JUVENILE JUSTICE—UNLAWFUL EXTRAJUDICIAL CONFESSION EXCLUDED UNDER MIRANDA—TESTIMONIAL IN-COURT CONFESSION "IMPELLED" BY THE ADMISSION OF THE INVALID CONFESSION INTO EVIDENCE. *In re Teters,* (Cal. 1968).

On April 30, 1967, Tom Lee Teters, age fourteen, and a companion ran away from home. They "hot wired" the ignition of an unlocked car and drove off. After running out of gas, they removed a pistol and items of personal property from the car and fled on foot.

Shortly thereafter, the Sheriff's patrol picked up the boys. They were found to be runaways, and brought to the Sheriff's office to await the arrival of their parents. Asked about the abandoned car, Teters made his first admission that he had taken it. The boy was then advised of his constitutional rights as prescribed in *Miranda v. Arizona*,[1] after which he made a second confession.

At the hearing, Teters, represented by counsel, took the stand in his own behalf, and made a third confession with regard to taking the car. He was subsequently declared a ward of the juvenile court.[2] On appeal to the Third District Court of Appeals, *held,* reversed; the due process requirements of *Miranda*[3] were violated, in that the "extrajudicial confessions impelled the testimonial one." *In re Teters*, 264 *Adv. Cal. App.* 951, 957, 70 *Cal. Rptr.* 749, 753 (1968).

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1. Miranda v. Arizona, 384 U.S. 436, 478-79 (1966). The case holds that when an individual is taken into custody or otherwise deprived of his freedom by the police he must be warned of his right to remain silent, and of his right to the presence of an attorney, or to have an attorney appointed to him if he is indigent prior to questioning. Absent these warnings, any evidence obtained as a result of the questioning is invalid and may not be used against him.

2. Teters came within the provisions of section 602 of the CAL. WELF. & INST'NS CODE (West 1966) in that he violated the laws of the state of California, namely the CAL. VEHICLE CODE § 10852 (West 1960), (Breaking or Removing Vehicle Parts). CAL. WELF. & INST'NS CODE § 602 (West 1966) describes a minor who has violated a local or state law or one who has previously been found a person described in section 601 (habitually disobedient minors) and has failed to obey an order of the juvenile court.

3. 384 U.S. 436 (1966). It is curious to note that, at one point, the court stated that it was true the officer testified that the defendant was not a "suspect" regarding the auto theft, and then went on in the next paragraph to state that the boys were "suspects." It is fair to observe, nevertheless, that even if the court is imposing its own thinking in order to judicially bootstrap the case, the court is also applying the *ratio decidendi* of *Miranda*; i.e., "[b]y custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way." *Id.* at 444.

Since adult and juvenile law are grounded in principles that are often diametrically opposed, a preliminary sketch of juvenile court theory will aid in an appreciation of the issues raised in *Teters*. As one writer points out:

> The juvenile court philosophy is theoretically based on the merging of two doctrines: the equitable concept of *parens patriae*[4] and the common law presumption of limited capacity of children to form the requisite criminal intent. *Parens patriae* was derived from the assumption that children were wards of the state and needed special protection.

A basic premise of current California law[6] is that a juvenile proceeding is technically civil and not criminal in nature.[7] For example, "[T]he application of the preponderance of evidence rule rather than the reasonable doubt test of section 1096 of the Penal Code to determine that the minor has committed a crime under section 602 of the Juvenile Court Law is not violative of his constitutional guarantees of due process or equal protection of the laws."[8] However, the modern trend seems to favor stricter procedural requirements in juvenile adjudication, particularly in areas where constitutional issues frequently arise. In this regard, one writer states that: "[T]he United States Supreme Court has recently decided that most of the criminal procedural protections required by due process (*e.g.*, the right to adequate notice and counsel, the right not to incriminate oneself, and the right of confronta-

4. A classic California case in the field of juvenile litigation discusses the protective attitude of the courts towards juvenile offenders in terms of *parens patriae*. People v. Dotson, 46 Cal. 2d 891, 895, 299 P.2d 875, 877 (1956). Generally, juvenile offenses are not considered criminal in nature and are handled by the juvenile court "in the nature of guardianship proceedings in which the state as *parens patriae* seeks to relieve the minor of the stigma of a criminal conviction and to give him corrective care, supervision, and training."

