

CHAPTER X  
THE MUNICIPAL COURT OF CHICAGO

*By*  
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## CHAPTER X

# THE MUNICIPAL COURT OF CHICAGO

### *1. Introduction.*

The purpose of this report is to consider the Municipal Court of Chicago in those aspects which concern criminal cases with particular reference to its preliminary jurisdiction in felony cases. We ignore except in a few special particulars the civil jurisdiction of the court. In this connection it should be borne in mind that the criminal business of the court is a minor part of its interest. Less than a third of its judicial personnel is engaged in the disposition of criminal cases.

There are in addition certain other limitations to this report. We are not attempting to set forth in any detail the innumerable provisions in statutes, ordinances and rules of court which govern the vast administrative and judicial mechanism which the court has developed. Such an objective can best be attained by special treatises and studies formulated in an atmosphere less involved in a grave public emergency than the present. We have attempted here to consider the court only as it is an agency charged with responsibility in the disposition of cases which involve serious crimes and consequently dangerous professional criminals. After a careful consideration of the legal basis of the court, of the business disposed of by the court, of the manner in which this business is handled, of the qualifications and antecedents of the judges who transact this business and of the background upon which these judges operate, the present problem of the court emerges with striking clarity. It can be stated here in a few words.

On paper the Municipal Court of Chicago is one of the most interesting and important creations of jurisprudence in America. Its influence upon the development of judicial institutions in this country has been incalculable. The administration of the court by the present chief justice has been in the main a remarkable achievement. The personnel of the court in its first years was good. In those days the court was full of men of promise and of no inconsiderable ability. The years have taken a heavy toll, however. The quality of personnel has steadily declined. The majority of the judges now sitting are fitted neither by experience, education, nor, what is more important, sufficient professional standards to discharge with credit the great responsibilities and powers which they possess under the law. The court is full of incompetence, of political influences, of lamentable laxness in meeting an unprecedented tide of crime. In the hands of such a staff the court, technically well organized and full of possibilities for good, yields a sorry product. It is a clear demonstration of the fact that no matter what may be the theoretical advantages of the structure of the court, a personnel so lacking in quality will operate it badly.

The materials upon which this report is based have been collected at intervals during the period of a year. For the most part the statements of facts and conditions are as they were found when the field work of the survey was made, which was from November, 1927, to February, 1928.

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Acknowledgment should be made here to Chief Justice Harry Olson for patience and courtesy in placing the facilities of the court at our disposal.

2. *History,  
Organization,  
and Criminal  
Jurisdiction.*

In November, 1904, the voters approved a constitutional amendment which permitted the creation by statute of a Municipal Court in Chicago. At that time Chicago had a curious assortment of courts with confused and often conflicting jurisdictions. It had a county court with one judge and a jurisdiction involving insanity proceedings, taxation, and elections, a probate court with one judge, courts of general trial jurisdiction called the Circuit and Superior Courts with twenty-six judges altogether. The latter had general civil jurisdiction and criminal jurisdiction in cases involving felonies. The inferior civil and criminal jurisdiction of the city was vested in fifty-four Justices of the Peace. It is unnecessary to say that the Justice of the Peace system was not only wholly unable to cope with the amount of business which came to its attention but was susceptible to grave abuses. The justices were not elected, as in most other jurisdictions in the United States, but appointed by the judges in the Circuit and Superior Courts. This was a fairly satisfactory feature but any benefit that might come from this mode of election was lost on the criminal side by the fact that those justices that sat as police court judges were designated for this work by the mayor at the suggestion of aldermen. Politics, crime, and the judiciary were thus closely linked together. The Municipal Court was created largely to take over part of the work of the Circuit and Superior Courts, which were then seriously overloaded, and to eliminate the scandalous conditions of the justice courts in small civil and criminal cases. The court was given a part of the civil jurisdiction of the Circuit and Superior Courts and all of the jurisdiction of the old justice courts.

In 1905 the legislature passed an act creating the Municipal Court of Chicago. It gave this new court jurisdiction in contract cases concurrent with the Circuit and Superior Courts within the city's boundaries, and in tort actions jurisdiction over cases involving not more than one thousand dollars. It transferred all of the civil and criminal jurisdiction of the justices of the peace to the new court and thus abolished these anachronistic survivals. It provided twenty-seven new judges, including one chief justice, and it provided that these judges should serve for terms of six years. These judges were to be elected by the voters of the city.

A strong centralization of power was provided in the court by the creation of the office of chief justice, whose duties will be presently described. It was provided that there should be meetings of the judges over which the chief justice should preside, and that the court, through its judges, should have wide power in making rules of procedure for its own guidance. The Municipal Court is by statutory enactment a court of record.

In the beginning, jurisdiction was conferred upon it to extend to "all classes of cases, civil or criminal, at law or in equity, by transfer from other courts." This seemed to give the court power to try felony cases and it started to exercise such power. But in the case of *Miller v. The People* (230 Ill. 65) it was decided that this power to try felony cases

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could not be exercised. Jurisdiction in felony cases, therefore, was and is limited to preliminary examinations. It also has jurisdiction of misdemeanor cases and violations of city ordinances as well as quasi-criminal actions, such as bastardy cases, proceedings for the prevention of crime, proceedings for the arrest, examination, commitment, and bail of persons charged with criminal offenses, and all proceedings pertaining to searches and seizures of personal property by search and search warrants.

Municipal Court trials are by the court without a jury, or with a jury on demand of the litigant, and are official in the sense that there can be no trial de novo in another court. Appeals are taken direct to Appellate and Supreme Courts in Illinois. At the present time, by a recent action of the legislature, the number of judges has been increased to thirty-seven. The chief justice and also associate justices are elected for terms of six years with provision for the election of twelve associate judges every two years. The salary of the chief justice is fifteen thousand dollars and associate judges ten thousand dollars. There is provision that a justice of the court must be at least thirty years of age, a citizen of the United States, and must have resided in Cook County and there been engaged in active practice as an attorney or in the discharge of duties of a judicial office for five years preceding his election. He must be a resident of the city of Chicago.

The law provides for the separation of the work of the court into branches and vests with the chief justice the large powers of determining what these branches shall consider. The character of these branches changes from time to time but there are usually about seventeen criminal branches and the remainder civil. Of the criminal branches, twelve are unspecialized courts in the various Municipal Court districts into which the city has been divided and the remainder specialized courts located in the court houses. There are special branches handling traffic cases, domestic relations cases, and bail bond matters. There are also the Morals Court and the Boys' Court. In 1926 a branch was created called the Delinquency Branch to which are assigned sex offenses formerly heard in the domestic relations branch.

The Boys' Court is not considered in detail in this report because it has recently been subjected to a very detailed study by the United States Children's Bureau, the report of which is presumably to be made public. An advance copy of the report has been available to the author of this report and with its general conclusions we are in substantial agreement.

