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# Juvenile Courts--Constitutional Rights and Rules of Evidence Applicable

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substantialy the position of the *Meierhof* case to which it refers.

The opposition of the treasury regulation and the *Meierhof* doctrine had been commented on. PAUL, FEDERAL ESTATE AND GIFT TAXATION § 12.24 (Supp. 1946). To sustain either was to discard the other. The Court has expressed its election in the instant case with the result that contingent charitable gifts must now satisfy a double test to get estate tax deduction. It must be capable of evaluation, unless as in the *Provident Trust* case, the charity is assured of taking; and even though it may be actuarially computable, the possibility of the charity's not taking must be so remote as to be negligible.

J. L. McC.

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JUVENILE COURTS—CONSTITUTIONAL RIGHTS AND RULES OF EVIDENCE APPLICABLE.—In delinquency proceedings against a minor in the Philadelphia juvenile court, the minor was shown to have operated an automobile without the owner's consent and without a driver's license. Guilty knowledge of the theft of the car was not shown. The child was adjudged delinquent after admitting that he was not a licensed driver. A later delinquency petition alleged his participation in an armed robbery and, at the hearing, a detective testified that a person who confessed to the armed robbery had implicated the minor, who was shown to have been before the juvenile authorities several times before. The court committed him to a training school and he appealed, complaining that the juvenile court compelled him to answer a self-incriminating question and that testimony as to the confession was inadmissible hearsay. *Held,* commitment sustained; juvenile courts are not criminal courts to which the constitutional rights granted to persons accused of crime are applicable and the nature of their hearings renders inapplicable the rules of evidence applied in criminal trials. In re *Holmes,* 109 A.2d 523 (Pa. 1954).

It seems to be well accepted today that a minor is not entitled in juvenile court proceedings to all the constitutional safeguards available to the adult criminal. *People v. Lewis,* 260 N.Y. 171, 183 N.E. 353 (1932); *cf. Cinque v. Boyd,* 99 Conn. 70, 121 Atl. 678 (1923) (*contra* on evidence point of principal case); Mack, *The Juvenile Court,* 23 HARV. L. REV. 104 (1909); Comment, 35 VA. L. REV. 1097 (1949). The functions of the juvenile court are considered so important that the limitations of the Constitution are

to be so construed, if possible, as not to interfere with its legitimate exercise. *State* ex rel. *Cane v. Tincher,* 258 Mo. 1, 166 S.W. 1028 (1914). Such legislation is beneficial and remedial, not criminal in its nature and is entitled to a favorable and liberal construction. *State v. Cagle,* 111 S.C. 548, 96 S.E. 291 (1918); In re *Alley,* 174 Wis. 85, 182 N.W. 360 (1921). Observance of constitutional and statutory rules regarding criminal procedure would be necessary if a finding that a child acted unlawfully were to serve as a basis for punishment. However, juvenile courts are not for punishment but are instrumentalities for determining needs as to training and guidance for the child's better physical, mental and moral development. *Cinque v. Boyd, supra;* Goldsmith, *Legal Evidence in the New York Children's Courts,* 3 BROOKLYN L. REV. 24 (1933).

One must distinguish two situations in considering admissibility of evidence in juvenile proceedings. If the question for decision is merely the kind of care and correction needed by the child, as in the case of destitution or milder stages of delinquency, evidence of a clinical and social nature is all that is required for a proper understanding of the circumstances and the needed remedial action. Where the question involves the custody, correction or liberty of the child, courts, absent a liberal statute, have tended to require evidence of a character required in courts of civil jurisdiction. *People v. Lewis,* 260 N.Y. 171, 183 N.E. 353 (1932); Goldsmith, *supra.* The civil nature of juvenile courts is most frequently explained as a legal heritage from the English chancery which exercised the parental prerogatives of the state under the *parent patriae* concept. Note, 27 COL. L. REV. 968 (1927). The distinction between judicial functions, which belong only to courts of competent jurisdiction, and those functions properly belonging to appropriate administrative agencies has been stressed, and the proposition advanced that legal questions involving removal of the child from his parents and compulsory confinement in a corrective institution must be decided by a court of some type, while problems of the care and treatment of the child properly belong in the more flexible administrative groups. Rubin, *Protecting the Child in the Juvenile Court,* 43 J. CRIM. L. & CRIMINOLOGY 425 (1952). The view is that the "rules of ancient origin" used by courts should not lightly be set aside in juvenile courts, for example, hearsay inadmissible in civil and criminal trials is just as bad in juvenile court proceedings involving serious curtailment of a child's freedom. Waite, *How Far Can Court Procedure*

*Be Socialized Without Impairing Individual Rights?*, 12 J. CRIM. L. & CRIMINOLOGY 339 (1921); *People v. Lewis, supra.*

Nonlawyers generally favor eliminating technicalities from juvenile court proceedings. Realization of the ideals widely cherished for staffing juvenile courts with judges and social investigators would perhaps make a completely informal procedure desirable. Good results are more likely to be obtained thus than by bringing minors into a formal and ceremonious court where the suggestion is that the law is about to be invoked to punish hardened malefactors. *State v. Scholl,* 167 Wis. 504, 167 N.W. 830 (1918). The practice of private hearings before judges with practically uncontrolled discretion, however, has been criticized somewhat extravagantly as modern Star Chamber proceedings. Note, 27 COL. L. REV. 968 (1927).

Wigmore concludes that logically and practically juvenile courts are not bound in law to observe jury trial rules of evidence. 1 WIGMORE, EVIDENCE §4d (4) (3d ed. 1940). Modern statutes allow admission of hearsay testimony. Ga. Laws 1943, No. 203, p. 628, § 4; R. I. Laws 1944, c. 1441, § 24.

By the instant case the Pennsylvania court has achieved the same result without specific statutory provisions. The result may be desirable, but most courts have been reluctant to anticipate the legislature in reaching it.

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REAL PROPERTY—CONTRACT TO PURCHASE—HUSBAND AND WIFE. —P, as joint purchaser with her husband under a contract to buy a tract of land, brought suit after she was divorced, joining her former husband and the vendors of the land, to compel execution of a deed to her of an interest in the land equivalent to one-half of the amount of the purchase money paid during coverture. The final payments of the purchase price had been made after the divorce and the vendors were doubtful as to whom the property should be conveyed as between husband and wife. *Held,* that where husband and wife join in a written agreement to purchase land and to pay the price therefore in installments, and are divorced prior to payment of the entire purchase price, no settlement of their property rights having been made in the divorce suit, the former wife is entitled to only one-half of the total amount of such installments paid before the divorce and has no property interest