Leaders of the nineteenth century child-saving movement have represented the creation of juvenile courts as a progressive innovation in the treatment of juvenile delinquents; Platt recently has emphasized the conservative and institutional character of their efforts. This paper critically examines the creation of the Juvenile Court in Boston in 1906 as it reflects these theories. It posits four operational characteristics of a juvenile court: non-criminal jurisdiction, avoidance of incarceration, use of probation, and separation from adult criminal proceedings, and shows how these practices were established, both in law and in practice, prior to the creation of the Juvenile Court. In reviewing the similarities and differences of the earlier innovations and the later institution, the paper concludes that although both were reactions to the rising cost of institutionalizing delinquent youths, the early innovations threatened other powerful institutions while lacking a popular lobby sufficient to overcome and incorporate this opposition.
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This act shall be liberally construed to the end that the care, custody and discipline of the children brought before the court shall approximate as nearly as possible that which they should receive from their parents, and that, as far as practicable, they shall be treated, not as criminals, but as children in need of aid, encouragement and guidance. Proceedings against children under this act shall not be deemed to be criminal proceedings.

Roscoe Pound, the late dean of the Harvard Law School, acclaimed the creation of the juvenile court as the "most significant advance in Anglo-Saxon administration of justice since the Magna Carta in 1215." Leaders of the child-saving movement--Lindsey, Mack, Van Waters, Hurley--see it as the flowering (sic) of their efforts--an institutional 'return to paternalism. However, the Supreme Court, viewing the procedures of the juvenile court as a denial of constitutional rights of the juvenile, recently has curtailed the extraordinarily wide discretion given the court in its treatment of juveniles.

I agree with Anthony Platt's view of the juvenile court as a "specialized institution which executed traditional legal policies with more efficiency and flexibility." I contend that the creation of the Boston Juvenile Court in 1906 was little more than the incorporation of juvenile judicial practices established over a quarter-of-a-century earlier in Massachusetts.

*-- All footnotes, charts, tables and graphs are appended at the end of the thesis.
Definitions

Juvenile courts have varied widely in their actual treatment of juveniles. Many, such as those in New York and Great Britain, were juvenile criminal courts—possessing all the procedures and attributes of a criminal court. One must be clear as to what distinguishes a juvenile court from an ordinary criminal court. Chart I contrasts the child-savers' views of the juvenile and criminal courts. Again, the chart presents merely stereotypes—in actual operation each court represented its own compromise between these types. Furthermore, the letter of the law, the spirit of the law, and the actual practice of the law often diverged. One must beware of confusing how the juvenile court should have worked with how it actually functioned; likewise, one should not confuse how juveniles could have been treated by the criminal courts and how they actually were treated.

Because of the divergence in practices, and particularly because the Boston Juvenile Court and Juvenile Delinquency Acts of 1906 did not incorporate all of the features listed in Chart I, it is useful to isolate those operational characteristics that define the de facto existence of a juvenile court. I believe there are four:

1) non-criminal jurisdiction. A juvenile court

* All footnotes, charts, tables and graphs are appended at the end of the thesis.
should adjudicate cases of juveniles charged with broad, essentially non-criminal, forms of misbehavior; the court exists not to determine criminal guilt, but to treat children in need of guidance.9

2) avoidance of incarceration.10 Punitive punishment, particularly incarceration, is a debilitating, not a reformative, experience. Thus, children should not be placed in jail either in detention before trial or in sentence after trial; to avoid the former a summons may be used in place of a warrant.

3) use of probation.11 In place of incarceration, children should be beneficially guided, both before and after trial, by court appointed agents who act on their behalf. Such an agent or officer presents a child's case in court, oversees his behavior after trial, and may return him to court for further treatment for a wide range of misbehaviors.

4) segregation from adult proceedings. Juveniles must not be tried in criminal courts with adults. Juvenile hearings should be held separate and apart from adult criminal proceedings, and should preferably employ non-criminal procedures.

In order to clarify the development of a virtual juvenile court previous to the Juvenile Court Act, I shall describe the de jure and de facto histories of each of these
four practices in turn. I shall then review the circumstances of their early development and the factors conducive to the establishment of the Court in 1906. From this one can surmise the important forces shaping institutional change.

Non-Criminal Jurisdiction—De Jure

Massachusetts has a long Puritan tradition of regulating public morality and juvenile conduct. Colonial law provided that a 'stubborn and rebellious son of sufficient years of understanding (viz., fifteen years of age)' who disobeys his father or mother and lives 'in sundry and notorious crimes' might be brought before the magistrate and put to death; later, stubborn children could be confined and made to work in a House of Correction. By 1737, overseers of the poor of each town could bind out to 'good families' children whose parents were indigent ('rated nothing to the publick taxes'), neglected their care, or brought them up in gross ignorance. Extending an earlier act for suppressing and punishing of rogues, vagabonds, common beggars, and other idle, disorderly and lewd persons,' the State in 1826 promulgated an 'Act concerning Juvenile Offenders in the City of Boston.' This act permitted judges in Boston on the application of the Mayor, any Alderman or Overseer of the Poor, or any Director of the Houses of Reformation or Industry to sentence to a House of Reformation
until minority children: who were convicted of criminal
offences; who were idle or dissolute; or whose parents
neglected to exercise 'salutary control' over them. Although
finding the intent 'equally wise and humane', a Standing
Committee of the Common Council of Boston observed:

...objections to the law arise from the vague-
ness and generality of its phrasing. Under its
provisions, every youthful idler in the streets,
and every stubborn child whom strangers may de-
nounce, before the Police Court, as free from par-ental control may...be arraigned in Court of cri-
minal jurisdiction, his sentence recorded in per-
petuity, and his liberty forfeited to the State
until twenty-one years of age, without any dis-
crimination in the sentence between voluntary
guilt, and involuntary misfortune. 17

In 1855, girls between the ages of seven and sixteen who
were found to have committed any offence punishable by fine
or imprisonment (except life imprisonment), or to be 'led
'leading an idle, vagrant or vicious life,' or to be 'found
in any street, highway, or public place, in circumstances
of want and suffering, or of neglect, exposure, or abandonment,
or of beggary,' might be committed to the State Industrial
School for Girls until minority (viz., 18). 18 Homer Folks
cites a Massachusetts law of 1866 providing that

children under sixteen years of age who, by
reason of the neglect, crime, drunkenness or other
vices of parents were suffered to be growing up
without salutary parental control and education,
or in circumstances exposing them to lead idle
and dissolute lives, might be committed by the
proper court to the place designated for such
purpose by the city. 19
The jurisdiction of the Juvenile Court was similarly, if not identically, broad. It might hear the case of a neglected child, viz.,

...any child under sixteen years of age.../who/ by reason of orphanage or of the neglect, crime or drunkenness, or other vice of its parents, is growing up without education or without salutary control, or in circumstances exposing him to lead an idle and dissolute life, or is dependent upon public charity....20

of a delinquent child, viz.,

...any boy or girl between the ages of seven and seventeen years, who violates any city ordinance or town by-law or commits an offence not punishable by death or by imprisonment for life....21

or of a wayward child, viz.,

...a boy or girl between seven and seventeen years of age who habitually associates with vicious or immoral persons, or who is growing up in circumstances exposing him or her to lead an immoral, vicious or criminal life....22

Non-Criminal Jurisdiction--De Facto

Although it may seem that the Juvenile Court's jurisdiction is broader than that of earlier courts, courts in the nineteenth century regularly processed children for non-criminal offences. The great latitude of juvenile offences within such courts' jurisdiction is revealed in the ambiguity in legal terminology that applied to juveniles:

...the terms necessarily used /are/ vague and indefinite....The truant, and the idler, who, from want of proper parental control, are in danger of becoming hereafter vicious--the common beggar, the habitual pilferer and rogue, may all
come classed under the comprehensive terms of 'vagrants and vagabonds'....The convicts belonging to this class are not known to have committed any offence positively criminal, and the object has rather been to remove them from the influence of vicious associates, and from parents and guardians who cannot or will not exercise a salutary control over them....the disobedient or stubborn children are, in general, to be considered rather as in danger of becoming criminal, than being actually guilty....

Indeed, Table I indicates the substantial percentage of children committed to the House of Reformation for such offences.

In 1869, an agent, assigned to attend the cases of juveniles under sixteen years of age who might be sent to reformatories, noted that "less than one-half arraigned were charged with crime; the greater part were only charged with offence against parental restraint or with vagrancy which was born of poverty." This same agent found opportunity to save children brought to court who were "wayward rather than depraved, and sometimes not even wayward, but only suffering from neglect...." A report on juvenile offenders in Boston in 1902 comments that "the particular violation alleged is frequently anything but a safe index of the degree of the boy's badness." "The offence of being a stubborn child frequently means much more than the term implies." This jurisdictional flexibility persisted throughout the era of the juvenile court.

Because the classification is so subjective, it is
difficult to validly compare commitments or cases over time or across institutions. However, by examining the percentage of complaints against minors brought for the 'offences' of stubbornness, running-away-from-home and waywardness for the years before and after the Juvenile Court was created, one might notice any large increase in complaints of this type. Table II, column 1, however, shows that except for an extraordinary increase in the year the Juvenile Court was created, there seemed to be no significant growth in the percentage of minors charged with such acts. Column 2 of this same table shows the percentage of cases heard before the Juvenile Court for these acts; column 3 shows the percentage of cases charged with waywardness alone. The figures in the different columns are not strictly comparable—the police statistics are based on all minors (under 21) in the city whereas the Juvenile Court statistics (columns 2 & 3) reflect only on juveniles under 17 complained of in the central district of Boston. One observes that wayward children composed only 3½% of those tried in the Court in its first ten years; some wished it had been higher.

Others might believe that the Juvenile Court might handle an increased number of cases as its broad jurisdiction took hold. However, Graph I reveals that the percentage of minors of all those complained of to the police decreased in the first ten years of its operation as well as the absolute
number of cases brought before the court. (see Graph II).
This decrease is partly explained by the informal settlement of complaints against juveniles without recourse to formal adjudication. 30

Thus, the creation of the Juvenile Court and the Delinquency Act of 1906 which established its board jurisdiction, seems not to have substantially changed the types of children actually brought before the court.