For convenience in describing the various branches of the Municipal Court of Chicago which deal with criminal cases, let us divide them into two groups. First, what we may call the headquarters courts which are located in the city hall and court house and which perform certain specialized functions. The second group includes the district courts established throughout Chicago and dealing with a general line of criminal cases. The following tabulation indicates the number of each of these branches, the name commonly attached to the court, and the number of felony cases disposed of in each of these branches during the year ending December 4,

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1927. We can in this way see at a glance the relative importance of these courts in the trial of felony cases:

TABLE 1. BUSINESS OF BRANCH COURTS, 1927

Branch Number	Name of Court	Felony Cases Disposed of in 1927
1	Bail Bond	...
3	Quasi-Criminal, etc.	5
8	Bastard and Delinquency	359
10	Domestic	10
19	Perjury and Vagrancy	60
20	Morals Court	25
22	Boys' Court	3,532
25	Fillmore Street (4001 Fillmore St.)	953
27	Harrison Street (625 S. Clark St.)	2,345
28	Des Plaines Street (120 N. Des Plaines St.)	808
29	East Chicago Avenue (113 W. Chicago Ave.)	605
30	West Chicago Avenue (731 N. Racine Ave.)	542
31	Maxwell Street (943 Maxwell St.)	755
32	Town Hall (3600 N. Halsted St.)	1,238
33	Shakespeare Avenue (2138 N. California Ave.)	1,104
34	Wabash Avenue (4802 Wabash Ave.)	1,273
35	Stock Yards (811 W. 47th Pl.)	597
36	Grand Crossing (834 E. 75th St.)	1,049
37	Pekin (2700 S. State St.)	909
38	South Chicago (8855 Exchange Ave.)	629

### 3. *The Chief Justice and His Powers.*

When the Municipal Court was established one of its most striking innovations was the creation of a chief justice vested with large powers to superintend the administrative work of the court. This conception of a judicial superintendent was probably more a result of the influence of business methods upon the thinking of those who created the court than any idea of embodying the traditional power of a chief justice as it had been known in the State Supreme Courts and in the Supreme Court of the United States. In fact, the powers of the chief justice of the Municipal Court of Chicago are much more striking and significant than those of the head of any of the state or federal courts of the United States up to the time when the Chicago court was established. His chief powers are thus described in the language of the Act creating the court:

"The chief justice, in addition to the exercise of all the other powers of judge of said court, shall have the general superintendence of the business of said court; he shall preside at all meetings of the judges, and he shall assign the associate judges to duty in the branch courts, from time to time, as he may deem necessary for the prompt disposition of the business thereof, and it shall be the duty of each associate judge to attend and serve at any branch court to which he may be so assigned . . . The chief justice shall also superintend the preparation of the calendars of cases for trial in said court and shall make such classification and distribution of the same upon different calendars as he shall deem proper and expedient. Each associate judge shall at the commencement of each month make to the chief justice, under his official oath, a report in writing of the duties performed by him during the preceding month, which report shall specify the number of days' attendance in court of such judge during such month, and the branch courts upon which he has attended, and the number of hours per day of such attendance."

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Thus the chief justice has two significant powers. He may assign the associate judges to duty in the branch courts, and he also controls the calendars and may make such classification and distribution of cases as he deems necessary. In addition, he is empowered to require the judges to submit reports to him. These two powers enable him to create new branches of the court by the simple method of assigning certain classes of cases to a certain judge and to distribute judicial personnel in whatever way he desires. He has, in addition, the very important power of indirect coercion over the judges by requiring from them reports as to their work and by having the power himself to publish the results of such reports.

Summing it all up, while he is not able to secure the removal of an objectionable judge, and, of course, is not able to control the selection of new judges, he is able to exercise strong coercive power over the judges. He may, if he so desires, assign a judge to very unimportant work; he may prevent judges from securing assignments which will be of assistance to them politically; he may bring indirect pressure upon judges by the publication of reports. The power of assignment is therefore exceedingly significant. It is a fact to be taken for granted that certain judges are able to do certain types of work exceedingly well and a wise chief justice may draw upon this exceptional ability in ways very helpful to the general business of the court. He may, moreover, assign weak judges to branches where their frailties may bring about no very serious consequences to the community.

In any attempt to reach a general conclusion as to the net achievement of the present chief justice as administrative head of the court since its beginning more than twenty years ago many factors must be passed in review. There have been and are, as we indicate in this report, many instances of inefficiency, weakness, and bad taste in the work of individual judges. The chief justice may under the law, and does in actual fact, terminate or mitigate such undesirable conditions by the use of his powers. There are limits to the exercise of his powers, however. The judges are not of his selection nor does their retention rest within his discretion. He may assign them at will, but he must in practice assign to something. With the declining caliber of personnel with which he has had to deal, it is increasingly difficult to find sufficient good judges to cover the more important assignments. He must, moreover, in the exercise of his powers limit himself because it is necessary to retain some degree of harmony in the official family. A majority of judges may embarrass him seriously in the administration of the court because the judges have as a body certain important powers. Finally, there are the limitations imposed upon any administrative officer by his inability to know all that is going on throughout a large organization. Considering these factors, and at the same time balancing the good and the bad in the work of the criminal arms of the court, only one conclusion is possible as to the value of the contribution of the present chief justice.

It is to be said in favor of the present chief justice, that he has exercised his large powers as chief justice of this court with very remarkable skill and force. In spite of the general breakdown of the administration of criminal justice in the city of Chicago, the Municipal Court has probably

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survived with less discredit than most of the other agencies of law enforcement, due to the high standards and vigilant watchfulness of the present chief justice. It should be said, in addition, that he has been an able exponent of the idea of judicial reform in municipalities throughout the United States. He has, through writing and speaking, performed a distinct public service to other states and cities.

4. *Felony Dispositions in the Municipal Court.* The Municipal Court of Chicago disposes of more than 10,000 felony cases annually. The number of felonies disposed of in the Municipal Court has risen from 7,721 in 1908 to 17,042 in 1927. The survey made an analysis of the cases tried in 1926 in all of the courts and found that 10,829 entered into preliminary hearing in the city of Chicago. These cases were disposed of in the ways indicated in the following table:

TABLE 2. DISPOSITION OF CASES IN PRELIMINARY HEARINGS IN CHICAGO

	No.	Pct.
Total cases entering preliminary hearing.....	10,829 <sup>1</sup>	100.00
Never apprehended .....	391	3.61
Error, no complaint.....	116	1.07
Complaint denied .....	35	0.32
Bond forfeited, never apprehended.....	68	0.63
Certified to other courts.....	50	0.46
Dismissed, want of prosecution.....	2,501	23.10
Nolle Prosequi .....	766	7.08
Discharged .....	2,117	19.55
Reduced to misdemeanor, not punished.....	12	0.11
Reduced to misdemeanor, punished.....	3	0.03
No order .....	22	0.20
Pending .....	7	0.06
No record .....	36	0.33
Total eliminations .....	6,124	56.55
Remainder—Bound over to Grand Jury.....	4,705	43.45

It will be noted in this table that the important methods of disposition are "Dismissed, Want of Prosecution," "Discharged," and "Nolle Prosequi."

