Supplementary Material

Chapter 5: The Jacksonianl Era—Criminal Justice/Juries and Attorneys

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Ex parte Crouse, 4 Wharton 9 (PA 1839)

Mary Ann Crouse was committed to the care of the managers of the Philadelphia House of Refuge by a justice of the peace after her mother testified that she could not control her daughter's "vicious conduct." Mary Ann Crouse's father subsequently sought a writ of habeas corpus to have her released. Her father argued to the Pennsylvania Supreme Court that the state statute authorizing the detention of children who could not be controlled by their parents unconstitutionally deprived the children subject to detention of their constitutional right to a trial by jury.

The Pennsylvania Supreme Court unanimously upheld the statute. The court concluded that the detention of minors in a reform school did not require a jury trial and that the state had the power to sever parental ties to promote the public good. On what ground did the justices maintain that no jury trial was necessary? Could Pennsylvania detain students who did poorly on math (or constitutional law) examinations on the ground that detention might improve their skills?

PER CURIAM

The House of Refuge is not a prison, but a school. Where reformation, and not punishment, is the end, it may indeed be used as a prison for juvenile convicts who would else be committed to a common jail, and in respect to these, the constitutionality of the act which incorporated it, stands clear of controversy. . . . The object of the charity is reformation, by training its inmates to industry; by imbuing their minds with principles of morality and religion; by furnishing them with means to earn a living; and, above all, by separating them from the corrupting influence of improper associates. To this end may not the natural parents, when unequal to the task of education, or unworthy of it, be superseded by the *parens patriae*, or common guardian of the community? It is to be remembered that the public has a paramount interest in the virtue and knowledge of its members, and that of strict right, the business of education belongs to it. That parents are ordinarily intrusted with it is because it can seldom be put into better hands; but where they are incompetent or corrupt, what is there to prevent the public from withdrawing their faculties, held, as they obviously are, at its sufferance? The right of parental control is a natural, but not an unalienable one. It is not excepted by the declaration of rights out of the subjects of ordinary legislation; and it consequently remains subject to the ordinary legislative power which, if wantonly or inconveniently used, would soon be constitutionally restricted, but the competency of which, as the government is constituted, cannot be doubted. As to abridgment of indefeasible rights by confinement of the person, it is no more than what is borne, to a greater or less extent, in every school; and we know of no natural right to exemption from restraints which conduce to an infant's welfare. Nor is there a doubt of the propriety of their application in the particular instance. The infant has been snatched from a course which must have ended in confirmed depravity; and, not only in the restraint of her person lawful, but it would be an act of extreme cruelty to release her from it.