Avoidance of Incarceration--De Jure

The Boston House of Reformation 31 and the state reformatory schools 32 were instituted as educational and reformative alternatives to the houses of correction and jails, which served as schools of vice and corruption. 33 An early expression of the popular desire to prevent the mixing of innocent offenders with hardened criminals was an 1836 act 34 prohibiting the incarceration in state prisons of all females and of males under sixteen who had not been previously committed to prison and whose sentence was less than three years. This did not prohibit their incarceration in jails and houses of correction; however, within these institutions minors had to be separated from 'notorious offenders.' 35 The procedure of offering juveniles alternate sentences for an offence--either several weeks in the jail or house of correction or several years in the reformatory--was prohibited in 1859 for many parents had chosen
the former as its duration was briefer and location closer to home. 36

In 1865 the legislature prohibited the incarceration of children under 10 except for non-payment of fines or costs. 37 Moreover, in 1882 the incarceration of children under 12 was prohibited altogether, and such children who were unable to pay costs or fines would be committed to the supervision of the Board of Health, Lunacy and Charities; 38 furthermore, courts were required to issue summonses, before issuing arrest warrants, for all children under 12 accused of any offence not punishable by life imprisonment. The preliminary summoning of all offenders under seventeen years of age, except those whose appearance in court might reasonably be doubted, was incorporated into the statutes by 1890. 39

In 1902 the earlier prohibition (of 1882) was extended to include detention in police stations of children under twelve years. 40 The Delinquency Act (1906) extended these prohibitions to all children under fourteen; however, boys of twelve or older caught in violation of the law or on warrant "may, in the discretion of the arresting officer, be committed to a lock-up, police station or house of detention." 41 Even in such cases, officers can accept a written promise from the child's parents, guardian or any other reputable person who assumes responsibility for the child's appearance
These Acts in 1906 represent a firm and natural extension of the legal prohibition of incarcerating children developed in the 1880s.

**Avoidance of Incarceration—De Facto**

Comparatively few juveniles were incarcerated during the last quarter of the nineteenth century in Massachusetts. Through the efforts of the Visiting Agent of the Board of State Charities, the number of children under seventeen sentenced to jail or house of correction in Boston was reduced from 97 in 1869 to 25 in 1872. (see Table III). He reported, in 1872, that of 1,463 arraignments attended in the State of juvenile offenders under 17, only 6 were committed to jails or houses of correction.⁴³ The number of children under seventeen detained in the Charles St. Jail awaiting trial in 1869-70 was 151; in 1870-1 this was 71, mostly 15 & 16 year olds (see Table IV). Indeed, the practices varied widely among the several jurisdictions dealing with juveniles in Boston: one court committed 1 of 173 juveniles to the house of correction or house of industry, while another court sentenced 24 of 225 to either institution.⁴⁴ In this same year, though 723 of 4,296 jail admittees were minors, only 42 were under 15, and of 188 minors admitted to the house of correction, only 1 was under 15.⁴⁵

The Visiting Agency reported that in its first ten
years of work, as shown in Table V, only about 1% of the juveniles were sent to jails or houses of correction. In Boston in 1901-2, a little more than 1% of children under seventeen disposed of by the courts were sent to such institutions (see Table VI). Table VII shows the fraction of one per cent. of those committed to correctional institutions throughout the state who were under seventeen in the years prior to the Juvenile Court. A graph (III) of the percentage of those committed to the house of correction in Boston who were under twenty shows little change due to the introduction of the 1906 acts.

Furthermore, the Boston Juvenile Court did detain some juveniles in police stations and jails, as well as committing older youths for several days in jail. In its first five years 182 boys were detained in Suffolk County Jail, and 193 boys remained overnight in the police lock-up. The number committed to jail ranged during these same years from 32 to 46 each year, compared with 64 commitments to jail in the last year of the former court.

For many after 1865 in Massachusetts the institutional alternative to imprisonment—viz., commitment to a reformatory—was viewed with nearly as much distaste as a prison. The sharp decline in its use is represented in Graph IV. It was observed that

the institution /Lyman School at Westborough/ was intended for a reformatory, but from the beginning the main building was to all intents
and purposes a prison. The doors were bolted, the windows barred, and the dormitories were practically cells, while places of confinement were provided not unlike the ordinary prison 'solitary.'

If one were to view the reformatories as juvenile prisons, the Juvenile Court still effected no substantial change in the percentage of commitments to such institutions. Compare Tables V, VI & VIII. The percentage of juveniles committed to state reformatories in its first five years was only slightly below the 6.6% of its predecessor's last year. Furthermore, the percentage committed in its second five years increased significantly. As the Judge Baker Foundation notes: "Certainly the figures take the ground from under the feet of anyone who alleges that there has been a dangerous increase in leniency...." Indeed, from the records of appeals made from the Boston Juvenile Court, one senses the great leniency of (adult) criminal courts toward juvenile offenders.

In at least six cases out of seven in the high \textit{viz.}, Superior Court the child \textit{committed to an institution in the Juvenile Court} is not committed. In 1909-10, out of thirty cases where the lower court had ordered commitment or fine, there were only four in which anything more was done in the higher court than to place the child on probation. In 1910-11 out of twenty-three cases where the lower court had ordered commitment or fine, there were only two in which anything more was done... than to place the children on probation. 52

In Judge Baker's first five years 67 of 714 commitments were appealed; in his last five 72 of 638 were appealed;
nearly all were successful.\textsuperscript{53} Between 1930-35, 34\% of commitment orders were appealed from the Juvenile Court and other juvenile sessions in Boston, and 90\% of these orders were overturned;\textsuperscript{54} the Boston Juvenile Court, however, had disproportionately fewer appeals than the other local courts.\textsuperscript{55}

In 1900-1 juveniles under eighteen whose cases, due to the gravity of their offence, was 'bound over' to the Superior Court from the Municipal Court, were more leniently disposed than those who remained to be tried in the lower court (compare Table VI with Table IX).

These figures are in themselves sufficient to hint at a very marked divergence in the outcome of juvenile cases in the Superior Court as compared with that of the lower courts, a divergence which receives new emphasis when we examine the adjudication of appealed cases.\textsuperscript{56}

Of the 63 who appealed fines or commitments from the lower juvenile session (see Table IX), only ten retained fines or commitments after adjudication in the Superior Court. Even as far back as 1872, of 102 sentences throughout the State to the state reform school, 13 were successfully appealed.\textsuperscript{57} To depress, juveniles had the right of appeal from commitments to institutions as early as 1829;\textsuperscript{58} this was reaffirmed for commitments to state reformatories;\textsuperscript{59} and the Delinquency Act further provided that any child judged wayward or delinquent "shall, at the time of such adjudication, be notified of its right to an appeal."\textsuperscript{60}
Not until 1916, however, were such appeals to the Superior Court heard separate and apart from other criminal cases.61 This generally lenient treatment of juvenile offenders in the nineteenth century is consistent with the observations of Platt and others concerning the refusal of many justices and jurors to punish juveniles severely for even serious crimes.62

Use of Probation—De Jure

The law of Massachusetts first recognized the procedure of recognizance with surety (or bail) in 1865.63 People committing slight offences might be released in the custody of an individual who acted as surety (or posted bail) for the good behavior of the offender. If the probationer did not behave properly, or violated the law again, before his term of probation had expired, he could be immediately surrendered by the surety to the court for sentencing. It was not until 1878 that the provision was made for an officer of the court to supervise such probation.64 An act of that year authorized the Mayor and Aldermen of Boston to appoint a probation officer to attend criminal trials in Suffolk County, to investigate persons convicted of crimes, and to recommend the placing of those who "might be reasonably expected to reform without punishment" on probation. He was also empowered to arrest individuals without warrant who
violated their probation. The success of his efforts in Boston prompted the authorization in 1880 of the appointment of such officers to the courts of the other towns and cities of the State. Dissatisfied with the pace and methods of selecting such officers, the Legislature required the appointment of probation officer by every police, municipal and district court in the State in 1891. The probation officers, who earlier reported to the Prison Commissioners, thereafter reported to individual justices. In 1898 the Superior Courts were required in a similar manner to appoint such officers.

The Boston Juvenile Court was provided with two probation officers (and however many unpaid deputy probation officers the judge deemed desirable) who

shall make a report regarding the character of the child, his school record, his home, his surroundings and the previous complaints against him, if any. He shall be present in court at the trial of the case, and furnish the court with such information and assistance as shall be required. At the end of the probation period... the officer...shall make a report as to the child's conduct during such period.

Subsequently state law provided for the appointment of juvenile probation officers whose work would be limited to juveniles brought in separate sessions before the courts; a Commission on Probation was established to co-ordinate and standardize probation work done throughout the State.

In a parallel development, in 1869 the Board of State
Charities,\textsuperscript{70} having successfully employed a Special Visiting Agent since 1866 in the placing out of children from the various state institutions, sponsored legislation for a State Visiting Agency which would be responsible for finding and certifying suitable homes for the placing out of state wards and periodically visiting these children in their foster homes.\textsuperscript{71} Also, more importantly,

Whenever application is made for the commitment of any child to any reformatory maintained by the Commonwealth, the magistrate before whom the hearing is to be held shall duly notify the visiting agent by written notice mailed one week at least before the time of hearing...and the agent shall attend at said hearing...in behalf of the child.\textsuperscript{72}

This was intended to avoid unnecessary institutionalization of children; children could also be directly committed to the Board's supervision. Because children sometimes were detained in jail while the court gave such notice and because the great majority of juvenile offenders were not provided for under this act, it was amended the following year to read

When a complaint against any boy or girl for any offence is made or pending before a judge... notice in writing thereof shall be given to said agent, who, by himself or an assistant shall have an opportunity to investigate the case, attend the trial and protect the interest of, or otherwise provide for such child. Said notice may be sent by mail to said agent or he may waive the same or the service thereof.\textsuperscript{73}

Though the Board of State Charities was replaced in 1879 by the Board of Health, Lunacy and Charity and the Visiting
Agency formally abolished, the subsequent board continued the Agency's protection and supervision of juvenile offenders; the Delinquency Act incorporated this provision:

The state board of charity shall have authority to supervise the probation work for wayward and delinquent children, and to make such inquiries as it considers necessary in regard to same. 74

The obvious overlap of duties with those of the probation officers of the court was eliminated in 1912 when all probationary work was assigned to the Commission on Probation.75

Thus, the use of state agents in the investigation and supervision of the cases of juveniles brought before the courts had been established by law well before the turn-of-the-century.

