Another issue will arise in cases where the motion pictures are offered merely to illustrate the evidence. Photographs for this purpose were admitted in *Smith v. Territory* (1902) 11 Okla. 669, 69 Pac. 805; and *Fulton v. Chouteau County Farmers' Co.* (Mont. Sup. Ct. 1934) 37 Pac. (2nd) 1025. For further discussion as to the general problem of motion pictures, see note, 36 Law Notes 108-10, 2 Wigmore on Evidence (2nd ed., 1923) sec. 798, and R. C. Beckett, *Motion Pictures in Evidence* (1932) 27 Ill. Law Rev. 424-7. J. C. L. '36.

INFANTS—JUVENILE COURTS—JURISDICTION OVER CRIMES.—Daniecki was indicted, tried, and convicted for murder in a criminal court. Daniecki petitions for a writ of habeas corpus on the ground that at the time of the murder he was a minor under the age of 16, and should have been tried by a juvenile court. A statute had vested the juvenile court with exclusive jurisdiction to hear and determine all cases against a child under 16 who was charged with committing any offense or act for which he could be prosecuted; all such cases were to be tried by a judge without a jury; it was further provided that no child could be tried for a crime except with the consent of the judge of the juvenile court, who in his discretion might transfer the case to a criminal court. Comp. St. of New Jersey Supp. 1930, sec. 53. *Held,* the statute is unconstitutional as regards indictable offenses where the constitutional right to trial by jury exists. The vice of the statute is in creating a juvenile court to try all manner of crime and subjecting the culprit to a possible trial by a judge without a jury. *Ex parte Daniecki,* (New Jersey, Feb., 1935), 177 Atl. 91.

The statutes of the various states vary as to the forum in which the juvenile delinquents are to be tried. The majority of the states leave the matter to the discretion of the judge of the juvenile court except where a serious felony is involved. *State v. Alexander* (Okla. Cr. 1921), 196 Pac. 969; *Johnson v. Com.* (1917), 176 Ky. 339, 195 S. W. 818. He may transfer the case to a criminal court or keep it in the juvenile court. The basis for his decision is whether the child is incorrigible or not. *Powell v. State* (1932), 96 Ala. 936, 141 So. 201; *Ashley v. Commonwealth* (1930), 236 Ky. 543, 33 S. W. (2d) 614; *Wiggins v. State* (Tenn. 1927), 289 S. W. 498; *People vs. Ross* (1926), 235 Mich., 433, 209 N. W. 663; *State v. Burnett* (N. C. 1920), 102 S. E. 711; *People v. Woeff* (1920), 182 Cal. 728, 190 Pac. 22; *Ex parte Powell* (1912), 6 Okla. Cr. 495, 120 Pac. 1022; *State ex rel. Johnson v. Quigg* (Fla. 1922), 90 So. 695. In these states the juvenile court is vested with exclusive original jurisdiction except in serious felony cases and if a minor gets into a criminal court it is the duty of the criminal court to transfer the case immediately to the juvenile court. *Compton v. Commonwealth* (Ky. 1922), 240 S. W. 36; *Ex parte Hightower* (Okla. 1907), 165 Pac. 624.

The old idea of "guilt" and the right to trial by jury to ascertain guilt still prevails in some of the states as to the delinquent. In these states the minor has a right to trial by jury on demand. However, in cases of serious felony a criminal trial would be mandatory. Colorado provides for a jury

trial on demand with concurrent jurisdiction in the juvenile and the criminal court, of an infant over 18. That is the court first acquiring jurisdiction controls the case and may transfer it to the other court at its discretion. Under 18 the juvenile court has exclusive original jusisdiction, with discretion vested in the juvenile court judge. Missouri and Texas also have similar provisions. Col. Law 1909, chp. 158; *People v. Morley* (Col. 1925), 234 Pac. 178; *State ex rel Boyd v. Rutledge* (Mo. 1928), 13 S. W. (2nd) 1061; State *ex rel Walker* (Mo. 1930), 34 S. W. (2d) 124; *State ex rel Mac Nish v. Landwehr* (Mo. 1933), 60 S. W. (2d) 4; R. S. Mo. 1929, sec. 14137, 14163; *Valdez v. State* (Tex. 1924), 265 S. W. 261, *Davis v. State* (Texas 1916), 188 S. W. 990; 14 St. Louis Law Review 429.

Iowa stands in a unique position. The juvenile court does not have exclusive original jurisdiction but has discretion in regard to the forum and the mode of trial in cases arising before it. The juvenile court may transfer a case to the criminal court and the criminal court has similar jurisdiction. There is no mandatory jurisdiction vested in the juvenile court. *State v. Reed* (Iowa 1928), 218 N. W. 609, note (1928) 14 St. Louis L. Rev. 429.

Juvenile court statutes are upheld on the theory that the delinquent is not on trial for the commission of a crime, and that the reformatory to which he is committed is a place where reformation and not punishment is the end sought to be obtained. Here provision for jury trial is usually held to be unnecessary. *Com. v. Fisher* (1905), 213 Pa. St. 48, 62 Atl. 198, 5 Ann Cas. 192; *Marlowe v. Com.* (Ky. 1911), 133 S. W. 1137, note, (1928) 14 St. Louis L. Rev. 430. In all states the statutes provide for a class of cases that must be tried in a criminal court. Louisiana permits exclusive jurisdiction to the juvenile court except in capital cases. *State v. Howard* (La. 1910), 52 So. 539. Florida provides for criminal proceedings in rape, burglary, arson, murder and manslaughter. *State ex rel Inlertandi v. Petteway* (1934) 114 Fla. 850, 55 So. 319. In Iowa and Georgia the offense must be punishable by life imprisonment or death before a criminal proceeding is required. *State v. Reed* (Iowa 1928) 218 N. W. 609; *Hicks v. State* (Ga. 1917) 92 S. E. 217.

The legislature should not confer mandatory jurisdiction to try all cases upon the juvenile court for then the basis of such legislation would be the untenable view that all minors are capable of reformation. Doubtless cases are presented where the moral decadence has reached such an advanced stage that efforts at reformation would be fruitless. Thus the majority view providing for discretionary power in the juvenile court judge for the less serious offenses is the most desirable. Note (1928) 14 St. Louis L. Rev. 429-431. Contra, Lous, *Juvenile Courts in U. S.*, p. 37. The principal case falls within the majority view. The juvenile judge had no jurisdiction because the crime was a serious felony for which a criminal trial was mandatory. The question then arises, whether or not the juvenile court should have exclusive original jurisdiction over all cases, including the serious felonies, with discretionary power in the juvenile court judge. This would be going too far. The more serious crimes should be retained by the criminal court or the criminal law will be undermined. Note (1926) Wigmore, 21 Ill. L. Rev. 375-376. R. L. S. '37.