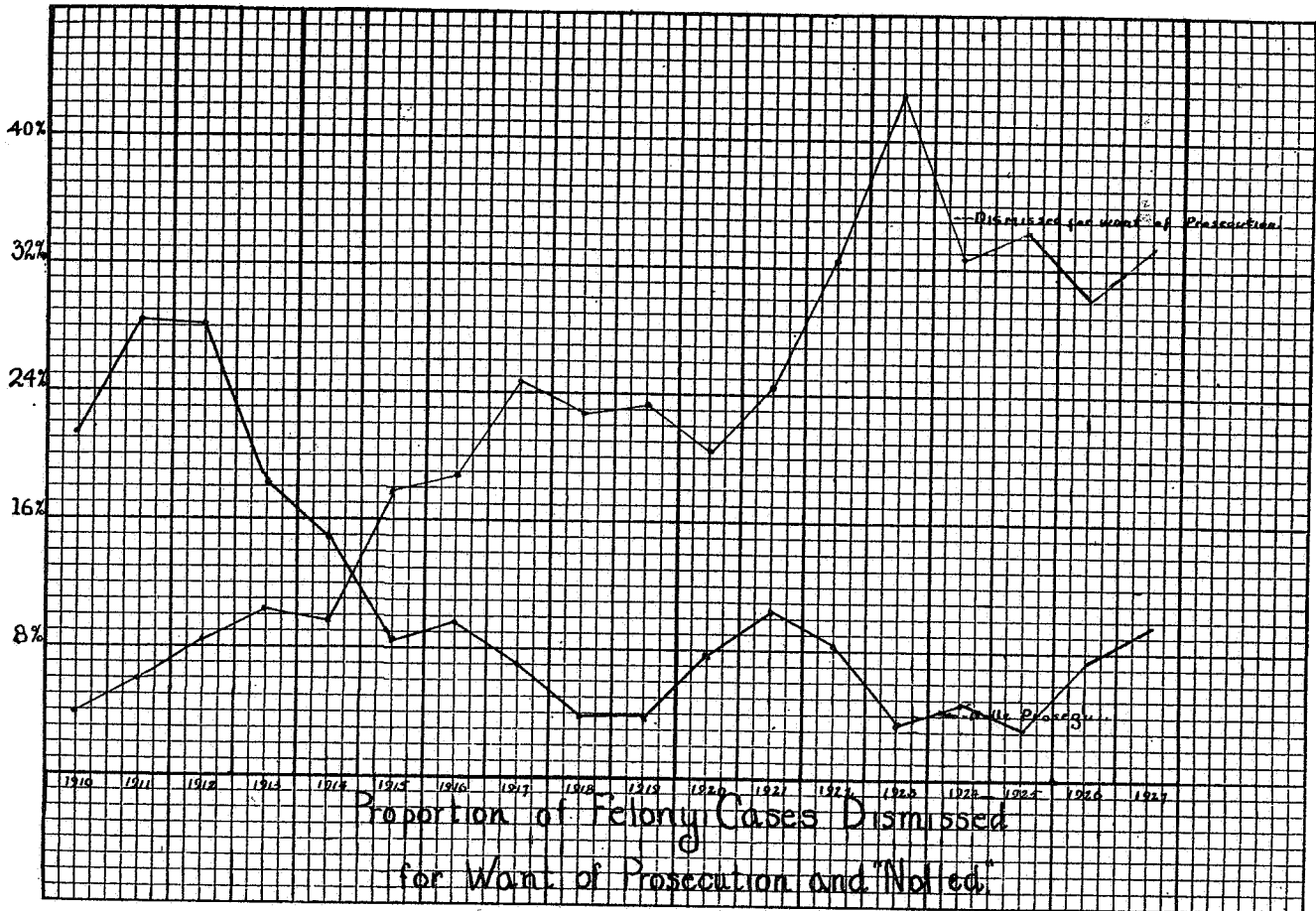
5. *Same: Dismissals and Discharges.* The first of these dispositions is a form which has come to be used increasingly in the past few years. It means, technically, that witnesses for the prosecution are not available and that the case is dismissed on that account. It is technically to be distinguished from the disposition called "discharged" because a case which is discharged has presumably been presented with the supporting evidence on the side of the prosecution and the judge has decided that the evidence does not warrant the defendant to be bound over to the grand jury. The fact is, however, that the formula "D. W. P." is apparently being used to end many cases where some evidence is presented but in which the judge does not consider the

<sup>1</sup> In the course of the survey, 12,543 felony cases were recorded in the City of Chicago for the year 1926; 10,829 of them (which does not include fugitive warrants and warrants returned unexecuted, which in 1926 number approximately 4,000 cases) were found by the records to have originated in the Municipal Court where preliminary hearings are held. The remainder, 1,714, were cases in which no record of a preliminary hearing was found in the Municipal Court, but upon which indictments were filed, presumably upon original presentation to the grand jury, in which cases no preliminary hearing is required.



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TABLE 3.



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evidence sufficient. It is probably not a mis-statement to say that the terms "D. W. P." and "discharged" are used with little distinction. The real responsibility for most of the cases dismissed on this account rests upon the state's attorney's office because it is practically impossible, if not legally so, for the judge to take the case in his own hands when no vigorous attempt is made by a prosecution to secure the binding over of the defendant. The "Nolle Prosequi" is an entry asked for by the prosecutor and subject to the approval of the judge. It is formally an act of judicial discretion but really an exercise of the power of the prosecutor.

A very interesting bit of evidence indicating the tendency of judges and other law enforcement officers to shift responsibility by changing the names under which things are done is indicated by the above graph (Table 3), which shows the relative importance of two of the methods of disposition which we have just indicated, "dismissed, want of prosecution" and "nolle prosequi." The graph shows clearly that the use of "nolle prosequi" has declined very rapidly since the court was first established and that the use of "D. W. P." has very distinctly grown. This probably means a disposition on the part of the state's attorney and the judges to avoid taking public responsibility for the "nolle prosequi" which has become increasingly better known to the newspapers and the public at large and which, on account of various misuses of this means of disposition, has come to be associated with judicial incompetence. The graph indicates the tendency on the part of law enforcement officers to do the same thing under a different name and to accomplish the same purpose without exposing themselves to criticism on the part of the public.

It will be of interest to assemble in the following Table 4 the percentage of felony cases disposed of in various ways throughout the life of the court. It will be seen that the percentage of cases "discharged" does not vary to any considerable extent. There is, however, a decided increase in the number which are "dismissed for want of prosecution" and a decrease in the "nolle prosequis." The table also indicates that the proportion of cases which are bound over to the grand jury has varied to no considerable extent in the course of the years.

TABLE 4—DISPOSITION OF FELONY CASES, BY YEARS

	1910	1911	1912	1913	1914	1915	1916	1917	1918
	%	%	%	%	%	%	%	%	%
Dismissed, want of prosecution	3.9	5.9	8.2	10.2	9.6	17.9	18.8	24.7	22.8
Nolle Prosequi .....	21.2	28.3	28.1	18.3	15.0	18.6	9.7	7.1	3.9
Discharged .....	32.6	27.8	22.9	29.3	32.0	20.2	29.0	25.1	8.0
Held to Criminal Court.....	42.3	38.0	40.8	42.2	43.4	43.3	42.5	43.1	65.3
	1919	1920	1921	1922	1923	1924	1925	1926	1927
	%	%	%	%	%	%	%	%	%
Dismissed, want of prosecution.	23.1	20.5	24.6	32.5	43.1	32.7	34.4	30.2	33.9
Nolle Prosequi .....	3.9	7.7	10.5	8.1	3.3	4.9	4.8	7.4	9.9
Discharged .....	46.0	29.2	23.8	22.1	23.4	25.4	18.2	19.9	17.7
Held to Criminal Court.....	27.0	42.6	41.1	37.3	30.2	37.0	42.6	42.5	38.5

6. *Judicial Personnel.* The outstanding conclusion which an observer is likely to reach in connection with the Municipal Court of Chicago is that which we have stated in the introduction to this report. It is simply this, that the Municipal Court of Chicago is

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provided with an almost ideal form of organization, on paper most efficient; but that unfortunately the quality of judicial personnel is such that, even with an active, honest and capable chief justice and a number of good associate justices, the personnel of the court is on the average so unsatisfactory that the product is not what it should be. This conclusion we have reached not on the basis of mere casual impressions but as near as is conveniently possible by careful measurement of the facts. It will, perhaps, be useful to describe in some detail the methods which we employed in reaching the conclusion which we have just stated.

