

Fourth Section  
Fourth Question  
Abstract

Children born out of Wedlock.

By Paul Neander, Moscow, ~~SixxRexx~~ Russia.

Children born out of wedlock ought , without any restriction, to benefit by anything that the state can do for them , or that it would do for any abandoned and needy child. Certain special measures, such as compelling the father to pay <sup>fixed</sup> ~~an~~ amount for the support and education of the child would certainly contribute much to the material comfort of the little one. But nothing but the moral influence of a society becoming more humane and more Christian , can give these girl mothers courage to keep their children instead of abandoning them to charity or leaving them on the street . A protectorate of childhood could do excellent service here , as elsewhere , in protecting these fatherless, and sometimes motherless , children from the cruelty of their comrades and of their masters. . The foundling homes ought to watch over these <sup>m</sup> ~~children~~ more carefully and follow them out into their hard life. Schools, workshops and employment of different kinds, ought to be connected with these asylums that the little orphans may learn to lead an honest and useful life. It was the Empress Catherine II of Russia who was the first to declare that these unhappy children were not guilty of their birth and that it was too cruel to make them suffer for the sins of their parents. It was she who, in founding these orphanages , ordered that there should always be a basket <sup>with warm wraps,</sup> ready <sup>^</sup> day and night , to receive ~~these~~ foundlings and that the guards should not show themselves <sup>es</sup> and never ask the least question of those who placed the babies in the basket, which was drawn inside through an opening in the door. This method has been exchanged for declarations, papers, the payment



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This method has been exchanged for declarations, papers, the payment



of charges etc , things that hinder the saving of the lives of the children. It is evident that some other way must be adopted to save as many as possible . As for legislation , it can at least make all children equal before the law , born during marriage or out of wedlock , under all conditions, especially in the matter of inheritance. It is the duty of society to relieve the sufferings of these defenseless, innocent children. . Perhaps then we may ask legislation to give special protection to those whose natural protectors have abandoned them. Until then two things should be required; equality before the law and charity on the part of man.



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Children born out of Wedlock.

By Gustave Correvon , Member of the tribunal, Lausanne.

The special object of this rapport ~~was~~<sup>is</sup> to report to the members of the Congress recent legislation in Switzerland with reference to penal law. Switzerland has a population of about 3,500,000 , ~~v~~ with no fewer than twenty-five different civil legislative bodies , one for each canton or demi-canton . Since 1870 there has been a movement to unify civil and penal laws . In 1907 by unanimous vote a civil code was adopted for the whole country which goes into effect in 1912. I will speak only of that part of the code which refers to children<sup>the education of</sup> and relative to the fathers and ~~the~~ rights of illegitimate children.

Within recent years the idea has grown that the state cannot respect the rights of the father of a family if he abuses his privileges or gives a bad education to his children. The state has a great interest in having well-educated and trained children , Many countries permit unworthy ~~y~~ parents to be deprived of their rights over their children that the children may be brought up under the protection of the state.

As to children born out of wedlock the question arises whether , as is the case in some countries, there should be no enquiry as to the fathers of such children. It is true that such search developes scandals and is a pretext for hush-money being demanded , but it seems to me that the advantages outweigh the disadvantages and that women ought to be no longer the victims



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of their seducers. As for the children it is needless to point out the grave consequences to them of being deprived of the help of a father. . As to the mother, though many unmarried mothers are devoted to their children yet too often they abandon them because, as the father is allowed to go scot-free they see no way of bringing the children up and supporting them. . It is only too well known that illegitimate children in proportion to legitimate children furnish a very dangerous element to society . In France, where the enquiry as to the paternity of the child is not required the courts have laid down the principle that the unmarried mother may bring an action against the father of her child on the principle that whoever dammages another must make reparation. There is a proposed law which will permit the search for pater nity in that country. .

Concerning the education of children in Switzerland the code gives the parents the right to cor rect their children and to demand their obedience and respect, but they must give them a suitable education and professional instruction according to their abilities. Anxxx Any child above 16 is to have religious freedom, liberty to choose his own confession. If the parents do not fulfill their duties the authorities have power to take measures to protect the child and to place him in an institution or a selected family. If the child is disobedient and obstinate the parents may call upon the state to train him, but in that case they must bear the expense if they are able , otherwise the support comes on the canton. . If the parents are unworthy the child may be taken from them.. All the regulations with relation to children apply to illegitimate as well as to legitimate children.