5. BOCHES & J. GOLDFARB, CALIFORNIA JUVENILE COURT PRACTICE, 18 § 7 (1st ed. 1968) (A publication of the State of California's CONTINUING EDUCATION OF THE BAR). [Hereinafter cited as BOCHES & GOLDFARB]. Note also that The Juvenile Delinquency Prevention and Control Act of 1968 provided that the purpose of the act was "to assist courts, correctional institutions, law enforcement agencies, and other agencies having responsibilities with respect to delinquent youths and *youths in danger of becoming delinquent* . . ." (emphasis added). Pub. L. No. 90-445, § 111, 82 Stat. 462, Act of July 31, 1968. For an excellent discussion of the ramifications of juvenile justice in the U.S., see Note, *Juvenile Delinquents: The Police, State Courts, and Individualized Justice*, 79 HARV. L. REV. 775 (1966).

6. *See* CAL. WELF. & INST'NS CODE, §§ 500-945 (West 1966).

7. *See* J.L. GODDARD, 5 CALIFORNIA PRACTICE § 1383 (Supp. 1968).

8. *Id.* at 66 § 1383. In criminal cases proof of guilt must be made beyond a reasonable doubt and to a moral certainity. CAL. PENAL CODE § 1096 (West 1956).

tion and cross-examination) are also applicable"[9] to juveniles. It is speculative as to how far the courts will extend adult criminal procedure. Yet it seems accurate to predict that future judicial inquiry, relating to stricter procedural rules in juvenile proceedings, will involve questions such as; "[B]ail pending the hearing, a jury trial, the presumption of innocence, and the right to demand that the proof of his alleged violation be beyond a reasonable doubt and to a moral certainty."[10] It is against this background of recent reform in the field of juvenile law and in the context of the historical development of the theory of *parens patriae* that *In re Teters* was handed down.

The issues before the court concerned the admissibility, under constitutional objection, of three confessions, the first and third of which form the primary subject of this note. In reaching its decision, the court did not discuss the second confession, although it was made incident to a proper *Miranda* admonition. In fact, the officers even surpassed the *Miranda* requirement when they asked Teters whether he "understood" the warning.[11] He replied that he did and that he was willing to waive his constitutional privileges.[12] In an adult proceeding such evidence might be excluded on the theory that the second confession was the fruit of the first, and therefore inadmissible under the "fruit of the poisonous tree" doctrine.[13] Although it has been suggested that this rule should apply to juvenile proceedings, the prevailing California rule is to the contrary.[14] This indicates that the second confession amounted to

9. BOCHES & GOLDFARB, *supra* note 5, at 15, § 2.

10. Gardner, *Gault and California*, 19 HASTINGS L.J. 527, 539 (1968).

11. *In re* Teters, 264 Adv. Cal. App. 951, 954, 70 Cal. Rptr. 749, 751 (1968).

12. *Id.*

13. *See* Wong Sun v. United States, 371 U.S. 471 (1963), where the Court held that if a declaration sought to be introduced is the result of unlawful police action (illegal entry and arrest), the declaration is the fruit of the unlawful search and seizure and therefore is inadmissible, and further, if this declaration led to a third person who voluntarily disclosed contraband, the contraband is also deemed inadmissible. *Id.* at 487-88.

14. In this regard, at least one California appellate court suggests that the "poisonous tree doctrine" is applicable in juvenile proceedings. *In re* Rambeau, 266 Adv. Cal. App. 455, 72 Cal. Rptr. 171 (1968). *See also In re* Williams, 49 Misc. 2d 154, 161, 267 N.Y.S.2d 91, 98 (Family Ct. 1966) (dictum);

> [T]here is no reason why the exclusionary rule . . . should not be equally applicable to a juvenile, who, by reason of his immaturity, stands in much greater need of protection from unwarranted police interrogation than an adult.

cf. B. WITKIN, SIGNIFICANT DEVELOPMENTS IN CALIFORNIA SUBSTANTIVE LAW, 261 (1st ed. 1967).

See also Norman Lefstein, *In re Gault, Juvenile Courts and Lawyers*, 53

substantive and probative evidence which was not discussed by the court. It is unclear whether this lack of discussion reflects the court's distrust of confessions by minors,[15] an oversight in the court's independent evaluation of the evidence, or some other motive. It is clear though, that a discussion of the second confession might have rendered an exclusion of confessions one and three moot, assuming that confession two was unobjectionable.[16] In light of the court's limited analysis of this aspect of the case, the present inquiry will be concerned with the conclusion that confessions one and three were inadmissible.