In beginning the preparation of this report a "Personnel Schedule" was prepared containing space for facts concerning each of the judges who have, during the entire life of the court, served in judicial positions. This schedule contained spaces for the following information:

- Name:
- Date of election or appointment and termination of service:
- Dates of birth and admission to the bar:
- Nationality: (if born in United States)
- Nationality of parents:
- Common school, higher, and legal education:
- Religion:
- Public offices held:
- Party affiliation:
- Character of legal practice before election:

The above information was in large part secured for all of the judges who served, numbering in all 104.

In tabulating and summarizing the results of this inquiry, we have attempted to answer not only the question as to the qualifications of these judges in accordance with the facts collected, but to compare the judges who held office during the early years of the court with those who have been appointed or elected in recent years. Through this method we shall be able to arrive at some conclusion as to the all-important question of whether we are getting better judges or poorer ones within recent years. We have taken January 1, 1917, as the dividing line.

In distinguishing between the two groups of judges we have included in one group all judges who took office prior to January 1, 1917, and in the second group all those who have taken office since then. In the tables which follow we indicate the first group by the term "Before 1917," And the second group "1917 and After."

7. *Same: Ages.* The first interesting difference between the judges who attained the bench before 1917, as compared with those who became judges after that year, is a sharp contrast in ages. The following Table 5 indicates the ages of the judges in the two groups. The age taken in all cases is the age at election or appointment to the bench.

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TABLE 5. AGE OF JUDGES

Before 1917			1917 and After		
Age	No.	Per Cent of Total	Age	No.	Per Cent of Total
Under 34 .....	2	3	Under 34 .....	5	12½
35 to 39.....	12	19	35 to 39.....	10	25
40 to 44.....	19	30	40 to 44.....	8	20
45 to 49.....	15	24	45 to 49.....	7	17½
50 to 54.....	7	11	50 to 54.....	7	17½
55 to 59.....	5	8	55 to 59.....	2	5
60 and over.....	3	5	60 and over.....	1	2½
Total .....	63	100	Total .....	40	100

The result here is exactly as would have been expected. There are many reasons that may be assigned for this difference, but probably one of the most significant ones is the fact that there is greater tendency for judges to ascend to the bench in these days as the result of holding some minor political position rather than through long service as practicing attorneys. Consequently, progress through various stages of political office holding is much more rapid than the older method of service at the bar and promotion to the bench. One is entitled to his own opinion as to the desirability of youth on the bench. It may be that a young man will prove a more effective judge than an older man of the same ability in spite of the younger man's lack of experience. Perhaps, however, the majority opinion of the more competent members of the legal profession would favor the age range of the group belonging to the period before 1917.

8. *Same:* A majority of those judges who have held office in the Municipal Court have never attended college. *Education* In the group before 1917, 32 of the 64 attended some college for some period of time. This does not mean that they were graduated and our records do not show how many received degrees. Of those who have attained the bench in 1917 and after, 14 of 40 attended college. A great majority attended some type of law school. Fifty-six of the 64 who served before 1917 attended law school and 38 of the 40 since then have attended law school. It will be interesting here to indicate the law schools which are reported as the schools attended by the judges. The following Table 6 is a tabulation of the reports:

TABLE 6. LAW SCHOOLS ATTENDED BY JUDGES

Before 1917		1917 and After	
Chicago College of Law.....	11	Chicago Kent College of Law.....	8
Chicago Kent College of Law.....	11	Northwestern University .....	8
Union College of Law.....	10	Chicago College of Law.....	7
Northwestern Law School.....	8	Illinois College of Law.....	5
Lake Forest University.....	6	John Marshall Law School.....	3
University of Michigan.....	6	Hamilton College of Law.....	2
Columbia Law School.....	2	University of Chicago.....	2
Harvard Law School.....	2	Lake Forest University.....	1
Bloomington Institute .....	1	Loyola University .....	1
Catholic University of America.....	1	Notre Dame University.....	1
Columbian Law College.....	1	New York University.....	1
Georgetown Law School.....	1	Ohio Northern University.....	1
Illinois College of Law.....	1	Union College of Law.....	1
University of Iowa.....	1	University of Illinois.....	1
University of Wisconsin.....	1	University of Michigan.....	1
Washington University .....	1	Webster College of Law.....	1
Yale University .....	1		

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In regard to experience at the bar prior to election or appointment as judge the problem is somewhat difficult. It cannot be said of course that a lawyer is in active practice simply because he has been admitted to the bar. The best we can do is to indicate the number of years that elapsed between admission to the bar and elevation to the bench. In this connection, the number of years which elapsed between admission to the bar and elevation to the bench in the group of judges before 1917, the median number is 17, and those who served after 1917 had only 15.5 years as a median. The median term of service on the Municipal Bench of those who served before 1917 was 6, while the median term of those serving after has been 3. These figures, however, are not important because of the fact that so many judges are now serving their first terms. In regard to party affiliation, 23 Democrats and 20 Republicans were within the group before 1917, and since 1917, 29 Republicans and 11 Democrats have been elected or appointed.

9. *Same:* It will be observed that this information, while it yields  
*Rating* certain interesting facts concerning the qualifications of the  
*by Bar.* judges considered, is not a completely satisfactory way to  
determine the ability of the municipal judges. It will be  
said, and it is perfectly true, that it is possible for a poorly educated person  
to become a good judge and that there are certain advantages in youth on  
the bench. We have attempted in a general way, therefore, to go beyond  
these fact questions and to seek some light as to the opinions of those best  
qualified to judge the ability of Municipal Court judges. In this respect  
also, we have observed the distinction between the judges who served before  
1917 and those who have served since. We have sought the advice on this  
point of many persons, including lawyers, who have known intimately many  
of the judges of the Municipal Court during its entire existence. The result  
of these inquiries indicates conclusively that there has been a very definite  
decline in ability on the bench in the second period, that is, since January  
1, 1917.

In addition to a very considerable personal inquiry, we submitted to  
three very well informed persons with large experience and knowledge of  
conditions in the Municipal Court of Chicago, cards with the names of all  
of the 104 judges who have served since the inception of the court. These  
cards were in the following form and the three persons chosen were asked  
to rate each judge in accordance with the conditions indicated on the card.

### CONFIDENTIAL

#### Rating of Municipal Court Judges

Name of Judge:

High Medium Low

Legal ability

Courage, integrity and  
independence

Remarks

It will be noted that this questionnaire recognizes two types of judicial  
virtues, the first of which is knowledge of the law and ability to apply it.

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The second quality recognized is that of courage, integrity and independence. It seemed to us that this questionnaire called for an estimate of the two kinds of ability which the average citizen considers when he selects a judge.

The following Table 7 indicates the general combined estimate of the three persons who filled out the questionnaire:

TABLE 7. RATING BY BAR MEMBERS

Total No. Judges			Legal Ability						Courage, Integrity, Independence					
			High		Medium		Low		High		Medium		Low	
Years	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
1906-17	64	100	30	46.9	31	48.4	3	4.8	31	48.4	30	46.9	3	4.7
1917	40	100	5	12.5	26	65.0	9	22.5	9	22.1	24	60.0	7	17.5

The conclusion which one must draw from this table is very clear. We seem to be getting less legal ability and less courage, integrity and independence in the past few years. Whereas the early judges were practically all average or better, the subsequent judges are, in an overwhelming majority, low or average. High legal ability among the old judges was many times more frequent than among the new ones. In courage, integrity and independence, the old judges rate twice as favorably. We can thus venture, on the basis of this composite of opinions concerning the judges, that we have secured since 1917 less than half as much ability as before. The conclusion arrived at through this method would probably be confirmed by most of the reputable members of the bar in Chicago who have known conditions for twenty years or more.