Use of Probation--De Facto

Moreover, probation in the form of recognizance with surety dates back to the 1830s; by 1839 it was an accepted common-law procedure.76 It was John Augustus' labors in the 1840s which marks the founding of probation.77 Beginning modestly in 1841 by bailing out seventeen intemperates from the Police Court of Boston, he began probating boys and girls in 1845--saving nineteen boys in 1847 alone.78 As to the methods of his work,

Great care was observed, of course, to ascertain whether the prisoners were promising subjects for probation, and to this end it was
necessary to take into consideration the previous character of the person, his age and the influences by which he would in future be likely to be surrounded, and although these points were not rigidly adhered to, still they were the circumstances which usually determined my action. In such cases of probation it was agreed on my part, that I would note their general conduct, see that they were sent to school or supplied with some honest employment, and that I should make an impartial report to the court, whenever they should desire it. 79

In ten years he bailed out over 1100 people, posting bail of nearly $100,000, at a cost to him of less than $2500. 80 His work, though favored by the judges and sheriffs of the municipal court, was actively opposed by other court officers, whose fees were diminished on account of his work. 81 He was often refused entrance to the jails and courts where he conversed with destitute defendants, quickly sizing up each case, and acting on their behalf as a half-frocked attorney to secure their release or the mercy of the court. 82 His labors drew the enthusiasm of many and the wrath of a few. 83 Missionaires of other societies, who initially provided aid and comfort, and religious tracts, to incarcerated children, later provided probationary supervision for these children as well. 84

The Visiting Agent, however, offered more regular aid to delinquents. Before each hearing a representative of the Agency conducted a thorough examination...by personal interviews with the child, the parents, or persons who made
complaint, police officers and such other persons as were supposed to have knowledge of pertinent facts. The results of these investigations were written out at length...and shown to the magistrates....The facts brought out by these investigations, and the conclusion drawn therefrom, are usually accepted as the basis of action on the part of the magistrates. 85

The Agent encountered, as Augustus had, difficulty in interviewing juvenile prisoners. 86 As was noted earlier the Agency effected a decrease in the number of juveniles detained in jail, but its early and continual pleading for the construction of juvenile detention homes in each County were ignored. 87 Such facilities were never provided in Boston, even well after the creation of the Juvenile Court; 88 various religious and child-welfare societies have provided private facilities for this purpose from the time of the Agency's work. 89

The Agency appears to have acted on behalf of the child. The Agent construed the clause 'or otherwise provide for the child' as enabling him to employ counsel and assistance for the child, though this was not invoked. 90 Also he detered the court hearing of complaints of stubbornness and disobedience as they were "for the convenience and in the interests of the complaints, rather than for the well-being of the children." 91 Parental responsibility was emphasized. Children committed to the supervision of the Board were placed "with their relatives and friends, with strangers, and in the Primary School, and in some instances have been allowed to
act for themselves, under the immediate direction of the Visiting Agency. This friendly role contrasts with the accusatory one of probation officers in the Boston Municipal Court in 1905.

The Agency's preference for probationary treatment was reflected in its policy, from the first,

to secure the probation of as many juvenile offenders as circumstances and best good will permit, and assure their subsequent good conduct by frequent visits and careful oversight of them in connection with their relatives, friends and the good citizens of the Community.

Children on probation in the Boston vicinity were required to report to the Agency office at the state house every week or fortnight. The various religious and beneficent organizations, both Protestant and Catholic, assisted in 'retraining and reforming the probationers.'

In the 1880s and particularly from 1890 to 1910, with a very limited number of official probation officers with large case loads, a paid agent, first of the Boston Children's Aid Society, and later of the St. Vincent dePaul Society, of the Italian Immigrant Society and of the Council of Jewish Women, acted as surety for children whose cases were continued for a probationary period. "If, at any time, it is found that good results cannot be secured by this method of treatment, the agent, as surety, may surrender the child to the Court." Such societies "do not stop their work with the boys when the cases have been formally dismissed by the court, but continue friendly relations with them for years."
The Boston Children's Aid Society also took children on 'voluntary probation'—avoiding altogether any court appearance. A similar procedure was later used by probation officers of the courts. The use of paid, or even volunteer, probation officers from private societies was common in the nation. In fact, the first juvenile court, the Chicago Juvenile Court, used exclusively paid private agents until 1905.

With the introduction of the Visiting Agent to the courts, a significant proportion of the cases were disposed of on probation. Table X shows the percentage of juvenile offenders in the State in different years who were placed on probation. Tables V, VI, VIII & IX give the percentage of juvenile cases probated in Boston in different years. As was noted earlier, the dispositions varied widely from court to court even within Boston. In 1872 the probate court placed 56% of its cases on probation while the municipal court of Boston placed but 24% similarly. In 1900-1, when the central municipal court had a probation rate for juveniles under eighteen years of age of 19%, the Dorchester municipal court had a rate of nearly 30%, while the East Boston court probated only four youths—or a rate of less than 2%.

Although the Boston Juvenile Court had an observably higher rate than its predecessor, the actual rate itself can
be misleading as it can be based on the children convicted, cases heard or cases docketed—the difference among which can shift the rate some 20%. Nevertheless, earlier courts did employ probation in a substantial portion of their cases; they, /as the Juvenile Court soon found itself, were limited by the probation agents available to the court.

Segregation from Adult Criminal Proceedings—De Jure

Special judicial treatment of juvenile offenders began in an effort to avoid unnecessary and costly commitments to juvenile reformatories. In 1859 the Legislature authorized commitments only from Superior courts or courts of the probate. Children sentenced to reformatory schools from the lower courts required a rehearing of their cases in these higher courts before commitment. However, in 1870, still dissatisfied with the lack of consideration given to juvenile cases, all juvenile offenders appearing to be under sixteen years of age complained of for any offence, except a municipal violation or a felony punishable by life imprisonment, would be tried not in the municipal or police courts, but in the probate court as if originally brought before him. Suffolk County (Boston) was excepted from this, due to the large number of cases already in the probate court; however, Boston's police and municipal courts were required to hear juvenile cases "by themselves, separate
from the general ordinary criminal business of said courts.\textsuperscript{114}

The following year the jurisdiction of these tribunals was expanded to include similar cases of juveniles under seventeen;\textsuperscript{115} warrants issued by other courts were directly returnable in the probate courts. However, in part because probate justices were sometimes away for periods of time and there were no detention facilities available for juveniles in the several Counties,\textsuperscript{116} the General Court in 1872 extended concurrent powers with the probate courts in the matters of juvenile offenders under the age of seventeen to specially selected justices of the peace.\textsuperscript{117} They were called 'trial justices of juvenile offenders' and were appointed by the governor and his council.

To better facilitate juvenile judicial trials in the City of Boston, the hearing of the cases of juveniles under seventeen was restricted to the specially appointed trial justices in 1874, and the city was required to provide "a separate place for the trial of juvenile offenders, which is separate and apart from the ordinary and usual criminal trials and court business of Suffolk County."\textsuperscript{118} These posts, however, were abolished in 1877; thereupon juvenile offenders throughout the Commonwealth could be brought before regularly commissioned justices for trial separate and apart from the trial of other criminal cases, at suitable times to be designated therefore by said courts, to be called the session for juvenile offenders, of which session
This proviso is nearly identical to that adopted with the Delinquency Act for most jurisdictions within the State. The Boston Juvenile Court Act, however, expanded this separate session into a separate trial court, providing it with a justice and two special justices, to be appointed by the governor. The court was given concurrent, not exclusive, jurisdiction with the central municipal court of Boston in cases of juveniles under seventeen years of age; thus its jurisdiction was limited to the 'downtown' portions of the city. All cases were to be heard in chambers 'as far as possible,' and the justice of the court could exclude all persons whose presence was not necessary to the proceeding. Furthermore, "the court could from time to time make general rules in reference to, and provide forms of, procedure." Such modifications were permissible as the court was not criminal.

Segregation from Adult Criminal Proceedings--De Facto

Juveniles were removed from criminal court in 1870, in part, because the pressure of business in some admits of little consideration of the case beyond the issue of whether the act was or was not committed by the accused, and in all of them the chief inquiry in determining the sentence is how long a one is needed to deter him from another offence....Such considerations, which prevail in the ordinary criminal courts, have no place in the trial and sentence of juvenile offenders.
The only inquiry as to them is what can be done to save them to an honest life, and to make them good men and women. 125

The importance of the choice of the probate court to hear all trials, with the exception of Boston, cannot be over-emphasized:

More than any existing tribunal the probate court is fitted for this important duty. The duties of the office tend to make the judges paternal in their disposition and methods. They personally listen to all suitors, generally without the intervention of counsel. It is submitted that this is pre-eminently the tribunal to be invested with jurisdiction over juvenile offenders. 126

In practice these magistrates—"uncalloused by wear of criminal courts or cumbered by dealings with old and hardened criminals" 127, "never putting aside hastily statements of the children as of little worth; always willing to temper justice with mercy; hailing every well-meant and well-addressed effort in the interest of the child" 128 gave greater uniformity in the treatment of juveniles, since they were so few in number and so similar in setting. 129 Furthermore, "thefewness of the magistrates lessened the number of frivolous complaints." 130 In the Boston municipal courts, the practice was to hear the juvenile cases after the completion of the normal criminal cases. 131 The law regulating the commitment of juveniles to institutions was still in effect, so that trials in the police and trial courts were still reheard in the Superior and probate courts. 132
This system, because of the few trial justices and the earlier mentioned policy of discouraging parental complaints against their children, irritated local officials and "the statement was made that in certain localities there was an intentional neglect to make arrests, because of the difficulty of conducting prosecutions." In addition, children were held in jail awaiting trials. Though believing that it was better to overlook some juvenile offenders rather than prosecuting them, the Visiting Agent recognized the dilemma and hoped that only a limited number of magistrates might be added. A disagreement in the General Court ensued which resulted in permitting the Governor to appoint such trial justices of juvenile offenders as he believed necessary. The number of such justices increased from twenty in 1869-70 to thirty-nine in 1871-2 to fifty-three in 1873-4.

The opposition to the earlier legislation persisted among the "relentless, the conservative and the least informed." Furthermore there was misapprehension of the importance of the trial justices--

> It seems to be forgotten that judicial action and decision of these justices may cover and effect the whole formative period of life; that the sentences imposed probably exceed in length, by the very terms of the law, those imposed upon any class of adult offenders.

In an effort to head off some of these problems in Boston, the Visiting Agent suggested that

A juvenile court for the county of Suffolk would
be of great advantage to the interest of all concerned. It would effect the entire removal of all juvenile cases from the courts doing adult business—a most desirable proceeding; it would give fixedness and certainty to the sessions of the court, and secure all good methods of the present law, and of the excellent magistrates of Boston who now hear juvenile cases. 137

Such legislation was supported by the judges of the probate and municipal courts of the city for it relieved them of the additional burden of juvenile cases. 138 With the enactment of legislation to this end in 1874, the Secretary of the Board of State Charities declared, "The Act has virtually created a juvenile court for Suffolk County." 139 Unfortunately the author, in his limited research, has not seen any description of the judicial procedures used in this "juvenile court" or the later juvenile sessions. 140 Complicating this would be the latter's policy of rotating justices hearing the juvenile cases each week. In May, 1905 in an unsuccessful attempt to secure a single judge for the juvenile sessions, the Boston Children's Aid Society effected the removal of the hearings to rooms apart from the criminal court; they further pressed for a second such room so each cases might be heard by itself. 141 The hearing of juvenile cases in a separate room or in the judge's private room had been adopted by some courts in the Commonwealth by 1904. 142

The Juvenile Court, beside effecting a more complete separation, provided procedures more parental and clinical
than judicial in temperament. There was rarely more than several individuals in the judge's chambers at any moment, and the judge's altern was replaced by a modest desk raised on a platform only several inches above the remainder of the room. No formal pleading was taken, but, as in a hospital, the temperature and condition of the juvenile patient were duly noted and recorded by the presiding justice. The court, however, did lapse into criminal states. Judge Baker footnotes how "regular criminal proceedings must be resorted to in order to impose a fine on a child." Table VIII would show this to be perhaps one-seventh of the time. Glueck notes the Court's continued use of "technical and legal verbiage" in the wording of its summonses, and he records the "superficial, mechanical, and legally technical" procedures and cross-examination used by Judge Cabot during much of his early tenure after Baker's death in 1915. Criticism was also heard "of extremes of practices and anomalies of procedures which the 'one-man' court engenders," and localities complained of police negligence due to the lenient treatment given arrested youth by the courts in all parts of the Commonwealth. However, the early legislative committees reviewing the performance of the juvenile court system were satisfied with its performance and suggested only modest changes in the laws regulating juvenile delinquency. That the Juvenile Court received a mandate for non-
criminal proceedings seems apparent; but that procedures had not been adapted toward an equitable, even parental, treatment of juveniles in their separate sessions has yet to be documented either positively or negatively.