With respect to the first confession, the court held that the admission of this confession, which was not made incident to the *Miranda* admonition, caused undue prejudice to the defendant's case and would require reversal, unless sufficient evidence of guilt existed independent of the invalid confession.[17] This reasoning is consistent with recent landmark decisions which have emphasized principles of fairness and procedural due process in juvenile proceedings.[18] Therefore, if two policies are in conflict—a policy which guarantees constitutional due process to the citizen whose liberty is at stake, and a policy which permits the admission of relevant but prejudicial evidence—the former should prevail. To

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A.B.A.J. 811 (1967), who suggests that in the post *Gault* era the exclusionary rule is likely to be invoked, particularly in view of the conceptual link between the fourth and fifth amendments. *Id.* at 814. *cf.* BOCHES & GOLDFARB, at 122 § 130, which states that:

> [t]he 'fruit of the poisonous tree doctrine' [footnotes omitted] should apply in juvenile courts to the same extent as in criminal courts, so that evidence obtained as a consequence of an unlawful search and seizure or an illegally obtained extrajudicial confession should be excluded.

Contra, T. Wealch, *Kent & Gault: Two Decisions in Search of a Theory*, 19 HASTINGS L.J. 29, 44 (1968).

15. *See In re* Gault, 387 U.S. 1, 48 (1967), which states that

> [w]ith respect to juveniles, both common observation and expert opinion emphasize that 'distrust of confessions' made in certain situations . . . is imperative in the case of children from an early age through adolescence (dictum) (footnotes omitted).

16. J. GODDARD, at 74 § 1418.5 states that, "[a] minor is not incompetent as a matter of law to waive his constitutional rights to remain silent even though there is no consent to the waiver by an attorney, parent, or guardian . . ." *cf.* People v. Lara, 67 Cal. 2d 365, 432 P.2d 202, 62 Cal. Rptr. 586 (1967).

17. This statement is an application of the rule stated in *In re* Castro, 243 Cal. App. 2d 402, 52 Cal. Rptr. 469 (1966) where wardship was affirmed because, disregarding the illegal confessions, there was sufficient evidence to support the order. Note also that in *Teters*, 264 Adv. Cal. App. at 957, 70 Cal. Rptr. at 753 (1968), the court states that the extrajudicial confessions were invalid—yet later in the opinion (264 Adv. Cal. App. at 962, 70 Cal. Rptr. at 756) concern seems to be with only one confession.

18. *See In re* Gault, 387 U.S. 1. *See also* Kent v. United States, 383 U.S. 541 (1966).

this extent, the ultimate holding in the case, insofar as the court finds that the admission of the invalid confession constitutes prejudicial error,[19] seems proper and in accord with the general principles of fairness and procedural due process propounded in *Gault* and other recent juvenile cases.[20]

Teters initially cited *In re Castro* for the proposition that, "[a]ll evidence bearing on the questions at issue is admissible by the express provisions of the sections, but the utilization of the evidence by the court is strictly controlled."[21] The authority which the *Castro* court recognized for this rule is section 701 of the Cal. Welf. & Inst'ns Code.[22] According to one writer, section 701 represents an effort by the California legislature to bridge the gap between the *parens patriae* theory of the social welfare advocates and the criticisms of the constitutionalists.

> *Any matter or information relevant and material to the circumstances* or acts which are alleged to bring him within the jurisdiction of the juvenile court *is admissible* and may be received in evidence; however, a preponderance of evidence, legally admissible in the trial of criminal cases, must be adduced to support a finding that the minor is a person described by section 602, and a preponderance of evidence, legally admissible in the trial of civil cases must be adduced to support a finding *that the minor is a person described by section 600 or 601.*[23]

The rationale behind the apparent anomaly which permits an invalid confession (as well as other incompetent evidence) to be admissible in a juvenile hearing traditionally stems from the Cal. Welf. & Inst'ns Code's unique provisions for a bifurcated hearing.[24] In the first part of the hearing, the court establishes jurisdiction over the minor.[25] At this stage the court must determine if the minor is a "neglected or dependent minor," a minor "showing a tendency toward delinquency," or a minor who has committed what would constitute a crime were he an adult.[26] It is during the

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19. But note that the admission of the invalid confession into evidence constituted reversible error since there was insufficient evidence exclusive of the invalid confession. *See In re* Castro, 243 Cal. App. 2d 402, 52 Cal. Rptr. 474 (1966).

20. *See In re* Gault, 387 U.S. 1 and Kent v. United States, 383 U.S. 541.