Summing up all we have said concerning the personnel of municipal judges we are forced to the conclusion that we are getting poorer judges from the standpoint of ability, courage and independence. We are getting more political judges and younger judges. We are getting judges whose experience at the bar has covered fewer years.

### 10. *The Housing and Decorum of the Branch Courts.*

It would be very useful and probably very salutary if the voters of Chicago could know at first hand the appearance of the courts to which they look for the administration of their laws. It is one thing to see the operation of a court through the medium of uninteresting and somewhat perfunctory court reports, but, to know what sort of service is being received, the courts themselves must be viewed as they are operating in actual practice. In preparing this report we have felt that it might serve a useful purpose to the people of Chicago to set forth in some detail the impressions of observers who have visited the courts and have seen them in actual operation. Our conclusions on this point are not based upon single visits but are the result of a number of visits by different members of the staff. We shall consider these courts in the order of their importance, that is, in accordance with the number of felony cases which they try per year.

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### *Harrison Street Court, 625 South Clark Street.*

This is, next to the boys' court, the most important branch of the criminal court. As we have indicated in Table 1, it disposed of 2,345 felony cases in 1927. It handles all of the cases arising in police districts 1, 1A, and the Traffic and Detective Bureaus. It draws its business from an area extending from Kinzie Street on the north to 22nd Street on the south and from the lake to the south branch of the Chicago River. It thus takes in the loop district. The number of cases on daily call will vary from 150 to 300. Many of these, of course, are for vagrancy and many for very unimportant misdemeanors.

It is housed most inadequately considering the amount of business that it must dispose of. When the court is in session in the morning the room is crowded almost to suffocation. The noise is very great. On one side of the room is a runway fenced in by wire which, in a very inadequate way, separates the prisoners coming from their cells from the people in the room. There is no reason why communication cannot be carried on between prisoners and visitors and articles passed through from the latter to the former. The section before the bench is jammed with policemen, lawyers, bondsmen, reporters, detectives, visitors, curious and genuinely interested—men, women, and children, young and old, rich and poor, vicious and innocent. The bailiffs during the entire session of the court go through ineffective motions of seeking a better order. They are constantly rapping for order and pleading with the mob to move back from the bench and open the way to the bull pen.

Benches are provided for those who have legitimate business in court but usually no one is sitting on them. For self protection and in order to see and hear better, people prefer to stand. The smoke is always thick. There is much laughing, loud talking, whispering and expectorating. At times the noise rises to almost deafening proportions, due to the shuffling about and the loud shouts of the bailiff and the pounding of the gavel and the remarks of the bystanders and the efforts of the judge to elicit information from reluctant witnesses. It is probable that many cases are dismissed for want of prosecution because the complaining witness fails to hear the case called. In the ante-room and court room are posted many warning signs stating that no loitering will be permitted and that persons found guilty of violating this order will be prosecuted, but we have failed to see any indication of the actual enforcement of this rule.

### *Town Hall Court, 360 North Halsted Street.*

This court room occupies a part of the second floor of the Town Hall Police Station. The room is clean and well lighted. The arrangement of the room is quite satisfactory. In our visits to the court room a fairly good order was being maintained and every evidence was present of a genuine attempt on the part of the judge to maintain such order as would enable justice to be administered properly.

### *Shakespeare Avenue Court, 2138 North California Avenue.*

This court draws from one of the largest areas, from an area of about 42 square miles, and includes several police precincts. The court itself is housed in the 25th police precinct station. The court room is well lighted, clean and fairly well appointed. The order, however, is very unsatisfactory. A noisy and disorderly crowd was present.

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### *Grand Crossing Court, 834 East 75th Street.*

This court room is located in the building which also houses the 6th precinct police headquarters. The business coming into this court is not great and order and decorum are fairly well maintained.

### *Pekin Court, 2700 South State Street.*

This court derives its name from the building which it occupies, the old Pekin Theater. The court room is the interior of the old theater. The wooden balcony still remains and the judge's bench is located upon what was formerly the stage of the cabaret. In the orchestra now sits the clerk and what was once the box office of the theater is now the private office of the judge. In spite of this grotesque interior the officers of the court were maintaining fairly good order and a considerable amount of business was being transacted without much difficulty.

### *Des Plaines Street Court, 120 North Des Plaines Street.*

This is located on the second floor of an old but well preserved stone front building. It draws its business from a part of Chicago full of cheap lodging houses and hotels. One therefore sees in the court room the offenders belonging to the most hopelessly useless class of society. The amount of business with which this court is compelled to deal is not great and the court room was in a fairly good order.

### *East Chicago Avenue Court, 113 West Chicago Avenue.*

The building in which this court is located is fairly satisfactory. It is also a police precinct headquarters. The court room was clean but dingy with age. While the business in this court is not large many very serious cases are heard.

### *West Chicago Avenue Court, 731 North Racine Street.*

This court draws its business from an area largely inhabited by immigrants. The court room, when observed, was full of people, most of them speaking languages other than English. There was little in the room to inspire respect for American institutions on the part of the immigrants who were present. There was noise and disorder.

## *II. Prosecution in the Municipal Court.*

In each of the criminal branches of the Municipal Court, there is at least one assistant state's attorney and one assistant city prosecutor. In the branches where the volume of work is heavy there are two assistant state's attorneys. The assistant state's attorneys are assigned to the Municipal Court because the state's attorney has jurisdiction in all matters where the State of Illinois is the plaintiff, including felonies and misdemeanors, and should be represented in the trial at all stages. The city prosecutor has jurisdiction over all city cases including violations of the city code.

As is briefly indicated in the report (*ante*, Chap. VI) on "Prosecution in Chicago," the work of the assistant state's attorneys who are assigned to the Municipal Court is perfunctory and careless in the extreme. The salaries of these men are from \$200 to \$300 a month. They are therefore the least experienced members of the staff. They are usually assigned to those branches of the court which are located in their own



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political strongholds. The duty which each assistant seems to feel acquits his responsibility is to fill out a form report which contains the name of each defendant in a felony case, the number of the case, the charge, and the disposition. When a defendant is bound over to the grand jury the assistant is required to fill out a somewhat more detailed sheet. As is indicated in the report on prosecution to which we have already referred, "an examination of these sheets indicates that some of the assistants scarcely rise above the literacy grade, and added to this are so meager in the information which they record that the report is scarcely usable at all." The assistant state's attorney is usually lounging against the bench engaged in casual conversation with every passer-by, careless, unimposing, undignified and indolent. He permits the judge to put most of the questions. He contributes very little to the process of determining whether a crime has been committed.

The assistant state's attorneys give practically no time to the preparation of cases. The first time he comes in contact with a case is usually when it is called by the clerk. The assistant at this time usually picks up the complaint and attempts to extract testimony from witnesses whom he has not seen before. This, of course, places him at a decided disadvantage and seriously impairs the interests of the state while the defendant is, in all important cases, represented by counsel presumably prepared both as to the law and facts. It is thus obvious that the state is poorly served in the preliminary hearing and undoubtedly many cases which might result in the successful prosecution of important criminals are lost at this stage because of faulty work by the representative of the state's attorney's office.

