameters for specified time periods over the diffusion process.

Models are estimated using maximum likelihood methods in the functional form

$$ln r_{jk}(t) = a_0 + a_1 X_1 + \ldots + a_n X_n$$

which is conceptually similar to a linear regression equation: a_0 is a constant, parameters a_1 through a_n are effects estimates, and Xs are unit values of independent variables. In further analogy to regression, statistics are available to test the significance of entire models (using X^2), of partial relationships between independent and dependent variables (using F), and of nested models (using likelihood ratios) (Tuma *et al.*, 1979). Some key differences must be kept in mind, however. First, the dependent variable, $ln r_{jk}(t)$, is not observed directly; rather it is the log of the instantaneous rate of transition from state j (no juvenile court) to state k (juvenile court), calculated across all cases for each year observed. Second, a parameters are

https://doi.org/10.2307/3053396 Published online by Cambridge University Press

Table 2. Bivariate Effects on Rates of Establishing Juvenile Courts and Separate Juvenile Trials

		Juvenile Courts	Separate Trials
Social Structure:	Value manufactured products	1.08	1.06
	Percent urban	1.02*	1.01
	Percent attending school	1.03	1.03
	Percent literate	1.02	1.02
	State government officers	.95	.97
Social movement:	Charity board by 1900	1.20	1.29
	Charity board, 1900-1910	1.60	1.59
	No charity board by 1911	.62	.58
	Social welfare spending, 1903	1.04	1.21
	Percent child labor	.97	.95
Legal:	Judicial innovation, 1902-1938	1.00	1.00
	Delinquents in institutions, 1904	1.00	1.00
Immigration:	Percent foreign-born	1.02	1.02
Regions:	New England	.34*	.41*
	North Atlantic	2.35	.80
	North Central	4.35**	6.66***
	Midwest	2.02	2.30
	South	.62	.61
	South Central	1.12	1.20
	Mountain	.99	.78
	Pacific	1.34	2.68

* $p < .05$ ** $p < .01$ *** $p < .001$

multipliers of the log transition rate. In the analysis to follow, I report antilog parameter estimates, which indicate the multiplier of the rate itself for every unit increase in an independent variable. Thus, a value over 1.0 indicates a positive effect, and values below 1.0 show negative effects. Finally, there is no overall measure of goòdness-of-fit analogous to R^2 in regression.

Bivariate results. Table 2 shows parameter estimates of the bivariate relationships between the independent variables and rates of adoption for juvenile courts and separate trials.[12] Here all variables are assigned their value in 1900, unless noted otherwise in the table; for convenience it is assumed that relative values remain constant throughout the observation period and that the relationships are not time-dependent.

The most striking finding shown by the table is the lack of strong relationships. Only three measures are significantly related to observed adoption rates: urbanization shows a weak effect on juvenile court diffusion, which may be read to indicate

[12] Raw values of independent variables are used in the analysis. Because many items are skewed toward the low end of their distribution, models were re-estimated using logged values of the skewed variables. Results are substantively similar; standardized parameters are almost identical.

a 2 percent increase in adoption rates for each percentage increase in urban habitation. Two region dummies have strong effects on both innovations: juvenile court adoption rates for New England states are 66 percent below the norm, and those for North Central states are 335 percent above. The associations are similar in the case of separate trials, where the North Central states again appear as eager innovators, and the New England states as especially reluctant. The New England estimates suggest that states may emulate their neighbors by resisting innovations as well as adopting them. The estimates for the North Central states suggest a regional diffusion of the juvenile court from its point of origin in Chicago to neighboring states, in which, incidentally, Progressive ideology was also strong.

All other relationships are insignificant, although almost all are in the expected directions. Only two items bear mention. The size of the state government has a negative, but insignificant, effect on adoption rates, contrary to the hypothesis offered above, and the charity board dummy variables perform somewhat differently than expected. States that established charity boards between 1900 and 1910 were more receptive to the reforms than those that established boards earlier. This does not suggest a causal influence but rather a process of simultaneous diffusion: both charity boards and juvenile court reform spread most rapidly in the first decade of the century.