21. 243 Cal. App. 2d at 411. Regarding the limited use of this evidence, see note 22 *infra.*

23. *Id.* at § 701 (emphasis added). *See* Gardner, *supra* note 10, at 527, 537.

24. CAL. WELF & INST'NS CODE § 701-02 (West 1966).

25. *Id.* at § 701.

26. *Id.* at § 701.

jurisdictional or initial stage of the hearing that incompetent evidence is admissible.[27] The justification seems to be that relaxed rules of evidence are conducive to effective fact-finding.[28] This view is also grounded in the premise that the state stands as *parens patriae* with respect to the wayward minor, and that the criminal stigma of a formal trial is not present.[29]

Notwithstanding the statutory language in section 701 which permits the introduction of incompetent evidence during the jurisdictional stage of the hearing, there is a lack of uniformity in California juvenile courts regarding the correct interpretation of the section.[30] In noting this lack of consistency, the 1968 edition of the Continuing Education of the Bar's publication on *California Juvenile Court Practice* advises:

> Since an increasing number of California juvenile courts are now applying strict rules of evidence at the time the evidence is offered and are excluding incompetent evidence, counsel should in most cases ignore Welf. & Inst'ns Code § 701 and make his objections to incompetent evidence as if he were in an adult court. Many juvenile courts are, however, admitting [illegal confessions] . . . . Counsel must be prepared, in those courts, to state the constitutional grounds for his objections for the record, should he subsequently decide to seek review.[31]

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27. *Id.* at § 701.

28. *See In re* Castro, 243 Cal. App. 2d at 410, 52 Cal. Rptr. at 474 (1966) where the court states:

> [t]hat this particular wording of § 701 of the WELFARE AND INSTITUTIONS CODE as it now exists was not inadvertent but was thoroughly considered and designed to do exactly what on its face it purports to do is shown by a reference to the report of the 1959-60 Governor's Special Study Commission on Juvenile Justice, part 1, pages 29 and 30, which recommended detailed changes resulting in the Juvenile Court Act of 1961, where it is said: 'The problem in attempting to establish acceptable juvenile court procedures is to attain a working balance between two essential objectives—first, preserving the guarantee of due process to the minor; and second, establishing an informal court atmosphere so that potentially harmful effects of the proceedings are minimized and the minor's receptivity to treatment is encouraged (footnotes omitted).

29. 243 Cal. App. 2d at 409, 52 Cal. Rptr. at 473.

> If the procedure based on the *Escobedo, Dorado,* and *Miranda* cases should be held to apply in all strictness to juveniles and juvenile proceedings in order to exclude confessions made to peace officers, the doctrine of *parens patriae* would become a hollow phrase and the juvenile court simply a young people's criminal court in every situation such as the present.

30. BOCHES & GOLDFARB, *supra* note 4, at 120, 125.

31. *Id.* In addition, Gardner states that,

> The obvious question is whether under Gault, there could still be admitted constitutionally prohibited, illegally obtained evidence, the admission of which would be reversible error in the adult courts . . .

GARDNER, *supra* note 10, at 537.

By virtue of the fact that *Teters* cites passages from *Castro* which specifically approve the latitude allowed by the broad language of the statute, it is reasonable to conclude that *Teters* similarly approves the statute. It is important to note, however, that in *Castro*, the court had no reason to question the validity of the statute since the admissibility of the illegal confession into evidence was not held to be prejudicial error.[32] In this respect the *Castro* court concluded that:

> [T]he procedure expounded in the *Escobedo, Dorado,* and *Miranda* cases does not apply to juvenile court litigation so as to require the reversal of any proceeding in which the evidence of confession to a peace officer has been admitted without proof of the preliminary warnings required in criminal cases.[33]

Teters, on the other hand, found that the admissibility of the invalid confession was "erroneous" and "prejudicial" to the constitutional interests of the minor, and required reversal.[34] Even if the court did not dispose of the statute on the grounds that it violated due process, the court's concern with prejudicial error[35] suggested a fundamental difficulty with the operation of the statute.

Rather than criticize the statute, however, the court drew analogies to rules and procedures in several adult, criminal cases. The danger that sound theories and procedures of juvenile law may be inadvertently undermined or distorted requires that analysis of juvenile theory be definitive and judicially restrained. In contrast to this approach, *Teters* cited several adult criminal cases which were (a) not faced with the problem of a unique statute which permitted the introduction of prejudicial evidence so long as it met the test of relevancy, and (b) not faced with the theories and procedures involved in juvenile law.