Thus, most aspects of the Boston Juvenile Court had existed, both in law and in practice, prior to the establishment of that institution. In this sense, its creation represented more the institution and recodification of past efforts, than an innovation in the treatment of juvenile offenders. This conclusion is corroborated by other studies, particularly Murray's of the Washington Juvenile Court, and was noted by even some of the earlier observers of the child-savers' work. However, one then wonders what prompted the extraordinarily early, progressive legislation in this field, yet failed to consolidate its achievements for over a quarter-of-a-century.

Early Development in Review

From their very construction in the late 1840s and 1850s, the state reformatories and other juvenile institutions were overcrowded with far more commitments than they could reasonably handle. Initially the legislature tried to alleviate this by limiting commitments to special justices of the higher court and by charging localities for the institutional care of its residents. With the
failure of these efforts and the revelation, by a "most fortunate conflagration" at the Lyman Reformatory in 1859, of the punishment inflicted on reformatory inmates, the Board of State Charities was established. The Board interpreted its creation as a mandate for ending the costly and inhumane institutionalization of wayward and helpless children. Its early reports reflect a far-reaching desire to abolish central establishments and create familial and local programs of child-supervision. Such ideas led to the creation first of a Special Visiting Agent and later to a State Visiting Agent, appointed and paid by the governor, responsible to the Board, and whose assistants were paid by the Board.

The Visiting Agent, like the Board, took to his work with great zeal and missionary fervor. He, and the Board, actively promoted advanced legislation—such as the exclusive use of probate courts for the trials of juvenile offenders and the extension of his purview to all offenders under seventeen years of age.

The impact of his work was significant and apparent. Even before the General Court legislated the position, the managers of the Industrial School complained of the success of his predecessor in lowering commitments to that school. The Agent effected both the extensive use of probation, as noted in Tables V & X, and the radical reduction in commitments
to reformatories (see Graph IV & Table XI); doubtless this was due, in part, to the judicious selection of the probate court for such hearings. Though the Board in 1870, and again in 1873, declared that they would rather see the institutions empty than filled,\textsuperscript{161} it later became distressed at the dire straits in which the actions of their Agent had left some of the superintendents and perhaps some of their Trustees as well.\textsuperscript{162} In 1873 its Annual Report introduces the possible closing of the Lancaster School, the only state reformatory for girls.\textsuperscript{163}

As the Board contemplated these changes, the General Court—in an effort to satisfy the popular desire for more juvenile tribunals and perhaps for increased commitments, and to satisfy the Agent's desire for limited and special jurisdiction and for decreased commitments—compromised between a House bill providing for the appointment of all commissioned justices as trial justices of juvenile offenders and a Senate bill providing for the additional appointment of not more than five such justices in each County.\textsuperscript{164} The governor, finally authorized to appoint as many as he deemed necessary, increased the number as mentioned earlier.\textsuperscript{165} The Board of State Charities, perhaps sensing a threat from its offspring, in 1873-4 began to question the treatment of children committed to the Board in charge of the Agent, and particularly questioned the Agent's police of emphasizing probationary
treatment of juveniles. In a very critical review in 1875 it declared that "It would appear...that the extreme limit in prudence in discharging and placing on probation children complained of, has been reached," and further accused him of interfering with other agencies and over-centralization. Finally, it unilaterally cut his office's budget by a third.

The Visiting Agent, however, remained as active as ever as he obtained funding for his assistants for later years directly from the Governor. This brought the feud between himself and the Board to a head, and they implied that if they had the power, they would have fired him. His days were numbered and there were apparently no lobbies supporting his work. His premonitions about the performance of the trial justices of the juvenile offenders proved true, and the decline in commitments stopped around 1875 (see Table VII & XI). The system inevitably folded from misunderstanding and a conservative backlash to the early humanism of the post-bellum period. In 1877, justices throughout the Commonwealth were empowered to try juvenile cases separate and apart from criminal cases, and the Board, and its Visiting Agent, were soon replaced. However, many of the changes which the Agent and the early Board had effected were still intact.

Re-Creation of the Juvenile Court

In contrast, by the turn-of-the-century private societies had taken active and successful roles in legislative efforts.
Furthermore, there were elements of a national organization in many areas of social welfare. The travels of such child-savers as Mack, Tuthill and the 'high priest' himself—Judge Lindsey of Denver—often sparked local Mothers', Women's and social welfare groups to examine the jails and courtrooms where juveniles were adjudicated. These upper-middle class child-savers could take a askance view of the situation as the juvenile offenders were rarely their sons or daughters but immigrants or migrants, many even unable to speak English.

I can only surmise the factors behind the adoption of the Juvenile Delinquency and Juvenile Court Acts of 1906. The Delinquency Act was drafted by Grafton Cushing, a State Representative and President of the Massachusetts Society for the Prevention of Cruelty to Children. His bill, presented early in the 1906 term, was followed by a flurry of petitions. The wording of these petitions and the method of their presentation before the legislature hints at a co-ordinated, state-wide lobbying effort, sponsored perhaps by the M.S.P.C.C., during the late Winter and early Spring. One can only be impressed by the names of the petitioners—a former governor, the Bishop of the Commonwealth, many ministers, wealthy entrepreneurs, citizens of long standing. There is no indication that there was any opposition to the bill and the views it expressed; the several legislative delays were probably due to the
several concurrent bills which were submitted and had to be incorporated by the judiciary committee into the final legislation.\footnote{181}

The Juvenile Court Bill, however, appears to have a different history. The legislation was drafted and sponsored by the Boston School Committee and the Mayor of Boston.\footnote{182} Although petitions for the Delinquency bill also expressed their support for such a court, the wording places it in a secondary position;\footnote{183} only two petitions were actually filed 'praying' for legislation for a Juvenile Court in Boston.\footnote{184} Indeed, elements of the original bill overlapped with Cushing's proposed legislation, indicating its independent drafting.\footnote{185}

In its Annual Report for 1906 the School Committee explained its sponsorship of this legislation. Not unlike the situation described earlier, they complained of the excessive and increased overcrowdedness of both the House of Reformation and the Parental (Truant) School. (see Graphs IV & V).\footnote{186} Indeed commitments had risen so high since 1900 that the committee was faced with the alternative of expanding these institutions— at an estimated cost of $100,000, or reducing the number of inmates through other means.\footnote{187} The former suggestion was politically unfeasible. The Annual Reports of the House of Reformation reveal an urgency for funds merely to restore its aging structures to inhabitable condition which was continuously ignored.\footnote{188} After years of unresponsiveness, the General Court in 1901 passed enabling
legislation for the city to acquire an additional debt for improvements to the reformatory's facilities. However, in 1908, the Children's Institutions Department was still petitioning the City Council for the borrowing of these funds.

However, the School Committee was familiar with the savings that accrued to municipalities through the use of juvenile courts, and believed that if more time and consideration were brought to bear on juvenile cases, fewer would need institutionalization. As child-welfare lobbies of substantial experience seemed willing to support such legislation, they offered up such legislation parallel to and in conjunction with the organized efforts of the delinquency legislation. The court legislation passed out of the Joint Judiciary Committee with the dissenting vote of Senator Logan of Suffolk. Mr. Logan opposed this legislation as it progressed through reading and revision down the legislative calendar. Though the basis of his opposition is not clear from the legislative records, one senses it was based either on the proposed Court's jurisdiction over neglected children, or a more general skepticism of the Court's worth. The bill easily overcame this opposition. In fact, a foreign visitor several years earlier commented that Boston lacked a juvenile court merely because no justice in the State would deign to take such a full-time position.
Indeed, Harvey Humphrey Baker, the first justice of the Juvenile Court, was an unlikely candidate for the post. It is rarely noted that he was not the first one selected for this position, an earlier governor's appointment not being acted upon by his council before he left office. Baker was a bachelor and remained so throughout his tenure until his early death in 1915 at the age of 45. He had a shy, quiet demeanor; his background, as Judge Cabot's succeeding him, was estranged from those of the Irish, Italian and Jewish immigrants whose children were the principal clients of the Court. His prime qualification for the post was his experience as a visitor for a society during college and his work with the Conference of Child-Helping Societies in writing a legal guide to court treatment of juveniles in Massachusetts. He was a special police justice in Brookline previous to his appointment. Perhaps his extensive travels before presiding in the new Court and his employment of experts to review his work in the Court reflect on the uncertainty and inexperience he brought to the position.

Conclusion

In summary, I think that the Court succeeded for two reasons:

1) It did not directly threaten any other institutions. Its sharp decline in commitments to the Parental School was
with the full support (if not the urging) of the School Committee of Boston. It did not significantly decrease commitments to other institutions. It permitted the State to absorb some of the expense of probationary care—which had weighed heavily on the tight budgets of the child-welfare societies. Yet, it was not a very costly change: there was no detention home built nor a separate juvenile court building constructed. Its jurisdiction, concurrent with the Municipal Court, was limited to the central portions of Boston—which was inhabited primarily by immigrants; thus, it did not threaten the local control of most neighborhoods. In this last respect it was unique from all the juvenile courts existing in its day.

2) Its work supported, co-ordinated and enhanced the work of powerful child-saving lobbies. This would be valuable in weathering Glueck's devasting critique of the Court's "success" in the 1930s.