Summary statements are difficult, given the lack of strong relationships. The data suggest that urbanization may have increased state receptiveness to juvenile court acts, and that contrary regional influences were important in both reforms. The nearly identical effects shown for both adoption processes suggest that the estimates are not artifacts of the way in which the innovations were operationalized. Fortunately, multivariate findings turn out to be more revealing.

Multivariate results. Multivariate diffusion models were built in four steps. First, three legal evolution variables—urbanization, school attendance, and size of state government—were entered as a block into equations predicting adoption rates of juvenile court and separate trial laws. These variables were left in as controls throughout the analysis. Urbanization was chosen as the indicator of economic development because of its strong bivariate effect on juvenile court adoption; tests revealed that it outperformed the manufacturing item in both

multivariate models. Similar tests using alternative specifications determined the choice of school attendance over literacy as an indicator of educational development. The significance of these choices will be discussed below.

Second, because of the promising results of the bivariate analysis, each region dummy was added to the models, and the significance of its contribution was tested using likelihood ratios. Third, the resulting relationships were tested for time-dependence by dividing each effect into two periods. Some preliminary examination showed that 1910 is the most revealing dividing line. This makes intuitive sense. Since the median date of adoption of juvenile court laws is 1908, the year 1910 approximately distinguishes early innovators from late adopters. Because the specification of period-specific effects adds parameters to the model, likelihood ratios are again appropriate for testing significance. One further criterion was applied for the sake of parsimony: time-dependent effects were only included in the models when relationships changed direction from one period to another, or when time-dependence tests revealed an effect that was otherwise hidden. Fourth, the remaining social movement, legal, and immigration measures were tested for both time-independent and time-dependent effects.

Tables 3 and 4 show the stepwise results of the model-building process. In both tables, model numbers correspond to the analytic steps just described. Unless otherwise stated, these tables include all of the significant relationships that emerged from the analysis. Parameters for variables that were not included in the models are omitted.[13] Table 3 displays findings from the analysis of juvenile court adoption rates. Model I shows results from the first step of the analysis. It is a single period equation which estimates the effects of the three legal evolution variables only. In model II we see that when regional effects are tested against this baseline model, only the New England dummy adds significantly to its predictive power.

In model IIIa only the constants, and not the effects of the measures, are allowed to vary. It estimates the degree to which changes in adoption rates from one period to another can be considered a direct function of time, or perhaps of unobserved variables. The time-independent constant (not shown) is

[13] Tables showing tests of omitted variables are available on request from the author.

Table 3. Multivariate Effects on Rates of Establishing Juvenile Courts

		Percent Urban	Percent Attending School	State Government Officers	New England	Delinquents in Institutions	Constants	X^2
I		1.02**	1.02	.93			.025***	7.39
II		1.02***	1.04***	.94	.18***		.011***	21.07***
IIIa	1900	1.03***	1.06***	.91	.12***		.004***	25.43***
	1910						.009***	
IIIb	1900	1.03***	1.07***	.98	.11***		.002***	29.90***
	1910			.60**			.011***	
IV	1900	1.06***	1.08***	.98	.17***	.99**	.001***	33.87***
	1910			.62**			.011***	

** $p < .01$ *** $p < .001$

Table 4. Multivariate Effects on Rates of Establishing Separate Juvenile Trials

		Percent Urban	Percent Attending School	State Government Officers	New England	Constants	X^2
I		1.01	1.03	.94		.024***	3.75
II		1.01	1.04**	.94	.27***	.013***	9.84*
IIIa	1900	1.01	1.05***	.93	.22***	.007***	12.39*
	1910					.013***	
IIIb	1900	1.00	1.08***	.96	.24***	.002***	20.52**
	1910			.49***		.013***	