In order to give point to this charge of incompetence and carelessness let us consider briefly what actually happened in a number of courts which were visited by representatives of the survey.

In the Harrison Street Court where so many serious charges are heard and where inevitably so many dangerous professional criminals are made defendants in preliminary hearings, it would seem that the need for alert and vigorous prosecution should be at its greatest. On the occasion of a visit of the representative of this survey to this court the assistant state's attorney was leaning on the judge's bench much in the manner of a barroom loafer. About all that he seemed capable of uttering was to mumble occasionally, "Go ahead, officer," "Tell us about it," "Shoot," "Hurry up." A slight colloquy between the judge and this assistant prosecutor indicated his utter lack of legal knowledge and, moreover, his contemptuous and careless attitude toward his work.

In the hearings which the representatives of the survey attended at the Des Plaines Street Court, the judge was acting in the capacity of judge, jury, prosecutor and defense counsel and the assistant state's attorney seemed to be perfectly contented to eliminate himself from the proceedings.

On the other hand, in two of the courts the assistant state's attorney seemed to be somewhat more active.

In misdemeanor cases and in violation of city ordinances the city is supposed to be represented by an assistant city prosecutor. These individuals seem to be still less competent than the assistant state's attorneys. During an entire morning in the Harrison Street Court, with scores of cases passing through the mill, the assistant city prosecutor scarcely uttered a

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word except to ask the officer to "Tell us about it." The same thing was true of the East Chicago Avenue, and Town Hall, the Des Plaines Street, the Pekin and the Shakespeare Avenue Courts. At the West Chicago Avenue Court the total work performed by the city prosecutor seemed to be limited to one case. Standing at the corner of the bench with one elbow perched on the judge's bench and his right foot trying to get a hold in some grill work two feet above the floor, with thumb in armhole of vest, he muttered to the officer in the case, "Well, tell us about it." After that case he was through for the day. He had arrived at the court room apparently at about 12:45 and departed within forty minutes.

The examples which we have given above indicate the fact that while the city of Chicago is paying the salaries of men in various branches of the Municipal Court to represent the State of Illinois and the City of Chicago in criminal cases, the services which they give amount to practically nothing. The function of sending to the state's attorney's office a record of the case could just as easily be performed by the clerk of the court. The attitude of both the assistant state's attorneys and the assistant city prosecutors is that the police are to be compelled to make the *prima facie* cases without assistance from them. In fact, it would seem that they are there in many cases to make it difficult for the police to operate and their continuous "show me" attitude must be discouraging to conscientious police officers in the face of almost insuperable odds to bring about the prosecution of criminals. No person familiar with the facts and in his right mind has any doubt about what these persons are appointed to do. They are there in the interest of the political machine to get votes and they look upon their casual duties in the court room as a tiresome but fortunately brief interlude in a day of political activity. This is best illustrated by an incident which was observed in one of the courts. A group of about twenty-five Armenians charged with disorderly conduct was haled before the bar of justice and was discharged. The arresting officer looked toward the assistant state's attorney who gave him a meaning smile in reply while the judge was questioning one of the witnesses. As if uttering the thought that was foremost in the minds of all those present the officer grunted, "There isn't a vote in the whole damn crowd."

12. *The Gentlemen for the Defense.* Many of the branches of the Chicago Municipal Court seem to tolerate a condition in connection with attorneys for the defense, which is more serious even than the lack of prosecution which has already been described. It seems to be customary for certain lawyers to assume a proprietary attitude toward defense cases. These privileged characters come to the court daily, deposit their coats and hats immediately upon arrival and participate in the activities exactly as if they were paid attendants. They solicit business very largely through the assistance of clerks, bailiffs, assistant prosecutors, and occasionally through the judges themselves. They also mingle freely among the unfortunates who are haled before the court and get business first-hand. The continuous presence of such a permanent defense lawyer in the court room means that pleasant and sometimes profitable relationships are established between him and

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court attaches. Such lawyers have been known to divide the profits from their activities with the kindly officers who throw business to them. In fact, it is stated on good authority that occasionally such a privileged position in a given branch court is paid for by the lawyer, either on a percentage basis or as an initial fee, for the privilege of preying upon the victims of that particular neighborhood. The names of such men who operate in a given court are not difficult to secure—in fact the survey has practically a complete list of the “regulars.”

In the Harrison Street branch one may observe practically every day at least half a dozen attorneys who appear in the majority of cases wherein defendants are represented by counsel. They are commonly known as “regulars” and their hats and coats are left some place about the building and it is apparent that there must be some sort of understanding among the attorneys, the lock-up keeper, the police, the bailiffs, and the professional bondsmen. It is easy to observe many cases where defendants are still in custody, being brought in from the police station, but nevertheless are promptly represented at the trial by one of the “regulars.” These defendants are probably unable to pay more than a couple of dollars but the attorneys in question freely accept this as the work of defending them is light and the attorney is present anyhow. While direct evidence is probably not easy to obtain it may be ventured that there is some kind of connection between those lawyers and those responsible for the custody of the defendants.

The criminal branches of the Municipal Court have at least one and some have two or three of these “regular” attorneys. Harrison Street has about seven. The ease with which they secure favors in a given court and the greater degree of success which they seem to have in their cases indicates the presence of what may be a well defined “ring” within certain courts, or what may be a less definite, but nevertheless potent, understanding between them and the officials of the court. Where such a “ring” is in existence the defense lawyer holds his status by giving favors, if not money, to those who assist him. While we realize that we are now speaking plainly, we are certain of the presence of such arrangements. When a vacancy occurs in a “regular’s” position in a given court, a new attorney is admitted if he meets with certain requirements. In a certain instance a proposition was made by certain officials in the city to a young lawyer and the assurance was given that the cases in which he was interested would not be vigorously prosecuted, provided he accepted the status. He was told that no “split” was necessary but from time to time he would have to take care of the lock-up keeper and the bailiffs. It was also said that he would have to be acceptable to the bondsmen who operated in that court.

It is difficult to determine how much these “regulars” make in fees. It is certain, however, that most of them make a very good living. Many of them do not even maintain a Loop law office but make their headquarters at the police station and the court room, thus cutting down overhead. Altogether we have in the presence of these men an unofficial but well defined occupation, regular in the sense that the relationship is not similar to that of an ordinary lawyer and his client but is a sort of continuous operation within the limits of one court. He thus becomes as definitely a part of the court machinery as the bailiff, the clerk, the prosecutor, or the judge.

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The presence of these men and the dubious relationships which they have with court officials suggests a condition which is dangerous and reprehensible in the extreme. It is probable, however, that the situation cannot be met by direct negative action. In other words, it might be possible to drive out of the court room certain of these parasites but their function would be fulfilled in some other way. We may as well face the fact that these men are fulfilling a necessary function in the court but in a very objectionable manner, and under a status that is highly undesirable.

It is quite possible that some modified form of the public defender system would be helpful in ridding the Municipal Court of the undesirable aspects which we have described. An office might be created under the jurisdiction of the chief justice to defend the indigent and to institute a system of inspection throughout the branches of the court for the purpose of eliminating the solicitation of business by certain lawyers also to advise all defendants as to their rights and duties in the employment of counsel and the compensation thereof.

### *13. The Bail Bond Branch Court.*

On April 1, 1927, there was established a bail bond branch of the Municipal Court. Its purpose was to eliminate fraudulent bonds and to establish a bureau or clearing-house through which all bonds would pass. It was made a rule of the Municipal Court by a vote of two-thirds of the judges that all bonds presented to them for acceptance would first have to clear through the bond clerk's office and bear the approval of that office as evidence that the title was investigated and that the bond was a good, sufficient, and legal bond.