For instance, *Teters* relied heavily on *People v. Spencer,*[36] an adult criminal case, which stands for the proposition that a defendant's extrajudicial confession, "erroneously" admitted into evidence, "impells" the testimonial one. The *Spencer* court found that the unlawful use of an invalid confession in a jury trial completely shatters the defendant's case and precludes a finding of harmless error notwithstanding overwhelming extrinsic evidence of

32. 243 Cal. App. 2d at 409, 52 Cal. Rptr. at 473 (1966).
33. *Id.*
34. 264 Adv. Cal. App. at 960, 962, 70 Cal. Rptr. at 755 (1968).
35. 264 Adv. Cal. App. at 960-61, 70 Cal. Rptr. at 755 (1968).
36. 66 Cal. 2d at 167, 424 P.2d at 215, 57 Cal. Rptr. at 170.

guilt.[37] This court applied the rule recently announced by the United States Supreme Court in *Chapman v. California*, another adult case, that the prosecution has the burden of proving beyond a "reasonable doubt" that the illegal confession did not contribute to the verdict by causing the second confession.[38] *Spencer*, citing *United States v. Bayer*[39] adds that; "[a]fter the accused has once let the cat out of the bag by confessing, no matter what the inducement, he is never thereafter free of the psychological and practical disadvantage of having confessed. He can never get the cat back in the bag. The secret is out for good."[40]

That these analogies to adult cases supported the ultimate ruling insofar as the minor's constitutional privilege against self-incrimination was infringed is clear. However the court failed to distinguish certain aspects of adult procedural law from juvenile law. For example: (1) The extrajudicial confession in *Spencer* was erroneously admitted. In *Teters* the admission was also erroneous because it violated procedural due process. However the court in *Teters* failed to consider the statutory test of relevancy[41] which heretofore distinguished juvenile from adult proceedings. (2) *Spencer* went to trial in 1963. This date is significant because his attorney "could not have known that his previous confession should have been excluded, and that its introduction constituted reversible error."[42] On the other hand, it is reasonable to assume that, in 1967, with both *Miranda* and *Gault* decided, Teters' counsel knew that the illegal confession, although admissible under section 701, was not competent evidence in determining whether his client should be made a ward of the court.[43] (3) *Spencer* was essentially concerned with the effect the erroneously admitted confession had on the jury.[44] *Teters*, on the other hand, was an informal, judge-tried proceeding. There should not have been this same concern with prejudice regarding the judge-tried proceeding because the judge is presumed, theoretically, to render a decision

37. 66 Cal. 2d at 167, 424 P.2d at 215, 57 Cal. Rptr. at 171.
38. 386 U.S. at 24.
39. 331 U.S. at 540-41.
40. *Id.*
41. § 701.
42. 66 Cal. 2d at 169, 424 P.2d at 721, 57 Cal. Rptr. at 169.
43. § 701.
44. According to *Spencer*, "we could not, in order to shield the resulting conviction from reversal, separate what he told the jury on the witness stand from what he confessed to the police during interrogation." 66 Cal. 2d at 168, 424 P.2d at 720, 57 Cal. Rptr. at 168.

without being influenced by prejudicial evidence. (4) A final distinction is that early in the *Teters* opinion, the court correctly observed that the quantum of proof required in a juvenile proceeding is a "preponderance of the evidence."[45] However the court later cites *People v. Spencer* and *Chapman v. California* for the proposition that the prosecution has the burden of proving beyond a "reasonable doubt" that the causative link between the legal and the illegal confession has been broken.[46] The court's reference to the quantum of proof in an adult case as a source of authority to reach a conclusion in a juvenile case creates at best, ambiguity, and at worst, a failure to recognize the fundamental theories and purposes upon which the two approaches are grounded.[47]

In addition to the foregoing distinction, the use of adult criteria by the court in *Teters* seems to raise more questions than it answers: (1) The State, in a juvenile case, now bears the burden of showing that "the causative link between the two confessions had been broken."[48] At least in California, however, there is some doubt whether the breaking of the "causative link" between a legal and an illegal confession will be sufficient to accord due process.[49] (2) A procedural imponderable is reserved for the juvenile court judge: how does a judge receive as evidence an otherwise legal confession

45. 264 Adv. Cal. App. at 957, 70 Cal. Rptr. at 753.

46. *Id.* at 961, 70 Cal. Rptr. at 756.

47. Under § 701, the applicable burden of proof is a "preponderance of the evidence," even in WELF. & INST'NS CODE § 602 cases. *In re* Jones, 256 Adv. Cal. App. 260, 63 Cal. Rptr. 758 (1967) held that proof "beyond a reasonable doubt" was not constitutionally required. This question was recently before the United States Supreme Court in *In re* Whittington, 391 U.S. 341 (1968), but the case was remanded to the state court with instructions to apply *In re* Gault, 387 U.S. 1 (1967). At this date, therefore, the applicable standard of proof in California remains unchanged. *Contra*, Santana v. Texas, 431 S.W.2d 558, 560 (Tex. Crim. 1968) which concludes that "the underlying reasoning of Gault logically requires that a determination of delinquency is valid only when the facts of delinquency are proved beyond a reasonable doubt rather than by a preponderance of the evidence as now required by the present Texas decisions."

48. 264 Adv. Cal. App. at 961, 70 Cal. Rptr. at 756.

49. For a discussion of the ambiguity regarding the application of the correct rule to test the prejudicial effect of the illegal confessions, *see* 55 CALIF. L. REV. 1153-54 (1968):

> Although the court in *Spencer* invoked the federal rule to test the prejudicial effect of the confession, the prevailing opinion in People v. Charles [66 Adv. Cal. 325, 425 P.2d 545, 57 Cal. Rptr. 475 (1967)] a later California Supreme Court case, used the California test of prejudice . . . . Under the California rule the prosecution is estopped from proving lack of causal connection between the improperly admitted confession and the verdict. The court will probably distinguish the state and federal rules more precisely in the future.

once the police have inadvertently obtained an invalid but admissible one under section 701? In recognizing this problem, one writer notes that, "[c]omplete fairness seems to require that the police inform the defendant not only that the prior confession itself is inadmissible at trial, but also that any evidence obtained as a result of the wrongfully obtained confession would likewise be inadmissible."[50] Such a proposal contemplates a major extension of the *Miranda* warning and increases the technical prerequisites for the admission of confessions. This result may run counter to a fundamental premise of *Gault* which emphasizes substance over form.[51] (3) The court has confused the applicable standard of proof in juvenile cases by suggesting that with some issues (*i.e.*, breaking the causative link between the legal and illegal confession) a higher standard of proof is required.[52] (4) Most important, *Teters* has declared that the admission into evidence of an unlawful confession is erroneous without reconciling the holding with the statute which says it is not erroneous. The salient issue, the propriety of section 701, was not considered and will probably continue to plague the juvenile courts.

The objections to the court's reliance on adult cases as a frame of reference from which to resolve problems in juvenile law are twofold. First, it is inconsistent with juvenile theory and practice to adopt rules and standards that are "criminal" in substance.[53] Secondly, while the court noted that the admission of the invalid confession into evidence prejudiced the minor, the court failed to critically confront the statutory authority which permits this admission.

For these reasons it would seem preferable that an appellate court, confronted with the issue of the admissibility of an invalid confession in a juvenile hearing, focus its attention on the constitutionality of section 701. Such evidence, although admissible under this statute for limited purposes, prejudices the constitutional interests of the minor and therefore must be excluded from the entire hearing as a matter of law. Until the legislature amends section 701 to conform to procedural due process, the lower courts

50. *See* 55 CALIF. L. REV. at 1155.

51. 387 U.S. at 49.

52. Cases cited note 47 *supra*.

53. This is a reference to the fact that *Teters* cited language in several adult cases without recognition of the juvenile theories and rules which distinguish the adult case; *e.g.*, the proper standard of proof issue raised *supra*, note 47.

should be directed to ignore the objectionable portion of the statute. If this approach had been followed in *Teters*, the wardship would have been dismissed, the constitutional interests of the minor would have been protected, juvenile law in California would have been uniformly applied, and a troublesome statute would have been clarified. The fundamental issue in the case, the validity of section 701 as it relates to the fifth amendment privileges of the minor, could have been resolved. As one writer suggests: "[o]ne may predict with confidence that extrajudicial statements which are obtained in violation of the confession rules will in the future be held inadmissible in juvenile hearings."[54] Whether the proper solution in such a case is to circumvent the fundamental issue and find that the illegal confession "impelled" the testimonial one, is at least questionable. Full constitutional protection for the minor, concomitant with the theory behind *parens patriae*, can be achieved. Clarification of section 701, insofar as it is repugnant to standards of due process, is desirable. A direct challenge to this constitutionally questionable statute would be a significant contribution to the future of juvenile law in California.

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54. BOCHES & GOLDFARB, *supra* note 5, at 121, § 127.