The new code <sup>A</sup> introduces the search for the paternity of children born out of wedlock in all Switzerland. It was remarkable that there was no dissenting voice. The code provides for <sup>either the</sup> voluntary recognition of the natural child on the part of the father or ~~or for~~ the right to sue on the part of the mother and child... It does not go so far as to declare the paternity unless there had been promise of marriage. The paternity ~~is~~ cannot be declared if the father was already married. If the suit is only on financial grounds the child takes the name and follows the conditions of the mother. If it is for recognition of paternity the child takes the father's name and condition. Marriage between the father and mother legitimizes the child. The child has all the rights on its mother's side as if it were legitimate, even to the rights of inheritance.. If the paternity is certain or highly probable, either from voluntary <sup>&</sup> recognition, or if there has been promise of marriage, the code recognizes a natural filial relation between father and child, and the child bears the same relation to the father's family as to his mother's, except that it can ~~only~~ inherit but half as much as the legitimate child. That is the only difference in Swiss law between natural and legitimate children. This humanitarian work owes much to Professor Huber of the University of Berne.. These ideas may be thought too revolutionary by some, but ~~but as for myself~~ <sup>as for myself</sup> I do not share these fears.. I believe they will meet the ideas of the Swiss people.



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### Illegitimate Children.

By Dr. Arthur Charles Szilagyi,  
Budapest.

The illegitimate child is inferior to the legitimate in more than one sense. As the mother must fight for its life as well as her own, usually under unfavorable circumstances, the child is not physically up to the standard. This means that it is less able to resist disease, ~~xxxix is xxxix~~ consequently the morality among such children is greater. When grown it is restricted in the choice of a career, is not so well-fitted for military service, and ~~becomes~~, from the social point of view, in danger of becoming a criminal. On the other hand, as women can now earn their own living in so many ways, there is a decrease in the number of marriages and an increase in the number of illegitimate children. This means a loss to the state and this question therefore is of interest to the whole civilized world, how to equalize the difference between the children of the first and second quality.

After giving certain facts about the Hungarian code and statistics showing the increase of illegitimate births in Hungary, the writer condenses his paper as follows:-

The proportion of illegitimate children born in cities is larger than elsewhere. The number depends less on the degree of morality of a people than on the matrimonial regime.

Almost half of the natural births that are legitimized are made legal before the age of two. After the age of 14 it is very rare..

Half of the women who marry after having had an illegitimate

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marry some other man than the father of the child..

The number of births as a whole decreases ; that of illegitimate children increases .

In civilized countries the number of marriages is decreasing and divorces increase more rapidly than the population.. In the greater number of these cases it is the woman who applies for the divorce.

The mortality among illegitimate children is greater than among legitimate children. There are more still born infants born out of wedlock than in marriage.. In villages and small communities the circumstances are worse for illegitimate children. In the cities conditions are better, but even there children born out of wedlock run greater dangers than the offspring of legitimate marriage.

A third of the mothers of illegitimate children are in domestic service, a fourth are laborers and a fourth have some industrial profession. .

In Hungary the mothers of illegitimate children are younger than legitimate mothers.

Among the measures to meet this condition of things are three:

I. To safeguard the rights and interests of children born out of wedlock there must be legislative measures. 1. The legal condition of children born out of wedlock should be regulated so as to eliminate completely the difference which now exists between children born in marriage and out of marriage, with reference to the mother and the maternal branch and to reduce to the minimum all that pertains to the natural father and his relatives. 2. The obligation of support imposed on the natural father should be considered as having its origin in the ties of blood etc. 3. The legal condition of a natural child which has been acknowledged by the natural father should conform to the legal condition of the legitimate child. 4. Every child materially or morally abandoned should have the right to have



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the state act in loco parentis and such a child should be supported and educated up to the age of 18 if necessary. 5. These measures are to be also a protection to the mother. Three weeks before the birth of the child and three weeks after the woman should not work and the contract for her labor should make that arrangement, her pay not to cease. The period may be prolonged if necessary, when the employer need not be expected to pay for that extra time.. While waiting for legislative action private and religious societies should look after maternal cases more carefully.

II. The procedure should be simplified so that the natural father may more easily acknowledge his natural child, or adopt him.

III. Legislative and administrative measures ought to result in more intense social propaganda. Leagues for the protection of childhood and maternity should extend their action in this direction. Another reform should be that the nursing child should nurse the mother instead of being fed artificially. To make this possible aid must be given to the mother in different ways, by gratuitous medical advice, by confinement in a free maternity hospital etc.



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By Henri Joly  
Hon. president, Prison Society, Paris.

A child ~~can~~ demands the intervention of the public for its care when it is evidently badly ~~cared for~~ <sup>used</sup> by the adults who have accepted the charge of caring for it, or who should have accepted such charge. An illegitimate child may be brought up in an irreproachable manner by its mother, if she does not abandon it, or by its father if he <sup>acknowledges</sup> ~~recognizes~~ it as his. On the other hand a legitimate child may be abandoned, maltreated, driven into wrong-doing, by its own parents. And it must not be forgotten that besides children born out of wedlock there are others thrown out of wedlock, out of the family, through divorce. The same dangers may confront each of these classes of children.

Society has every interest in encouraging marriage and the family. In the total population of France there are 8 illegitimate children to the hundred. In the population of reform schools they form 14 per cent of the boys and 19 per cent of the girls. There is reason to regret the indifference which <sup>puts on the same footing the free</sup> ~~places the illegitimate child~~ <sup>union and the legal union, and which, in certain cases,</sup> gives the same aid to the concubine as to the legal wife, but when a juvenile commits an act contrary to the law it is that act which calls for the attention of society, whatever the antecedents of those who brought him into the world. Whether a mix juvenile offender be a natural child or a legitimate one he is treated only according to the common law.

The minor child is not alone responsible for his act and that must be remembered in giving him his liberty. It is clear that in



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releasing him it is easier to give him back to his legal family than to a n unmarried mother, living alone, without the protection of a husband , or to a father and a mother living together to be sure, but with a legal right to separate next day. But in choosing measures for these children the judge must follow for all the common law.

The law-maker will not go wrong if he takes measures to make it more difficult for the father to abandon his natural child, if he will see that there is an equitable treatment of seduction , and that promises of marriage are observed and that one who assumes certain relations shall be held to his responsibility..

It is to the common law that one must appeal to see that ~~exerxxx~~  
~~without legal parents xxx having them no longer xxx~~  
~~child no longer having legal parents xxx~~  
guardianship is provided for every child without legal parents, or having them no longer. The unacknowledged natural child is in a particularly dangerous position. It is well known that illegitimate children which were not acknowledged during their earlier years , how when they reach fifteen or sixteen become suddenly the objects of attention and apparent solicitude from those who claim them, with a desire to exercise paternal authority over them. It has been often enough seen that this is only to secure the labor of the young boy or the young girl. The mere affirmation of a man or a woman , who were missing when there was a duty to fulfill and who reappear only to claim a right, is not to be accepted without ~~series~~ sufficient guaranty. The formation of a court of guardians would permit such tardy claims to be investigated and submitted to the judicial authorities . That would be but one of the advantages of the establishment of such an association of guardians, as the friends of neglected children have long plead<sup>d</sup> for.



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Guardianship is provided for every child ~~xxxxxx~~ parents, or having them no longer. The unknown child is in a particularly dangerous position. It is well known that illegitimate children which were not acknowledged during their earlier years, when they reach fifteen or sixteen become suddenly the objects of attention and apparent solicitude from those who claim them with a desire to exercise paternal authority over them. It has been often enough seen that this is only to secure the labor of the young boy or the young girl. The mere affirmation of a man or a woman who were missing when there was a duty to fulfill and who appear only to claim a right, is not to be accepted without sufficient guaranty. The formation of a court of Guardians would permit such tardy claims to be investigated and submitted to the judicial authorities. That would be but one of the advantages of the establishment of such an association of Guardians, as the friends of neglected children have long plead for.



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It is then unnecessary to leave the common law to protect and honor the legitimate family, to discourage seduction and abandonment, ~~nor~~ to provide for the natural child who has been condemned and , when he shall be liberated , ~~nor~~ to preserve him from the dangers of those who would make this tardy claim .



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