* $p < .05$ ** $p < .01$ *** $p < .001$

constrained to equal 1 in order to achieve identification (Tuma *et al.*, 1979: 834); the period-specific constants are read as (multiplicative) deviations from that value. Likelihood ratio tests show that adoption rates for 1910-1930 are indeed significantly higher than those for 1900-1910 ($p \leq .05$). Model IIIb shows the results of time-dependence tests on specific variables. The only difference from model IIIa is that the effect of the state government measure has been shown to vary between periods. Model IIIb is a significant improvement over both II and IIIa (for both tests, $p \leq .05$), which suggests that the observed time-dependence is at least partially the result of change in the effect of the variable. However, the difference between the constant terms for each period is greater in model IIIb than in model IIIa, contrary to what would be expected if the observed acceleration were primarily due to the changing effects of state government size. Specification of this negative relationship appears to sharpen the estimate of an overall increase in adoption rates. Finally, model IV shows the results of tests on the remaining social movement, legal, and immigration variables. Of these, only the juvenile institutionalization rate makes a significant contribution to the model ($p \leq .05$); no substantive time-dependence effects were found which attenuated the general accelerative trend.

Results from model IV may be summarized briefly. Urbanization and school attendance are positively and significantly related to early adoption of juvenile courts. This lends some support to the legal evolution model. But contrary results are shown by the state government measure, which shows no effect in the first period and a significant negative effect in the second. This finding suggests, contrary to functionalist imagery, that more decentralized states were more rapid adopters of juvenile court legislation, at least after 1910. The New England dummy shows an even stronger negative association in the multivariate model than it did when considered alone. Juvenile institutionalization rates are negatively associated with juvenile court enactment: the parameter shows that an increase of 1 per 100,000 in the institutionalization rate is related to a 1 percent decrease in the rate of adoption. The interpretation of this statistically significant finding is unclear, but it belies the hypothesis that states adopted juvenile courts to reduce commitments. None of the other variables tested added significantly to the model. Thus, there is no evidence to suggest that the juvenile court was propelled by the strength of the charity organization

movement, judicial conservatism, or fear of immigrants. Finally, there is an apparent acceleration in the rate of reform over time and across all states that cannot be accounted for by any of the exogenous factors examined thus far.

Results from the parallel analysis of separate trial legislation are shown in Table 4. The modeling process developed along lines similar to those shown in Table 3, even though the procedure itself was intended to permit the models to diverge in whatever directions the data suggested. Models I through IIIb represent equivalent specifications in both tables. As model II in Table 4 shows, the New England dummy was the best regional predictor of the adoption of separate trial laws, net of structural effects. One difference here, not shown in the table, is that the North Central dummy is also a powerful predictor that has a significant positive effect on the adoption of separate trial laws. The two region variables could easily be switched with little impact on the rest of the model; the New England variable is shown here for the sake of consistency with Table 3 and because it yields a slightly more efficient overall model in terms of comparative X^2 values.

Constant terms in model IIIa suggest that there are time-dependent trends in the data, but taking them into account as in model IIIa does not represent a significant improvement over model II. As in the earlier analysis, model IIIb shows that state government employment has a significant and time-dependent negative effect on adoption rates. School attendance again has a strong positive effect, which emerges as the model becomes more complex. Finally, three differences in the two sets of models may be observed: first, urbanization has no apparent effect on the adoption of separate juvenile trials. Second, none of the other variables tested, even juvenile institutionalization rates, added significantly to the equation shown in model IIIb. Third, as shown by relative X^2 values, the Table 4 models do not fit the data as well as their counterparts in Table 3. This is because the enactment of separate trial laws was less common than the creation of juvenile courts during the observation period, thus yielding fewer transitions on which to build a model.

Findings from both analyses lend no strong support to any general theory of legal change but are compatible with the hypothesis that the juvenile court was accepted because its institutional ideology embodied the least radical aspects of national Progressivism. No evidence suggests that the juvenile court was propelled by the direct influence of the charity

organization movement. While documentary evidence shows that charity organizers helped standardize the wording of legislation and perhaps influenced the passage of juvenile court acts in particular cases, in general prior movement influence is unrelated to diffusion rates. Indeed, the data support a reverse interpretation; that is, that the juvenile court was seen as a means to increase the legitimacy of organized charity.

The legal evolution approach fares somewhat better but permits no simple interpretation. The negative effect of state political centralization is contrary to the hypothesis in that it suggests that relatively decentralized states were more receptive to reform, at least after 1910. This makes sense given the essentially local nature of the juvenile court, but the data do not reveal whether smaller state governments are associated with more localized administrations. It is also interesting that urbanization—offered as an indirect measure of economic development—performed well as a predictor of juvenile court adoption, while manufacturing output—a more direct measure of economic development—did not. The insignificance of manufacturing output implies that differences in state wealth did not substantially affect the diffusion of the juvenile court. Given this conclusion, the positive effect of urbanization can be interpreted in two ways. Urbanization may have raised the demand for reform independent of resource constraints by heightening perceptions of social ills, increasing the need for social services, and creating more complex networks of communication and mobilization. Or it may be that legislators saw the juvenile court as particularly appropriate for urban areas on efficiency grounds.[14] Informal means of separating adults and juveniles may have proved inadequate as crime and juvenile caseloads increased and urban court systems could more easily achieve economies of scale by formalizing the separate administration of juvenile justice. Both "demand" and "efficiency" interpretations are compatible with a general functionalist model, and they are not mutually exclusive.

But this argument breaks down when we look at the adoption of separate trial legislation. This is a more substantive reform than the nominal certification of a juvenile court, for it is likely to involve real costs, it appears to be an active response to constituents' concerns, and it promises long-run efficiency. Thus, we might expect its adoption to depend on both the availability of resources and the concentration of demand.

[14] Data from a 1918 survey support the notion that juvenile courts were seen, contrary to reformers' intent, as urban phenomena. See Belden, 1920.

Instead we find that no effects are associated with either the manufacturing output or urbanization variables. This lack of association undermines a functionalist interpretation, since the more instrumental of the two reforms is the least influenced by functional constraints. It suggests instead that the social demand for juvenile justice reform may reflect symbolic more than instrumental concerns. If the juvenile court was seen, as I have argued, as an ideological subset of the urban-based drive for administrative reform, it is plausible to assume that legislators in the more urban states sought to demonstrate the same commitment to Progressive ideals as their colleagues in states that they took as referents. If this commitment was purely symbolic, it is not surprising to find that it erodes completely when the reform in issue has practical rather than symbolic implications.

The distinction between resource and demand constraints has more straightforward implications for the effects of educational development. Enrollment ratios suggest a resource constraint, insofar as they measure collective commitment to, and support for, formal public means of child socialization. The resources at issue here, however, are institutional and ideological rather than directly economic. Literacy suggests a demand constraint. It measures more directly than urbanization the collective capacity for learning and shared discourse, and hence for mobilization and institution-building. In these analyses, the two have empirically distinct effects on rates of reform. Educational capacity increases both adoption rates, while literacy has no effect on either. The simplest and most satisfying interpretation is that states with large sunk costs in institutions for children are predisposed to make further, more specific commitments such as that represented by the juvenile court and separate trial legislation.

Finally, the data show powerful regional diffusion effects. Both analyses show that New England states were reluctant converts to the juvenile court cause. North Central states, as noted above, were conspicuously rapid in providing for separate juvenile trials, but their apparent eagerness to establish juvenile courts, shown in Table 2, disappears when other factors are controlled. The general receptiveness of the North Central states to reform is clearly a mimetic response: Illinois, Indiana, Michigan, Ohio, and Wisconsin were all self-consciously Progressive states, and juvenile court reform spread outward from Chicago by propinquity and ideological affinity. The negative association for New England is more difficult to

interpret. Massachusetts and New Hampshire were early adopters of both reforms, while Connecticut, Vermont, and Maine were among the last ten states to establish juvenile courts and were nearly as resistant to separate trials. Why this should be so is unclear: examination of charity association proceedings, charity board reports, and bar association literature has so far yielded no hint of organized intra- or interstate resistance. It is doubtful whether there is a single explanation, since even among late-adopting New England states dates of adoption vary widely.

IV. SUMMARY AND DISCUSSION

This analysis has made two general points in support of a "ceremonial" interpretation of juvenile court history. The first point is descriptive: the court should not be understood as a sweeping reform in the treatment of children, but as a manifestation of a national trend toward bureaucratization and as an institutional compromise between law and social welfare. As enacted in state laws, the juvenile court implied no substantive changes in the legal treatment of children and required no significant, consistent deployment of human or fiscal resources. It was primarily a shell of legal ritual within which states renewed and enacted their commitment to discretionary social control over children.

The second point is causal. Quantitative analysis yielded only tentative, equivocal support for hypotheses generated by legal evolution theory. The data give no support at all to hypotheses that juvenile court reform was accelerated by the entrepreneurial ambitions of charity reformers, by the obduracy of legal institutions, or by the felt need to control and socialize immigrants. Against these instrumental arguments, three types of evidence have been offered in support of an institutional model of reform. The preference of states with large urban populations for only the more symbolic aspects of the reform package and the strong across-the-board effects of educational development and political decentralization confound a general functionalist interpretation more than they specify or confirm it. Taken on their own terms, the findings are compatible with a simpler ideological diffusion model. The increase in adoption rates over the course of the diffusion process suggests legitimation effects: as more states accepted juvenile court reform, remaining states were increasingly encouraged to make similar innovations. And last, regional patterns show that both adoption and resistance to innovation

were constrained by local reform cultures, independent of structural characteristics. In short, states that were most receptive to the juvenile court movement were also exemplars of general Progressive administrative reform. From these states reform spread to more peripheral states through a process of institutional modeling. Future research along these lines will examine other aspects of the emergent American welfare state to see where similar dynamics prevail.

REFERENCES

BATES, Helen Page (1905) "Digest of Statutes Relating to Juvenile Courts and Probation Systems," 13 *Charities* 329.

BELDEN, Evelina (1920) *Courts in the United States Hearing Children's Cases*, U.S. Children's Bureau Publication 65. Washington, DC: U.S. Government Printing Office.

BOWMAN, Harold M. (1906) "American Administrative Tribunals," 21 *Political Science Quarterly* 609.

CANON, Bradley C. and Lawrence BAUM (1981) "Patterns of Adoption of Tort Law Innovations: An Application of Diffusion Theory to Judicial Doctrines," 75 *American Political Science Review* 975.

CARROLL, Glenn R. and Jacques DELACROIX (1982) "Organizational Mortality in the Newspaper Industries of Argentina and Ireland: An Ecological Approach," 27 *Administrative Science Quarterly* 169.

DiMAGGIO, Paul and Walter POWELL (1983) "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields," 48 *American Sociological Review* 147.

DURKHEIM, Emile (1933) *The Division of Labor in Society*. New York: Free Press.

FLEXNER, Bernard and Roger N. BALDWIN (1914) *Juvenile Courts and Probation*. New York: Century.

deFOREST, Robert W. (1904) "The Federation of Organized Charities," 12 *Charities* 16.

FOX, Sanford J. (1970) "Juvenile Justice Reform: An Historical Perspective," 22 *Stanford Law Review* 1187.

FRIEDMAN, Lawrence M. and Jack LADINSKY (1967) "Social Change and the Law of Industrial Accidents," 67 *Columbia Law Review* 50.

GRAY, Virginia (1973) "Innovation in the States: A Diffusion Study," 67 *American Political Science Review* 1174.

GRIFFIN, Stanley C. (1909) "Relative Functions of the State and Private Charities in Care of Dependent and Neglected Children," *PNCCC* 55.

HAGAN, John, John D. HEWITT and Duane F. ALWIN (1979) "Ceremonial Justice: Crime and Punishment in a Loosely Coupled System," 58 *Social Forces* 506.

HART, Hastings H. (1906) "Report of Committee [on Children]," *PNCCC* 87.

HURLEY, Timothy D. (1903) "Development of the Juvenile Court Idea," 11 *Charities* 423.

JAMES, Eldon R. (1913) "Some Implications of Remedial and Preventive Legislation in the United States," 18 *American Journal of Sociology* 769.

KELLEY, Florence (1904) "Review of Ben B. Lindsey, *The Problem of the Children and How the State of Colorado Cares For Them*," 13 *Charities* 43.

KNOKE, David (1982) "The Spread of Municipal Reform: Temporal, Spatial, and Social Dynamics," 87 *American Journal of Sociology* 1314.

LINDSEY, Benjamin B. (1903) "The Reformation of Juvenile Delinquents, Through the Juvenile Court," *PNCCC* 206.

——— (1905) "Recent Progress of the Juvenile Court Movement," *PNCCC* 150.

LINDSEY, Edward (1914) "The Juvenile Court Movement from a Lawyer's Standpoint," 52 *Annals of the American Academy of Political and Social Science* 140.

LOU, Herbert H. (1927) *Juvenile Courts in the United States*. Chapel Hill: University of North Carolina Press.

MACK, Julian W. (1908) "Juvenile Courts as Part of the School System of the Country," *PNCCC* 369.

——— (1909) "The Juvenile Court," 23 *Harvard Law Review* 104.

——— (1912) "Legal Problems Involved in the Establishment of the Juvenile Court," in S.P. Breckinridge and E. Abbott (eds.), *The Delinquent Child and the Home*. New York: Charities Publication Committee.

MAINE, Sir Henry (1917) *Ancient Law*. London: J.M. Dent.

MENNEL, Robert M. (1973) *Thorns & Thistles: Juvenile Delinquents in the United States 1825-1940*. Hanover, NH: University Press of New England.

MEYER, John W. and Brian ROWAN (1977) "Institutionalized Organizations: Formal Structure as Myth and Ceremony," 83 *American Journal of Sociology* 340.

MURPHY, J. Prentice (1929) "The Juvenile Court at the Bar," 145 *Annals of the American Academy of Political and Social Science* 80.

NONET, Philippe (1969) *Administrative Justice: Advocacy and Change in a Government Agency*. New York: Russell Sage.

PARSONS, Talcott (1964) "Evolutionary Universals in Society," 29 *American Sociological Review* 339.

PLATT, Anthony (1969) *The Child Savers: The Invention of Delinquency*. Chicago: University of Chicago Press.

POUND, Roscoe (1907) "Executive Justice," 55 *American Law Register* 137.

——— (1917) "The Limits of Effective Legal Action," 27 *International Journal of Ethics* 150.

RAMSEY, Annie (1906) "Work of the Probation Officer Preliminary to the Trial," *PNCCC* 132.

RICHMOND, Mary E. (1901a) "Charitable Co-Operation," *PNCCC* 298.

——— (1901b) "The Message of the Associated Charities," *PNCCC* 327.

ROTHMAN, David J. (1980) *Conscience and Convenience: The Asylum and its Alternatives in Progressive America*. Boston: Little, Brown.

SCHIESL, Martin J. (1977) *The Politics of Efficiency: Municipal Administration and Reform in America, 1800-1920*. Berkeley: University of California Press.

SCHOFF, Hannah Kent (1903) "Pennsylvania's Unfortunate Children: What the State is Doing for Them," 11 *Charities* 425.

SCHWARTZ, Richard D. and James C. MILLER (1964) "Legal Evolution and Societal Complexity," 70 *American Journal of Sociology* 159.

SMITH, Jeremiah (1914) "Sequel to Workmen's Compensation Acts," 27 *Harvard Law Review* 235, 344.

STUBBS, George W. (1904) "The Mission of the Juvenile Court," *PNCCC* 350.

SUTTON, John R. (1983) "Social Structure, Institutions, and the Legal Status of Children in the United States," 88 *American Journal of Sociology* 915.

TUMA, Nancy Brandon, Michael T. HANNAN and Lyle P. GROENVELD (1979) "Dynamic Analysis of Event Histories," 84 *American Journal of Sociology* 820.

TURNER, Jonathan H. (1980) "Legal System Evolution: An Analytical Model," in W.M. Evan (ed.), *The Sociology of Law: A Social-Structural Perspective*. New York: Free Press.

U.S. BUREAU OF THE CENSUS (1904a) *Abstract of the Twelfth Census of the U.S., 1900*. Washington, DC: U.S. Government Printing Office.

——— (1904b) *Special Reports: Occupations at the Twelfth Census*. Washington, DC: U.S. Government Printing Office.

——— (1907) *Special Reports: Prisoners and Juvenile Delinquents in Institutions, 1904*. Washington, DC: U.S. Government Printing Office.

——— (1913) *Thirteenth Census of the U.S., Abstract of the Census*. Washington, DC: U.S. Government Printing Office.

——— (1914) *Thirteenth Census of the U.S., Vol. IV, Population 1910: Occupation Statistics*. Washington, DC: U.S. Government Printing Office.

——— (1915) *Wealth, Debt, and Taxation 1913, Vol. II*. Washington, DC: U.S. Government Printing Office.

——— (1918) *Prisoners and Juvenile Delinquents in the U.S., 1910.* Washington, DC: U.S. Government Printing Office.
——— (1923a) *Abstract of the Fourteenth Census of the U.S.* Washington, DC: U.S. Government Printing Office.
——— (1923b) *Fourteenth Census of the U.S., Vol. IV, Population 1920: Occupations.* Washington, DC: U.S. Government Printing Office.
——— (1924) *Financial Statistics of States, 1922.* Washington, DC: U.S. Government Printing Office.
——— (1927) *Children Under Institutional Care, 1923.* Washington, DC: U.S. Government Printing Office.
——— (1933) *Abstract of the Fifteenth Census of the U.S.* Washington, DC: U.S. Government Printing Office.
VOLLMER, August (1923) "Predelinquency," 14 *Journal of Criminal Law and Criminology* 279.
WALKER, Jack L. (1969) "The Diffusion of Innovations Among the American States," 63 *American Political Science Review* 880.
WEBER, Max (1978) *Economy and Society: An Outline of Interpretive Sociology*, 2 vols. Berkeley: University of California Press.
WIEBE, Robert H. (1967) *The Search for Order, 1877-1920.* New York: Hill and Wang.

CASES CITED

Angelo v. People, 96 Ill. 209 (1880).
Ex parte Becknell, 51 P. 692 (California, 1897).
Ex parte Crouse, 4 Whart. 9 (1838).
People ex rel. O'Connell v. Turner, 55 Ill. 280 (1870).
State ex rel. Cunningham v. Ray, 63 N.H. 406 (1885).

SESSION LAWS CITED

1911 Ark. Acts, no. 215, § 11.
1903 Cal. Stats., ch. 43, § 2.
1903 Colo. Sess. Laws 101, § 6.
1899 Ill. Laws 131.
1904 Iowa Acts, ch. 11, § 12.
1902 La. Acts, no. 136.
1903 Minn. Laws, ch. 387.
1905 Minn. Laws, ch. 285.
1902 Ohio Laws, § 1.
1905 Or. Laws, ch. 80, §§ 1, 3.