Thus, the court was created to facilitate the existing social work done in the courts; its institutionalism, and the bureaucratization and specialization accompanying it, were the essence of its existence. It was created not to change things, but to impart greater order to an accepted and well-developed set of child-saving guidelines mentioned in the body of this thesis. It is herein that the difference between its success and the failure of earlier institutionali-
zation lies. It is even doubtful that the experimental programs of the Visiting Agent of the Board of State Charities were susceptible to such institutionalization in their infancy. The Agency's missionary partisanship was not altogether compatible with the aloof professionalism demanded of those who worked with the Juvenile Court.208

Thus, the creation of the Juvenile Court in Boston was a "reform which consolidated existing practices."209
### Chart VI. A Comparison of Child-Savers' Views of the Juvenile Court and the Criminal Court

<table>
<thead>
<tr>
<th>Item</th>
<th>Juvenile Court</th>
<th>Criminal Court</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Goal</strong></td>
<td>Reformation: normalization of child's attitudes &amp; behaviors</td>
<td>Retribution: removal of offender from society &amp; warning to others</td>
</tr>
<tr>
<td><strong>Jurisdiction</strong></td>
<td>Juveniles (cf., minors)</td>
<td>Violators of Law (all ages)</td>
</tr>
<tr>
<td><strong>Charge</strong></td>
<td>In need of guidance and aid</td>
<td>Criminal Offence</td>
</tr>
<tr>
<td><strong>Notification</strong></td>
<td>Summons for hearing</td>
<td>Warrant for arrest</td>
</tr>
<tr>
<td><strong>Detention</strong></td>
<td>None (unless home unsuitable, then in juvenile detention home)</td>
<td>In Jail (or bail)</td>
</tr>
<tr>
<td><strong>Pre-trial procedure</strong></td>
<td>Investigation of child's background by special court official in his interest</td>
<td>Collection of evidence by police</td>
</tr>
<tr>
<td><strong>Forum</strong></td>
<td>Hearing (non-adversary)</td>
<td>Trial (adversary)</td>
</tr>
<tr>
<td><strong>Setting</strong></td>
<td>Judge's chambers (private)</td>
<td>Criminal courtroom (public)</td>
</tr>
<tr>
<td><strong>Procedure</strong></td>
<td>Chancery/equity; parental concern &amp; fairness (informal)</td>
<td>Criminal; due process must be observed (formal)</td>
</tr>
<tr>
<td><strong>Admissible Evidence</strong></td>
<td>All relevant to child's character &amp; past behavior</td>
<td>Only that related to specific offence</td>
</tr>
<tr>
<td><strong>Legal Assistance</strong></td>
<td>No need for lawyer (probation officer acts in child's interest)</td>
<td>Right to counsel (often provided)</td>
</tr>
<tr>
<td><strong>Jury</strong></td>
<td>None (unless requested)</td>
<td>Mandatory (unless waived)</td>
</tr>
<tr>
<td><strong>Verdict</strong></td>
<td>In need of care, or not in need of care</td>
<td>Guilty, or not guilty</td>
</tr>
<tr>
<td><strong>Appeal</strong></td>
<td>Not permissible</td>
<td>Permissible</td>
</tr>
<tr>
<td><strong>Treatment</strong></td>
<td>Individualized supervision &amp; guidance; in situ (probation), in special juvenile school (reformatory), or other suitable treatment</td>
<td>imprisonment, fine or both</td>
</tr>
</tbody>
</table>

(continued)
<table>
<thead>
<tr>
<th>Item</th>
<th>(Juvenile Court)</th>
<th>(Criminal Court)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nature of Treatment</td>
<td>Specific to needs of child</td>
<td>Specific to particular violation</td>
</tr>
<tr>
<td>Duration of Adjudication</td>
<td>Until minority (indeterminate)</td>
<td>Term set by law</td>
</tr>
<tr>
<td>Court Record</td>
<td>Private</td>
<td>Public</td>
</tr>
<tr>
<td>Stigma from Experience</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>

(Note: This chart is a composite of views; see especially Paul W. Tappan, *Juvenile Delinquency* (McGraw Hill, N.Y., 1949), ch. 8 and Pauline V. Young, *Social Treatment in Probation and Delinquency* (McGraw Hill, N.Y., 1937), p. 182ff)
Table I. Offences on which Commitments Made to House of Reformation (Boston) for Different Periods (Percentages in Parentheses)

<table>
<thead>
<tr>
<th>Offence</th>
<th>1826-32*</th>
<th>1826-48**</th>
<th>1872-75***</th>
<th>1880-84***</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pilfering, Theft, Forcery, etc.</td>
<td>127 (32%)</td>
<td>429 (44%)</td>
<td>228 (26%)</td>
<td>166 (56%)</td>
</tr>
<tr>
<td>Vagrants &amp; Vagabonds</td>
<td>124 (31%)</td>
<td>193 (20%)</td>
<td>223 (26%)</td>
<td>8 (3%)</td>
</tr>
<tr>
<td>Stubborn or Disobedient</td>
<td>126 (32%)</td>
<td>246 (25%)</td>
<td>52 (6%)</td>
<td>70 (24%)</td>
</tr>
<tr>
<td>Truants</td>
<td>---</td>
<td>---</td>
<td>323 (38%)</td>
<td>16 (5%)</td>
</tr>
<tr>
<td>Others (Idle, Dissolute, Wanton &amp; Drunkards)</td>
<td>24 (6%)</td>
<td>109 (11%)</td>
<td>31 (4%)</td>
<td>34 (12%)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>401 (100%)</td>
<td>977 (100%)</td>
<td>857 (100%)</td>
<td>294 (100%)</td>
</tr>
</tbody>
</table>


**-- from Annual Report of the Directors of the Houses of Industry and Reformation (Boston, April 1, 1845), p. 20 (Note that there were 977 complaints placed for a total of 843 children committed during this period)

***-- from Semi-Annual Reports of the Inspectors of Prisons and Houses of Detention in Suffolk County (Boston, 1870-85) (Note that a separate Truant School was created in 1877 and during 1880-84 about 500 children were committed to this institution, Ibid.)
### Table II. Percentage of Juveniles Arrested or Tried for Stubbornness, Running Away from Homes and Waywardness in Different Years

<table>
<thead>
<tr>
<th>Year</th>
<th>Of All Minors Arrested in Bos.</th>
<th>Of All Cases Heard in BJC</th>
<th>Only Percent. Wayward Cases Heard in BJC</th>
</tr>
</thead>
<tbody>
<tr>
<td>1896</td>
<td>4.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1897</td>
<td>5.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1898</td>
<td>6.7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1899</td>
<td>7.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1900</td>
<td>6.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1901</td>
<td>6.0</td>
<td>6.1**</td>
<td></td>
</tr>
<tr>
<td>1902</td>
<td>4.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1903</td>
<td>5.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1904</td>
<td>6.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1905</td>
<td>6.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1906-7</td>
<td>12.0</td>
<td>7.7</td>
<td>3.1</td>
</tr>
<tr>
<td>1907-8</td>
<td>3.8</td>
<td>8.1</td>
<td>3.5</td>
</tr>
<tr>
<td>1908-9</td>
<td>3.5</td>
<td>5.6</td>
<td>2.3</td>
</tr>
<tr>
<td>1909-10</td>
<td>4.6</td>
<td>7.0</td>
<td>4.1</td>
</tr>
<tr>
<td>1910-1</td>
<td>5.2</td>
<td>7.9</td>
<td>3.8</td>
</tr>
<tr>
<td>1911-2</td>
<td>5.9</td>
<td>8.2</td>
<td>3.3</td>
</tr>
<tr>
<td>1912-3</td>
<td>5.2</td>
<td>8.3</td>
<td>4.8</td>
</tr>
<tr>
<td>1913-4</td>
<td>5.9</td>
<td>5.9</td>
<td>2.0</td>
</tr>
<tr>
<td>1914-5</td>
<td>5.6</td>
<td>8.8</td>
<td>3.6</td>
</tr>
<tr>
<td>1915-6</td>
<td>6.1</td>
<td>10.3</td>
<td>3.8</td>
</tr>
</tbody>
</table>

*-- from *Annual Reports of the Board of Police (1896-1905)*, and *Annual Reports of Police Commissioners of Boston (1907-1917)*. This is percentage of all persons under twenty-one complained of for crimes in City of Boston.

**-- from *Judge Baker Foundation, Harvey Humphrey Baker, Upbuilder of the Juvenile Court* (Boston, 1920), pp. 22, 100; *BJC-Boston Juvenile Court. Supra*, p. 8

***-- from *Fifth Annual Report of the Institutions Registration Department* (Boston, 1902). Percentage is for all under juveniles under 17 tried in all of Boston.
Table III.  Number of Juveniles under Seventeen Years of Age Residing in Jail or House of Correction of Boston On September 30 of Different Years (Given as (# of juveniles)/(# of inmates, total))

<table>
<thead>
<tr>
<th>Year</th>
<th>Jail</th>
<th>House of Correction</th>
</tr>
</thead>
<tbody>
<tr>
<td>1869</td>
<td>43/485</td>
<td>54/1164</td>
</tr>
<tr>
<td>1870</td>
<td>18/519</td>
<td>34/1288</td>
</tr>
<tr>
<td>1871</td>
<td>12/466</td>
<td>21/1350</td>
</tr>
<tr>
<td>1872</td>
<td>16/554</td>
<td>9/1424</td>
</tr>
<tr>
<td>1873</td>
<td>11/507</td>
<td>18/1525</td>
</tr>
<tr>
<td>1874</td>
<td>11/505</td>
<td>22/1800</td>
</tr>
</tbody>
</table>

(Source:  Eleventh Annual Report of the (Mass.) Board of State Charities (1875), p. 220.)

Table IV.  Number of Juveniles under Seventeen Years of Age Committed for Detention or Sentencing to Jail and House of Correction in Boston for 1869-70 & 1870-71, Including Average Period of Incarceration

<table>
<thead>
<tr>
<th>Detention in Jail: Awaiting Trial</th>
<th>Sentenced to Jail</th>
<th>Sentenced to House of Correction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year --</td>
<td>69-70 70-1</td>
<td>69-70 70-1</td>
</tr>
<tr>
<td>Number</td>
<td>151 46</td>
<td>71 23</td>
</tr>
<tr>
<td>Average Stay (days)</td>
<td>9.3 16</td>
<td>6.4 22</td>
</tr>
</tbody>
</table>

(Source:  Eighth Annual Report of the (Mass.) Board of State Charities (1872), pp. 234, 242 )
Table V. Disposition of Cases of Juvenile Offenders under Seventeen Years of Age Referred to the Visiting Agent of the Board of State Charities Between 7/17/1869 and 10/1/1879

<table>
<thead>
<tr>
<th>Number of Children</th>
<th>Disposition</th>
<th>Percentage of Children</th>
</tr>
</thead>
<tbody>
<tr>
<td>67</td>
<td>Jail</td>
<td>1.1%</td>
</tr>
<tr>
<td>121</td>
<td>House of Correction</td>
<td></td>
</tr>
<tr>
<td>205</td>
<td>Nautical School</td>
<td>6.3%</td>
</tr>
<tr>
<td>1088</td>
<td>Reform School (Lyman)</td>
<td>9.2%</td>
</tr>
<tr>
<td>290</td>
<td>Industrial School (Girls)</td>
<td></td>
</tr>
<tr>
<td>660</td>
<td>Local Inst. of Boston</td>
<td>6.3%</td>
</tr>
<tr>
<td>415</td>
<td>Private Institutions</td>
<td></td>
</tr>
<tr>
<td>7744</td>
<td>Board of State Charities</td>
<td>4.5%</td>
</tr>
<tr>
<td>5340</td>
<td>Fines</td>
<td>31.2%</td>
</tr>
<tr>
<td>4392</td>
<td>Probation</td>
<td>25.6%</td>
</tr>
<tr>
<td>835</td>
<td>Filed</td>
<td>4.9%</td>
</tr>
<tr>
<td>2945</td>
<td>Discharged</td>
<td>17.2%</td>
</tr>
<tr>
<td>17132</td>
<td>TOTAL</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