It is the practice now that all bonds for felony and sex cases and the more important misdemeanors wherein the people of the State of Illinois is the complainant, clear through this office. The quasi-criminal and city violations should also, but many do not. The proceedings on a bond forfeiture in a city case are handled by the city prosecutor.

Prior to the establishment of this court, the municipal court judges approved bonds and relied solely on the statements contained in the schedule of application. They had no way of determining in whom the title rested covering the property named in the schedule, or whether the property had been scheduled in other bonds, over and above the owner's equity. Before the inception of this branch the clerk's office kept a defendant's docket on bond forfeitures and also published a "black list." At that time all bond forfeitures were sent to the office of the state's attorney for scire facias and judgment.

Now the system in force is as follows:

The courtroom occupies a room in the City Hall where there are two deputy clerks, one of whom accepts applications for bonds, checks his black list record, and enters the surety on a docket sheet which is placed in an alphabetically arranged docket. If the surety has signed before, a sheet will be in the docket so that the clerk can determine at a glance, on how many other bonds the same property was scheduled by the same surety. After the entry of necessary details on the record sheet, the other clerk checks the title in the office of the recorder of deeds to verify the owner, date of purchase, and amount of consideration. If title is in name of the

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signing party a rubber stamp impression is placed on the schedule indicating that on a certain day the schedule was examined and the title verified and it is then signed by the deputy clerk and is ready for the judge's signature and acceptance.

When a bond forfeiture occurs the clerk in the branch court is instructed to send the copy of the complaint to the main office and it, together with the bond, is sent to the bond court which, within forty-eight hours after the forfeiture, issues a scire facias returnable in court in fifteen days. On the return day, whether the surety is served or not and in the absence of the surrender of the defendant or a legal defense, a judgment is entered against the surety and defendant and execution issues immediately. About ninety per cent of the judgments entered are default judgments. After the execution is served the surety often works harder to apprehend the defendant, and in many cases surrenders him in open court, pays the clerk's costs, and has the judgment vacated.

The Chicago Title & Trust Company has a representative make a daily check of the judgments and enters them on record against the property.

Since the opening of court (April 1, 1927) 576 scire facias have been issued but no judgments have been collected. At this writing, February, 1928, the figures in money judgments are not available.

The clerks state that on an average of 125 bonds pass through the office weekly and in the same period of time about 25 scire facias are issued. There are only about five cases on each day's call and the judge devotes the balance of his time to hearing civil suits. The assistant state's attorney has little or nothing to do during the greater part of the day. The deputy clerks above referred to are the only attaches who are kept busy.

There are between eighteen and nineteen hundred names on a list of disqualified bondsmen, including all sureties who have had bond forfeitures from 1918 to December 24, 1927. At the present time scire facias are being issued and judgments entered against those persons named on the list, who heretofore have not had judgments placed against them. The Municipal Court at this writing has proceeded as far as the letter "L" and plans thus to proceed until a judgment is rendered against all the names on the list.

In an interview with Judge "F.," then judge of that court, the representative of the survey asked whether or not the establishment of this court tended to eliminate the so-called crooked bond. He replied, "We don't have any bad bonds and never did have many. I don't believe the hue and cry that is going on about Municipal Court bonds is well founded. Oh, yes, occasionally we find that the title is in joint tenancy and only one party has signed the schedule or where a party has bought some property on a contract and the title does not appear in his name."

He then said in reply to a question as to the cooperation of the other judges in having bonds referred to this branch for investigation and approval: "Well, I would say yes—oh, now and then a judge will accept a bond without having it investigated; for instance, supposing my next door neighbor comes to me and asks me to accept his schedule. Why, there is no harm in that, as I know all about him. I would say there are a few scattered cases of judges accepting bonds, but no evil has come of it."

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His opinion was asked concerning a central bond bureau, consolidating city, state, and federal bond departments, and he stated he was in favor of such a consolidation, however, it might entail much detail work in working out such a plan. If such a procedure were adopted he recommended the state's attorney's office for headquarters and supervision.

He stated there is still one weak link in the present system in the Municipal Court and that is, at present they have no way of determining the value of the property scheduled and the clerks are compelled to accept the statement of the surety as to the value and amount of encumbrance of the property. He further said that no charge should be made for such service, as there is no excuse for it in law, but that sufficient funds should be appropriated and that such work be assigned to the bailiff of the court who would employ investigators to assess the value of the property and file a report with the clerk.

The conclusions from these observations are:

1. The bond branch court of the Municipal Court is only as strong as its weakest judge. As soon as one judge fails, neglects, or refuses to use the bond court and accepts a bond not approved by this branch, then the purpose of this branch court fails. To cite an example: An examination of some complaints, recently sent to the scire facias department of this court for action, revealed the name of "A" who is in the black list, although worth probably one-half a million dollars. Investigating, it was discovered that in a certain case one "S." was charged with violation of Section 2655 (disorderly conduct). A bond was supplied signed by the defendant, and accepted by Judge "H." A bond forfeiture occurred on December 15, 1927. The defendant therefore has escaped punishment, a judgment will be obtained against "A." against whom many such judgments are now pending; the cost and expense of this procedure is paid by the taxpayers. This could have been avoided if the judge referred to his black list, upon which the name of "A." appears, even though he didn't require the bond to clear through the bond court. While it is true the case involved only a minor offense, it is probable that the same procedure would have been followed by this judge had the offense been robbery with a gun, for either the judge failed to use the tools with which the court supplies him at great expense, or he was willing to take a chance on "A.," an habitual offender in bond forfeitures. And it is safe to say that Judge "H." is not the only offender. About 125 bonds clear through the bond court in a week—the figure is negligible compared to the number of arrests made by the police in a week—and it is fair to say that fifty per cent of the persons arrested are admitted to bail. Therefore the question arises as to the method of accepting the bonds that never reach the bond court.

2. Nothing is done in this branch to verify the authenticity of the bond. A form letter, such as used in the state's attorney's bond department, should be sent to each surety named in a bond advising a bond was signed in his or her name and if it was not proper immediately to notify the bond court.

3. With a failure, such as we have described, on the part of judges to cooperate with the bond court, there will of consequence be many forfeitures. A forfeiture, however, is merely a gesture if some agency does not vigorously

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press the forfeiture to its conclusion and, wherever possible, bring about a sale of the property in order that the city or state may realize upon its rights. After forfeiture the duty of following up the case rests with the state's attorney in state misdemeanors or felonies. The confused and inadequate records of bonds and bond forfeitures make it impossible to determine the present amount of forfeitures not reduced to judgments, and judgments uncollected.

### *14. Routine of the Clerk's Office.*

Mr. Charles H. Krimbill, assistant chief deputy clerk in charge of criminal department of Municipal Court, has served a period of twenty-one consecutive years, or since the inception of the court. Prior to 1906 he was connected with the Criminal Court clerk's office for 19 years, making a total of forty years. He is not under civil service rule or eligible for any pension and has served under the various political administrations. Mr. Krimbill is held responsible by the clerk of the court for the administration of the various criminal branches.

A case originates in the court by the filing of a complaint, either by a police officer or a citizen. If arrests are made by police officers, each one must be represented by a formal complaint, if the case is to go to court, the form of complaint depending on the character of the offense. The clerk in the branch court then makes up what is called the half sheet, a number is assigned to the case and it is placed on the daily call sheet for disposition. After this the complaints are sent to the main office and the records on felony and misdemeanor cases are copied into dockets becoming the official records of the court, and the complaints on quasi-criminal cases, such as violations of city ordinances, are not docketed.

The daily sheet is made up in quadruplicate. The original is kept by the clerk in the branch, orders entered, and at the close of the day is sent to the main office of the clerk and made the official record of the court. One copy is placed upon the judge's bench and he enters his orders and dispositions thereupon. At the close of the day's business the judge should place his sheet in an envelope and send it to the main office of the clerk for verification of the clerk's sheet. This is not a rule of the court, and few of the judges follow the practice. In cases where judges do send in their sheets they are bound and retained for about a year, after which time they are destroyed. To require judges to send their sheets to the clerk's office would be a preventive against venality on the part of deputy clerks in the branches. It would require a two-thirds vote of the judges, and should be referred to the chief justice as many judges refuse to surrender their sheets. The third copy of the daily sheet is sent to the city controller's office for audit and check. The fourth copy is retained in the branch of the court for ready access and reference.

There is a provision on the daily call sheet for the distribution of fines and costs. All fines are paid to the deputy clerk in the branch and taken to the main office with other records, the same day. In the absence of the judge's sheet, the record of the deputy clerk must be taken as correct for there is no way to verify it.

When a fine is paid, the clerk is supposed to write a receipt for the

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money, using an automatic machine which makes triplicate receipts, one copy is retained in the machine, another kept by the clerk, and the original to the person paying the fine. These receipts are serially numbered. The clerk enters on the daily call sheet the serial number of the receipt applying to every fine paid. The roll of carbon receipts is taken from the machine and sent to the clerk's office where from time to time they are checked and audited. All figures and records are checked by an auditor for the clerk of the Municipal Court, an auditor for the chief justice, and one from the city controller's office. If the judge were required to send in his daily sheet, in a separate envelope, and allow no one to see it after the completion of the call, it would have a tendency to discourage venality on the part of the clerks, for if a discrepancy did occur between the records, the word of the judge would carry. Under the present system there is no way of determining if the clerk's sheets are authentic, as to amount collected, distribution of money, length of sentence. In short, there is no check-up on the clerk. The clerk in the court makes out the mittimus on House of Correction sentences, and this too could be reduced by the clerk without any discovery. Orders of continuance, nolle prosequis, dismissal for want of prosecution are all subject to change by a dishonest clerk without much chance of detection. It has been known to happen in the past that a case has been set for trial a day earlier than the day fixed by the judge and entered on the clerk's sheet. The case would then appear on the call on the day set by the clerk, the case called, and no prosecuting witnesses appearing the defendant would be discharged for want of prosecution. Of course, a new warrant could issue, but the people eventually become disgusted and weary of continually coming to court and lose faith in the administration of justice. Inquiry was made of assistant state's attorneys and others connected with the Municipal Court, and the consensus is that it all depends on the judge. Political privileges, political patronage, political systems are responsible for conditions in the Municipal Court. The clerks are all in politics, usually captains of precincts in their wards. The judge realizes that much is expected of him in the way of granting political favors thereby gaining the favor of the workers in the political machine and many votes on election day. What is really meant by "it all depends on the judge" is that if a judge is strict, stern, honest, insistent on a "clean court room" free of fixes, there will be little to criticize in this branch. It is impossible for the judge not to know about queer practices in his court and if they exist, they are carried on with his tacit acquiescence.

Often due to the judge's lack of ability, his laziness, his indifference, the bulk of all of the administrative work of the court is thrown upon the shoulders of the court clerk, thereby vesting him with much power and authority. Such things as arraigning the prisoner, advising him of his constitutional rights, the waiver of jury, the protection of the record, the legality and sufficiency of the complaint, etc., are left to the clerk. These are duties which should be performed by the judge. Often many prisoners are released from the House of Correction on writs of habeas corpus because of errors in the record. The deputy clerks are instructed not to bother with jury waivers, arraignment, etc., as that is part of the judge's job and to enter on



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record the orders of the judge. If he fails to instruct the clerk to enter pertinent orders, then the judge is to blame and not the clerk.

Prior to the system of keeping all cash bail in the main office of the clerk, it was the practice for each branch court clerk to retain the money and make return to the person entitled, and this produced many complaints and opportunities for venality on the part of the clerk. At the present time the deputy clerk in the branch court has nothing to do with cash bail, as it never enters his hands. This latest procedure has done much to stamp out evil practices that surrounded this phase of the procedure.

15. *Conclusions and  
Recommendations—  
(a) Housing of  
Branch Courts.*

It is probable that the housing of the city courts will be quite adequate when they are relocated in the new Criminal Court building. In fact, they are located so much more fortunately now than the branch courts that the contrast is distinctly great. The housing of certain of the branch courts leaves much to be desired. Especially is this true of the Harrison Street Court where we have at once an unfortunate combination of the most inadequate quarters with the most serious congestion. A proper administration of justice under such conditions as prevail here is an impossibility. Immediate relief is desired. The same is true of at least one-half of the branch courts.

*It is recommended that a joint committee of judges and members of the Board of Aldermen be properly provided with funds by the city council for determining the engineering and architectural problem involved in providing adequate quarters for the criminal branches of the Municipal Court not now housed in the County building or at Eleventh and State streets. In fulfilling this objective, there should be appointed as advisory members of this committee of judges and aldermen, representatives of public associations and agencies with interest in the general problem. Whether, as is suggested by certain of the judges, it will be best to locate the branch courts in buildings other than police stations is a matter seriously to be considered by this committee. The final difficulties may prevent the accomplishment of this except perhaps in the case of one or two court rooms. It should be noted in connection with this matter that the statute provides "That such branch courts shall be held at such places . . . as may be provided for that purpose by the corporate authorities of said city for the holding of said branch court procured for that purpose by said judges within the district in which the same is located and at such place may hold said branch court until a suitable place therefor be furnished by said corporate authorities."*

(b) *Order and Decorum.*

We have indicated in the body of this report the fact that most of the branch courts present an appearance of disorder and confusion which not only results in giving the appearance of complete lack of care and dignity but what is more serious, makes it possible for an occasional miscarriage of justice to take place. The disorder and lack of decorum which characterizes the hearings in court is a matter for which the judge is unquestionably responsible. The judge has assigned to him sufficient assistants to make it

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possible to maintain a better condition in court. The fact that he does not is simply due to the fact that those who frequent the courts in the city of Chicago have apparently ceased to expect proceedings in court to possess any measure of dignity or order at all. In spite of the confusion, the judge has at his beck and call members of the police force, clerks, bailiffs, and to some degree assistant state's attorneys and prosecutors. None of these, as we have indicated, are at all overworked.

*It is recommended that* the chief justice issue requests to all judges sitting in the branch courts that an immediate attempt be made to improve order. In case this attempt is not effectively made, the lax judges should be removed from the criminal bench completely and such judges appointed as will enforce such order and decorum as will bring to the courts the appearance of effectiveness that they deserve. It should be added here that slight physical readjustments in some of the courts will help a great deal, such as the use of rails and other means of handling the crowds which are in attendance.

### *(c) The Clerk's and the Bailiff's Offices.*

The law provides that the office of clerk and the office of bailiff of the Municipal Court shall be filled by election. This definitely puts both of these important arms of the court into partisan politics, and there is ample evidence that the influence of politics has greatly injured the effectiveness of these agencies. There is no question of determination of policy in either of these offices. They are and should be servants of the court to permit it to function as efficiently as possible. