Illinois Supreme Court History:
Reform School

John A. Lupton
Supreme Court Historic Preservation Commission

In the early- to mid-nineteenth century, reform schools began in the United States to deal with the growing problem concerning delinquent children. Prior to this time, courts relied on the doctrine of *parens patriae*, which originated in England, referring to the King being responsible for everything involving youths. In the United States and Illinois, *parens patriae* evolved into the state acting in the "best interest of the child" with houses of refuge and reform schools becoming a more sympathetic way to deal with vagrant children.

An 1863 Illinois law created a Reform School in Chicago for children between the ages of 6 and 16 who are "destitute of proper parental care and growing up in mendicancy, ignorance, idleness or vice," but who may have committed no crime, to be kept there until reaching the age of 21.

In September 1870, Daniel O'Connell, a 14-year-old boy, was taken into custody by the Cook County Sheriff's Office because of evidence that O'Connell was in danger of becoming a delinquent, and a judge of Cook County Superior Court remitted O'Connell to the Cook County Reform School. It's not clear what the young O'Connell did to demonstrate his delinquent tendencies.

O'Connell's father, Michael, desired custody of his son and petitioned the Illinois Supreme Court for a writ of habeas corpus, representing that his son "is restrained of his liberty contrary to the law, [and] without conviction of crime." The writ was directed to Robert Turner, the superintendent of the reform school. Michael O'Connell also noted that his son had been working at a paper factory for $4 per week. Michael is very poor and the "services of the boy are of absolute value."

The Court heard arguments in *People ex rel. O'Connell v. Turner*, 55 Ill. 280 (1870) with Justice Anthony Thornton authoring the opinion to discharge Daniel O'Connell from the Reform School. Justice Thornton's passionate opinion focused on personal liberties and the proper supervision of minors. Since there was no record of a criminal offense, Thornton concluded O'Connell was sent to the Reform School because of "misfortune." He added that such "a restraint upon natural liberty is tyranny and oppression. If, without crime, without the conviction of any offense, the children of the State are to be thus confined for 'good of society,' then society had better be reduced to its original elements, and free government acknowledged a failure."

Thornton continued, "even criminals can not be convicted and imprisoned without due process of law—without a regular trial, according to the common law. Why should minors be imprisoned for misfortune? Destitution of proper parental care, ignorance, idleness, and vice are misfortunes,

not crimes." The only question to be decided was whether the laws creating the reform school were unconstitutional. Thornton noted it "is a grave responsibility to pronounce upon the acts of the legislative department," but it is "the solemn duty of the courts to adjudge the law and guard, when assailed, liberty of the citizen."

The *People v. Turner* case refuted an 1830s Pennsylvania case in which its Supreme Court denied the release of Mary Ann Crouse from a house of refuge based on the *parens patriae* doctrine. *Turner* illustrates the change over time of whether the state or the parents are better equipped to manage the rights of children. While the Chicago Reform School continued to exist, it could no longer accept children who had not been convicted of any crime. Illinois continued to evolve, and in 1899, the Illinois General Assembly created the first juvenile court to provide an entirely separate system of justice for children.