(Source: Fifteenth Annual Report of the (Mass.) Board of State Charities (1879))
Table VI. Disposition of Cases of Juvenile Offenders Under Seventeen Years of Age in City of Boston For 1900-1

<table>
<thead>
<tr>
<th>Number of Children</th>
<th>Disposition</th>
<th>Percentage of Children</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Jail,</td>
<td>1.4%</td>
</tr>
<tr>
<td></td>
<td>House of Correction</td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>State Corr. Inst.</td>
<td>6.4%</td>
</tr>
<tr>
<td>53</td>
<td>Reform School (Lyman)</td>
<td></td>
</tr>
<tr>
<td>28</td>
<td>Industrial School (Girls)</td>
<td></td>
</tr>
<tr>
<td>73</td>
<td>House of Reformation</td>
<td>5.7%</td>
</tr>
<tr>
<td>36</td>
<td>Parental School</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Board of State Charities</td>
<td>0.7%</td>
</tr>
<tr>
<td>683</td>
<td>Fines*</td>
<td>36.0%</td>
</tr>
<tr>
<td>294</td>
<td>Probation</td>
<td>15.5%</td>
</tr>
<tr>
<td>287</td>
<td>Filed</td>
<td>15.2%</td>
</tr>
<tr>
<td>327</td>
<td>Not Guilty or Dismissed</td>
<td>17.3%</td>
</tr>
<tr>
<td>36</td>
<td>Other or</td>
<td>1.9%</td>
</tr>
<tr>
<td>1897</td>
<td>TOTAL</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

* about one-third of these were 'nominal' fines of $2 or less; about 7% were $1 or less.

(Source: Fifth Annual Report of the Institutions Registration Department (Boston, 1902), p. 24.)
<table>
<thead>
<tr>
<th>Institution</th>
<th>Age</th>
<th>1901-2</th>
<th>1903-4</th>
<th>1904-5</th>
</tr>
</thead>
<tbody>
<tr>
<td>JAILS &amp; HOUSES OF CORRECTION</td>
<td>12-15</td>
<td>50</td>
<td>71</td>
<td>86</td>
</tr>
<tr>
<td></td>
<td>16</td>
<td>43</td>
<td>48</td>
<td>66</td>
</tr>
<tr>
<td>Under 17</td>
<td></td>
<td>93</td>
<td>119</td>
<td>152</td>
</tr>
<tr>
<td>All Ages</td>
<td></td>
<td>23228</td>
<td>26691</td>
<td>25238</td>
</tr>
<tr>
<td>ALL OTHERS (Mostly to Mass.)</td>
<td>12-15</td>
<td>23</td>
<td>23</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td>16</td>
<td>60</td>
<td>60</td>
<td>61</td>
</tr>
<tr>
<td>Under 17</td>
<td></td>
<td>83</td>
<td>83</td>
<td>77</td>
</tr>
<tr>
<td>All Ages</td>
<td></td>
<td>2103</td>
<td>2799</td>
<td>3022</td>
</tr>
<tr>
<td>ALL PENAL INSTITUTIONS</td>
<td>Under 17</td>
<td>176</td>
<td>202</td>
<td>229</td>
</tr>
<tr>
<td>% under 17</td>
<td></td>
<td>.69%</td>
<td>.68%</td>
<td>.80%</td>
</tr>
</tbody>
</table>

(Source: Annual Reports Board of Prison Commissioners (1901-5))
Table VIII. Disposition of Cases of Juvenile Offenders Before the Boston Juvenile Court, 1906-11, 1911-16

<table>
<thead>
<tr>
<th>Disposition</th>
<th>1906-11</th>
<th>1911-16</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jail (?)</td>
<td>(174) (3.4%)</td>
<td>?</td>
</tr>
<tr>
<td>State Reform Inst.</td>
<td>293</td>
<td>392</td>
</tr>
<tr>
<td>Private Inst.</td>
<td>84</td>
<td>52</td>
</tr>
<tr>
<td>State Bd. of Char.</td>
<td>101</td>
<td>120</td>
</tr>
<tr>
<td>Fines</td>
<td>715</td>
<td>3376</td>
</tr>
<tr>
<td>Probation</td>
<td>2616</td>
<td>1729</td>
</tr>
<tr>
<td>Neglected Prob(?)</td>
<td>(312) (6.1%)</td>
<td>(210)(5.1%)</td>
</tr>
<tr>
<td>Filed/Dismissed</td>
<td>787?</td>
<td>(1133)27.8%</td>
</tr>
<tr>
<td>Not guilty</td>
<td>217</td>
<td>125</td>
</tr>
<tr>
<td>Default</td>
<td>58</td>
<td>79</td>
</tr>
<tr>
<td>TOTAL CHARGES</td>
<td>5550</td>
<td>4331</td>
</tr>
<tr>
<td>TOTAL CHILDREN</td>
<td>4719</td>
<td>3829</td>
</tr>
<tr>
<td>TOTAL ON DOCKET</td>
<td>7648</td>
<td>?</td>
</tr>
<tr>
<td>TOTAL USED FOR %</td>
<td>5135</td>
<td>4080</td>
</tr>
</tbody>
</table>

Note on the Table: Statistics are culled from different parts of Judge Baker Foundation, Harvey..... (a) Unclear as to whether this should be deducted from probation or not. (b) Unclear whether those neglected children who were not cared for by institutions were placed on probation. (c) This number is derived by subtracting all other dispositions from an average total disposition—(d) Number of hearings held; some children were brought in more than once during year. (e) Total number of children appearing before court, cf., d. (f) self-explanatory. (g) Average of d & e; used to estimate percentage distribution of dispositions. Also, neglected children represented an average of 15% of children who appear before the Court and 13% of its cases.
Table IX. Disposition of Cases of Juveniles Under the Age of Eighteen Either Bound Over from the Lower Courts in Juvenile Session or Appealed from Juvenile Session, Total City of Boston, 1900-1

<table>
<thead>
<tr>
<th>Disposition</th>
<th>Cases Bound Over*</th>
<th>Appealed Cases Decision</th>
<th>Appealed Cases</th>
<th>Result of Appeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>House of Correction</td>
<td>1 2%</td>
<td>21 33%</td>
<td>4</td>
<td>6%</td>
</tr>
<tr>
<td>State Reform.</td>
<td>7 20%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>House of Ref.</td>
<td>0 0%</td>
<td>17 27%</td>
<td>2</td>
<td>3%</td>
</tr>
<tr>
<td>Parental Sch.</td>
<td>0 0%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fine</td>
<td>0 0%</td>
<td>24 38%</td>
<td>4</td>
<td>6%</td>
</tr>
<tr>
<td>Probation</td>
<td>16 40%</td>
<td>0</td>
<td>33</td>
<td>52%</td>
</tr>
<tr>
<td>Filed (Nolle Prossed or Withdrawn)</td>
<td>1 0%</td>
<td>0</td>
<td>19</td>
<td>30%</td>
</tr>
<tr>
<td>Not Guilty or No Bill</td>
<td>15 40%</td>
<td>0</td>
<td>1</td>
<td>2%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>39 63 100%</td>
<td>63 99%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Mostly for Breaking & Entering

(Source: Fifth Annual Report of the Institutions Registration Department (Boston, 1902), pp. 29-30)
Table X. Percentage of Arraignments Attended by Visiting Agent of Board of State Charities, or Board of Health, Lunacy and Charity or State Board of Charities which Resulted in Probation for Different Years

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage on Probation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1870-1</td>
<td>31%</td>
</tr>
<tr>
<td>1871-2</td>
<td>32%</td>
</tr>
<tr>
<td>1873-4</td>
<td>25%</td>
</tr>
<tr>
<td>1875-6</td>
<td>20%</td>
</tr>
<tr>
<td>1876-7</td>
<td>22%</td>
</tr>
<tr>
<td>1877-8</td>
<td>28%</td>
</tr>
<tr>
<td>1880-1</td>
<td>29%</td>
</tr>
<tr>
<td>1882-3</td>
<td>30%</td>
</tr>
<tr>
<td>1886-7</td>
<td>26%</td>
</tr>
<tr>
<td>1887-8</td>
<td>25%</td>
</tr>
<tr>
<td>1899-1900</td>
<td>25%</td>
</tr>
<tr>
<td>1900-1</td>
<td>25%</td>
</tr>
<tr>
<td>1902-3</td>
<td>22%</td>
</tr>
<tr>
<td>1904-5</td>
<td>29%</td>
</tr>
<tr>
<td>1905-6</td>
<td>32%</td>
</tr>
<tr>
<td>1906-7</td>
<td>34%</td>
</tr>
<tr>
<td>1907-8</td>
<td>30%</td>
</tr>
<tr>
<td>1908-9</td>
<td>31%</td>
</tr>
<tr>
<td>1909-10</td>
<td>33%</td>
</tr>
</tbody>
</table>

(Source: Annual Reports of the (Mass.) Board of State Charities, Board of Health, Lunacy and Charity, State Board of Charities)
<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Court Commitments</th>
<th>Attendance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1865</td>
<td>54</td>
<td></td>
</tr>
<tr>
<td>1866</td>
<td>59</td>
<td></td>
</tr>
<tr>
<td>1867</td>
<td>77</td>
<td></td>
</tr>
<tr>
<td>1868</td>
<td>56</td>
<td></td>
</tr>
<tr>
<td>1869</td>
<td>58</td>
<td></td>
</tr>
<tr>
<td>1870</td>
<td>44</td>
<td>143</td>
</tr>
<tr>
<td>1871</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>1872</td>
<td>24</td>
<td></td>
</tr>
<tr>
<td>1873</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>1874</td>
<td>22</td>
<td>82</td>
</tr>
<tr>
<td>1875</td>
<td></td>
<td>778</td>
</tr>
<tr>
<td>1876</td>
<td>53</td>
<td></td>
</tr>
</tbody>
</table>

(Source: Eleventh Annual Report of the Board of State Charities (1875), p. 157)
(Sources: Annual Reports of the Board of Police Commissioners (1869-1882); Annual Reports of Board of Police (1896-1905); Annual Reports of Police Commissioners of Boston (1906-1917))

Graph I. Percentage minors of all those complained of to police in different years in city of Boston.
GRAPH II. NUMBER OF WAYWARD AND DELINQUENCY CASES HEARD IN BOSTON JUVENILE COURT FOR DIFFERENT YEARS

(Source: Judge Baker Foundation, Harvey Humphrey Baker, Upbuilder of the Juvenile Court (Boston, 1920), pp. 22, 99)

GRAPH III. PERCENTAGE COMMITTED TO HOUSE OF CORRECTION IN BOSTON WHO ARE UNDER 20 FOR DIFFERENT YEARS (YEAR BEGINNING 1/31)

(Source: Annual Reports of the Penal Institutions Department, City of Boston (1898-1919))
GRAPH IV. AVERAGE NUMBER OF REFORMATORY INMATES IN DIFFERENT YEARS

(Source: Massachusetts Board of Managers, World's Fair (1893), "Massachusetts Care of Dependent & Delinquent Children," (Gillis, Boston, 1893) pp. 66, 68)
GRAPH IV. ATTENDANCE AT PARENTAL SCHOOL BY YEAR

(Source: Semi-Annual Reports of the Inspectors of Prisons and Houses of Detention for Suffolk County (1895-1913))
Footnotes
1 Acts and Resolves of Massachusetts, 1906 ch. 413 sec. 2.
2 Quoted on title page of Juvenile Court Judges Journal
3 Mrs. Lucy Flower was one of the founders of the first Juvenile Court in Chicago in 1899 (Cf., Mrs. Joseph T. Bowen, "The Early Days of the Juvenile Court," in The Child, the Clinic and the Court, (New Republic, N.Y., 1927), pp. 295-301)
9 "'Are you guilty or innocent of the specific crime with which you are charged?' In the era preceding 1899, that was the question put to the jury and the charge brought against the youngster. We ask at this time, 'What are you? Whither are you tending and how can we direct you?...!'--Julian W. Mack, "The Chancery Procedure in the Juvenile Court," The Child, the Clinic and the Court, op. cit., p. 314.
10 "The social survey which immediately preceded the founding of the Chicago Juvenile Court showed a large number of boys and girls in jail and it was the immediate object of the founders to get these children out of jail and to keep them out."--Miriam Van Waters, "The Juvenile Court from the Child's Viewpoint"
A Glimpse into the Future," The Child, the Clinic..., op.cit., p. 224. "The juvenile courts were brought into being because of a widespread conviction that the incarceration of children in lockups, jails and workhouses was wrong and actually encouraged crime among juveniles. They began by prohibiting the use of these institutions either for detention or as places for discipline or punishment." (Harry L. Eastman, "The Juvenile Court Today," National Probation Association Yearbook, 1934 (National Probation Association, N.Y., 1934) p. 79.


14 Acts and Resolves of the Province of Massachusetts Bay, 1735-6 ch. 4 sec. 5 & 6.

15 Passed in 1788 and nearly identical to that noted in infra., #12; Report of the Standing Committee of the Common Council on the Subject of the House of Reformation for Juvenile Offenders (J.D. Eastburn, Boston, 1832), p. 4.

16 Acts and Resolves of Massachusetts, 1826 ch. 182.


18 Acts and Resolves of Massachusetts, 1855, ch. 442 sec. 4.


20 Acts and Resolves..., 1903 ch. 413 sec 1 and 1906 ch. 489 sec. 4.

21 Ibid. and Resolves..., 1906 ch

22 Ibid.
23 Report of the Standing Committee..., op. cit., p. 16.


27 "It should be noted with regard to the act of misconduct recorded against the child in the court that the terms used are often reinterpretations, for it is not at all uncommon to find a series of different terms applied to precisely the same act." (Breckenridge and Abbott, op. cit., p. 32; cf., Judge Baker Foundation, Harvey Humphrey Baker, Upbuilder of the Juvenile Court (Judge Baker Foundation, Boston, cir. 1920), p. 23 and Raymond Murray, The Delinquent Child and the Law (Catholic University Press, Washington, 1925), p. 31.

28 "The court does not deal with cases from all parts of the city. It has jurisdiction only over those cases which arise in the central parts commonly known as the North, West and South Ends, and the Back Bay [as far as Massachusetts Avenue]. These comprise the most congested districts of the city, and the greater portion of its immigrant population." (Harvey Humphrey Baker, "Procedures of the Boston Juvenile Court," Survey XXIII (2/5/1910) in Judge Baker Foundation, op. cit., p. 120) It heard from one-third to one-half of the cases of juveniles under seventeen years of age in Boston (Elizabeth Durham, "Boston's Child Court System", Survey, XCV:250 (11/13/1920) and Evelina Belden, "Courts in the United States Hearing Children's Cases," (Children's Bureau of Dept of Labor, Washington, 1920), pp. 88-9. Alper noted that "Boston is the only city of its size in the United States which devotes its juvenile court work among a group of district courts." (Benedit Solomon Alper, "Juvenile Justice: A Study of Juvenile Appeals to the Suffolk Superior Court, Boston, 1930-35," in Journal of Criminal Law and Criminology, XXVIII, 3(Fall, 1937), p. 350)


30 "...in 1909 some of the courts had begun the practice of referring to probation officers, without affirmative or negative action, many police applications for summonses for
juvenile offenders...." (Eighth Annual Report of the Police Commissioner of Boston (Jan, 1914; Pub. Doc. No. 49), p. 13) Cf., Supra, 21ff; Before the Court, the police often picked up children on 'suspicious persons' charges, which were later dropped; perhaps 20% of juvenile complaints were brought in and released on such charges. (Fifth Annual...Institutions Registration, op. cit., p. 20).

31 Later renamed the Suffolk School for Boys in 1906. It was established in 1826 (ch. 182); it was noted as the only wholly publicly supported house of reformation in the earlier part of the century (Fifth Annual Report of the Directors of the House of Reformation (Boston, 1831), p. 8).

32 The first state-supported reformatory in this country, if not the world, was established for boys at Westborough in 1847 under the generous grant from Mr. Lyman (after whom the reformatory was later renamed). The Girls Industrial School was built in Lancaster in 1855. A nautical branch of Westborough was created in 1859, but was discontinued due to expense and its poor atmosphere for reformation in 1872. Counties were authorized to create their own schools for truants; however, only the Truant School in Suffolk was established (1878); later removed to the mainland and renamed Parental School, it was abolished in 1915. Cf., Supra, 35ff, & infra, Graph V.

33 "The great mass of public criminals became so through a regular process of education, and an early course of tuition in the common jail is generally one of the most important elements of this education." (Rev. Thomas M. Clark, "Address on the State Reform School Before the Connecticut Legislature at its May Session, 1854," (Babcock & Wildman, New Haven, 1854), p. 8). The Society for the Prevention of Pauperism in 1820 referred to the N.Y. City jails as "one great school of vice and desperation." (Young People in the Courts of New York (Williams Press, Albany, Legis. Doc. #55, 1942), p. 20).

34 Acts and Resolves..., 1836 ch. 143 sec. 15

35 Ibid., sec. 35.

36 Acts and Resolves..., 1859 ch. 286 sec. 4. "Parents who are ignorant or unmindful of the interests of their child convicted for crime, will often request and plead in court that he be sentenced to a jail or house of correction rather than to a reformatory, because the former sentence will be for a briefer period, and will keep him at a nearer point where he can be more easily visited; and magistrates often
inconsiderately heed such a plea, thus subjecting him to the worst associations, and making the way to perdition all the easier." (Seventh Annual Report of the (Mass.) Board of State Charities (1871), p. 89)

38 Acts and Resolves... 1882 ch. 127 secs. 1-3. In 1888 the Board of Health, Lunacy and Charity urged the raising of this limit to fourteen (Ninth Annual Report of the Board of Health, Lunacy and Charity (1888), p. cxxxv)

39 Conference of Child-Saving Societies, "Manual for the Use in Cases of Juvenile Offenders and Other Minors in Massachusetts," (Conference of Child-Saving Societies, Boston, July, 1895), pp. 8-9: "In this way the child is saved detention overnight...under lock and key, an experience which is likely either to destroy a wholesome horror of imprisonment or to expose to increased familiarity with vicious talk."

37 Acts and Resolves..., 1865 ch. 208 sec. 1
38 Acts and Resolves..., 1902 ch. 314
40 Acts and Resolves..., 1906 ch. 413 sec. 3
41 Acts and Resolves..., 1906 ch. 489 sec. 7
47 Ibid., p. 73.
48 Supra, 30ff. The Board of State Charities in its Second (1865, p. lxxvii-) an Fair (1867, passim) Annual Reports Board of Managers的身体World's Fair of 1893, "Massachusetts' Care of Dependent and Delinquent Children," (George H. Ellis, Boston, 1893), p. 11.
49 Judge Baker Foundation, op. cit., p. 31.
50 Ibid., p. 32.
51 Ibid., p. 59.
"In most of the appeals "the Superior Court refrained from committing and placed the children on probation, or filed or nolle prossed their cases." (Ibid., pp. 24, 102-3). The number of commitments includes those (over 1/7 of this number) who were committed to the State Board of Charities. Compare this high appeal rate with the Visiting Agent's observation that, "In only one or two instances have appeals been taken from the decisions of the judges of the probate courts--a fact worthy of special note." (Eighth Annual Report ... (1872), p. 248).

53 Alper, op. cit., p. 360.
54 Ibid., op. cit., p. 345: "The Boston Juvenile Court disposes of 39.2% of the juvenile cases in the county with only 12.2% of the total appeals."
55 Ibid., op. cit., p. 345.
56 Fifth Annual...Institutions Registration...,(1902), p. 29.
57 Ninth Annual...Board of State Charities (1873), p. 288. Cf. infra #53.
58 Acts and Resolves..., 1829 ch. 18
59 Acts and Resolves..., 1855 ch. 442 sec. 7; 1859 ch. 286 sec. 2.
60 Acts and Resolves..., 1906 ch. 413 sec 5, 1906 ch. 119 sec. 56.
64 Acts and Resolves..., 1878 ch. 190.
65 Acts and Resolves..., 1880 ch. 129.
66 Acts and Resolves..., 1891 ch. 352.
67 Acts and Resolves..., 1898 ch. 511.
68 Acts and Resolves..., 1906 ch. 413 sec. 7; 1906 ch. 489 sec. 6.
69 Acts and Resolves..., 1908 ch. 637.
70 Created in 1863 (ch. 240), this Board was a direct descendant of the Board of Commissioners of Alien Passengers and State Paupers.
71 Acts and Resolves..., 1869 ch. 453.
72 Ibid., sec. 4.
73 Ibid.
75 Acts and Resolves..., 1912 ch. 187 sec. 1.
76 Grinnell, op. cit., p. 604.
78 John Augustus, A Report of the Labours of John Augustus, for the Last Ten Years, in the Aid of the Unfortunate (Wright & Hastings, Boston, 1852), p. 33.
79 Ibid., p. 34.
80 Ibid., pp. 40-1; these costs consisted of fines and court fees which he paid on behalf of probationers.
81 "Frequently I suffered extreme inconvenience from the opposition of the police officers as well as the clerk of the court. I could not imagine the cause of this unfriendly spirit, until I learned that for every drunkard whom I bailed the officer was actually losing seventy-five cents, to which he would have been entitled if the case had been otherwise disposed...." Ibid., p. 8; also p. 35.
82 Ibid., pp. 16-7.
83 One letter to the Mail (1845) said that "The amount of good which he has done to the unfortunate victims of intemperance, especially, is almost incredible. He is the Howard of Boston." (Ibid., p. 68) While a Mike Walsh (1848) called him a "Peter Funk philanthropist, and a pea-nut reformer." (Ibid., p. 79). Yet another accused him of "undermining the foundations of the church, as well as the state." (p. 71).
See early Annual Reports of the Executive Committee of the (Boston) Children's Mission to the Children of the Destitute (esp. 1851) and Annual Reports of the Executive Committee of the Boston Children's Aid Society (1865-).

