

Opinion No. 551**Children—Delinquent Children—State
Industrial School, Commitment to
—Suspension of Sentence
—Parole—Courts.**

HELD: The district court has the power to commit a delinquent to the State Industrial School and to then suspend the sentence and place the delinquent under the supervisory control of the parole officer and in the temporary custody of the delinquent's mother.

June 8, 1934.

You submit a letter by F. N. Hamman, County Attorney of Carter County, certified copy of an Order of Suspension of Sentence of Cecil Bradley, and a certified copy of Order of Commitment committing said Bradley to the "State Reform School." You advise that the proceeding is new in your experience and request advice from this office thereon.

You do not advise just what phase of the matter you desire our advice upon, but advice from this office can in no manner control an order of the District Court. If a judge of such court issues an erroneous order or decree the only method by which such error may be corrected is by proceedings to have the court grant a new hearing, or by appeal to a superior court. We have no objection, however, to suggesting some things that may be helpful to you.

The Order of Commitment is defective in that Bradley is committed to the "State Reform School". There is no such institution in this state. Your institution was at one time known by that title but such title was abolished in 1915. This is not an important defect in the proceedings as no difficulty would arise in determining the institution to which Bradley was to be committed.

Chapter 185, Laws of 1933, amending Section 12288, R. C. M., 1921, places such delinquent children as Bradley very fully under the supervision of the District Court and we think Judge Felt is within the law in the action taken in this case. Section 12285, R. C. M., 1921, vests the power in the Judge to

suspend any such commitment. On page 452 of the 1933 Session Laws, part of Chapter 185 referred to above, the Court is given specific authority to commit to your institution, but further along in the same chapter, at page 453, it is provided that the institution to which the delinquent is committed must have ten days notice before such order of commitment is entered. This notice is no doubt for the purpose of permitting such institution to make such objections as it may desire to the commitment.

In Section 12497, R. C. M., 1921, specifically relating to your institution, it is provided that any inmate committed to your school found to be incorrigible, unmanageable, or detrimental to the best interest of the school may be returned to the court that committed such inmate.

The order of suspension of sentence places the supervision of Cecil Bradley under the "Parole Officer of the State Industrial School at Miles City" and in the temporary custody of his mother. Your school, under the order of commitment, will have such powers as a special or volunteer parole officer, and if the parole officer should become convinced that Bradley had violated his parole, and the facts formally placed before the court, the Judge no doubt would annul the parole order and remand the delinquent to the custody of your institution.