Sixth Annual...Board of State Charities (1869), p. 175.

Seventh Annual... Board of Charities (1870), p. 303.

E.g., Sixth Annual... (1869), p. 32; Seventh Annual..., (1870), p. 98: "Counties should be required to furnish special places for the confinement of children awaiting trial."

Elizabeth Durham, op. cit., passim and Florence Warner, Juvenile Detention in the United States (Univ. of Chicago Press, Chicago, 1933) appendix C discuss this.

The House of the Angel Guardian (Harrison Ave.) was especially prominent (see Annual Reports of Visiting Agent in Board of Charities' Annual Reports; also Fourth Annual... Children's Mission...(1853), p. 10; Judge Baker Foundation, op.cit., pp. 51, 53; and Oscar Handlin, Boston's Immigrants, 1790-1880 (Harvard Univ. Press, Cambridge, 1959), p. 162).

Later the Home for Destitute Catholic Children and the Mass. Society for the Prevention of Cruelty to Children offered housing for neglected children and the Boston Children's Aid Society provided private homes for detention. Boston was rather unique in this respect (cf., Thomas Dawes Eliot, The Juvenile Court and the Community (MacMillan, N.Y., 1914), p.9). Eastman noted in 1934 that Boston's use of private boarding homes "is not only contrary to one of the fundamental purposes of the juvenile court, but has also been condemned by every child welfare agency in the country for the past thirty years." (op. cit., p. 78)

Ninth Annual...Charities, (1873), p. 281.

Ibid., p. 302.

Ibid., p. 282.


Seventh Annual...Charities, (1871), p. 282.

Ibid., pp. 298-9.

Eighth Annual...Charities, (1872), p. 230.

Annual Reports...Boston Children's Aid Society (esp.
Twenty-fifth, 1880-9); Judge Baker Foundation, op. cit., pp. 3, 66; and Annual Report of the Italian Immigrant Association (1908-9), p. 12. It is interesting to note in this connection that "the Judge [Baker] himself...is from original American stock, one of his associates is of Hebrew extraction, and the other is an Italian. The idea of the appointment of the justices in this manner should be that a man knows the natural characteristics and tendencies of his race better than another." (Reginald T. Fitz-Randolph, "Massachusetts Laws and the Juvenile," Maine Law Review, VIII, 5 (March, 1915), pp. 123-4.)

98 Fifth Annual...Institutions Registration Dept., (1902), p. 23.


100 "The Probation agent, also, watches over another class of boys, who are placed on what we may call voluntary probation. Boys, for instance, are referred to us by the truant officers before their truancy has become confirmed or led to anything worse, and the friendly oversight of the probation officer...serves to keep them from going farther astray..." (26th Annual Report of the Boston Children's Aid Society (June, 1889-90), p. 12.)

101 Infra., #29. Murray, op. cit., p. 62, as well as Breckenridge and Abbott, op. cit., p. 207 mention the extensive settlement of cases outside the court.


104 Supra, p. 11.

105 Ninth Annual...Charities (1873), p. 292.

106 Fifth Annual...Inst. Regis. Dept. (1902), p. 27.

107 See notes to Table VIII.


109 Cf., First Annual...Charities (1864), 185ff.
Juvenile sessions also were not to be held in criminal courtrooms if at all practical.

The legality of such proceedings was established by Miner v. Miner (1849) 11 Ill. 40; Mill v. Brown (1907) 31 Utah 473; and In re Sharp 15 Idaho 200; also In re Kelley 152 Mass. 432 and Farnham v. Pierce 141 Mass. 203.
Observers early in the twentieth century did see the courtroom completely cleared before such sessions began and juvenile cases heard "in a comparatively private manner." (Howard Association, "Probation Officers" and "The Gift of Guidance", (Wertheimer, Lea & Co., London, 5/21/1901), p. 4 and Bartlett, op. cit., p. 16. However, this was true as early as 1872, cf. infra #131.

40 Observers early in the twentieth century did see the courtroom completely cleared before such sessions began and juvenile cases heard "in a comparatively private manner." (Howard Association, "Probation Officers" and "The Gift of Guidance", (Wertheimer, Lea & Co., London, 5/21/1901), p. 4 and Bartlett, op. cit., p. 16. However, this was true as early as 1872, cf. infra #131.

41 Forty-first Annual...Boston Children's Aid Society (1904-5), p. 16. These efforts were aimed, in part, at facilitating the probation of juveniles for which the society employed a full-time agent.


43 "The platform is just high enough to bring the average child's eye about on a level with the eye of the sitting judge." (Baker, op. cit., p. 111).

44 Platt, op. cit., p. 142 has pointed out the extraordinary medical analogy developed by the child savers which pervades the literature.

45 Baker, op. cit., p. 111.


47 Ibid., p. 35.

48 (State of Mass.), Report of the Commission on the
Inferior Courts of the County of Suffolk (H. 1638, 1912), p. 16.


150 Cf., infra., #149 & 149. It is striking how similar the present laws (viz., General Statutes Ch. 119 sec. 52-129 & Ch. 218 secs. 57-60) are to the original legislation (viz., 1906 chs. 413 & 489). The 1912 report (H. 1638, p. 16), however, did suggest a juvenile division of a county-level court with its own special justices.


153 First Annual...Charities (1864), p. 185.

154 Ibid.,

155 Ibid., p. 186.

156 Second Annual...Charities (1865), p. lxxvii ff.

157 Ibid.

158 Acts and Resolves..., 1869 ch. 453.

159 Cf., various Annual Reports...Charities. This is probably the same way the word 'advanced' was used to reject proposed legislation affecting neglected children in Illinois in 1891 (Timothy Hurley, "Origin of the Illinois Juvenile Court Law," The Child, the..., op. cit., p. 322).

160 Sixth Annual...Charities (1870), p. 42.

161 Ibid.; and Ninth Annual...Charities (1873), p. 1.

162 Eleventh Annual...Charities (1875), p. lxiv ff.

163 Ibid.

164 Ninth Annual...Charities (1873), p. 33; the bills were H. 279 and S. 284.

165 Supra, 27.

166 Eleventh Annual...Charities (1875), p. lxiv.
Ibid.

Ibid., pp. lxix-lxxiii.

Ibid., p. lxx, from $14,500 to $10,000.

Thirteenth Annual..:Charities (1877), p. xcv.

Ibid.

Cf. Annual Reports of the Boston Children's Aid Society (esp. 33rd (1896-7), 36th (1899-1900), and forward from this one); and Ray S. Hubbard, op. cit., esp., 16, 21, 57.

E.g., National Conference of Charities and Corrections, National Congress of Mothers, Charity Organization Societies, Societies for the Prevention of Cruelty to Children, etc.

E.g., Hazel Hillis, "Securing the Juvenile Court Law in Iowa," Annals of Iowa, A Historical Quarterly, XXIII, 3 (Jan., 1912), passim.

Platt, op. cit., p. 139; Cf., infra #29.

Cf., Massachusetts House Document No. 616: (1906); Who's Who in New England (Boston, 1909)

See (Mass.) House and Senate Journals (1906), March 26--April 18. Over sixty petitions were registered supporting H. 616.

The original petitions (in the Massachusetts State House Archives) are printed forms reading: "The undersigned petitioners respectfully ask for the enactment of legislation which shall provide for dealing with juvenile offenders as delinquent children, and not as criminals, substantially as provided in House Bill No. 616. Also for the establishment of a Juvenile Court in the City of Boston." House Bill No. 616 was Cushing's bill. The petitions came in and were presented in a single fortnight; all portions of the State were represented by some petitioners.


See House and Senate Journal entries. H. 1269 (1906).
reported out of committee on May 2 consisted of H. 616 (offered Jan 23), S. 43 (Jan 16), S. 68 (Jan. 18) and H. 1044 (March 13). H. 1288 was later substituted for it and was passed for engrossing on May 8.

182 See H. 858 (1906)
183 Infra., #179.
184 William Patterson, et. al., (Senate, April 21), and Henry Peterson, et. al., (Senate, May 15). The former was submitted on the forms used for the delinquency legislation petition with H. 1298 substituted for H. 616.
185 Cf., H. 858 and H. 616.
187 Ibid. They note that from 1900-05, when the population had increased by 61%, number of commitments to House of Reformation increased by 61½% and number to parental school increased by 25%. They exceeded capacity by 60% and 18% respectively.
188 See Annual Reports of the Children's Institutions Department, 1898--; esp. 1905.
189 Acts and Resolves..., 1901 ch. 351.
190 Annual Report of the Children's Institutions Department (1908).
192 Ibid., p. 42.
193 Cf., infra., #173 and supra., p. 28.
194 House Journal (May 10, 1906)
195 See Senate Journal entries (1906) for June 4, 6 & 7. On June 4 he asked for a delay in hearing the bill.
196 On June 6 he had three motions that were rejected—the first to provide that the justice shall devote his entire time to the administration of the court; the second, to refer the bill to the next General Court; the third, a
point of order, that the bill should not be entertained as certain of its provisions (e.g., neglected children?) went beyond the scope of the original petition. On June 7 he again moved to strike out the clause relating to neglected children but was defeated by 2-34. The bill passed the Senate on June 13 and became law on June 15 to take effect on September 1. (Senate Journal entries, 1906).

197 Bartlett, op. cit., pp. 12, 16.
199 Ibid., p. 60.
200 Ibid., p. 56; Judge Baker Foundation, op. cit., p. 27.
201 Cushman, op. cit., p. 3.
202 Ibid.
203 Ibid., pp. 6-7. Ignorance?
204 Cf., Forty-first Annual Report of Boston Children’s Aid Society (1904-5), p. 17 and continual pleas for money (Annual Reports, various and passim.)
206 Infra., #28.
208 Judge Baker Foundation, op. cit., passim.
209 Platt, op. cit., p. 135.
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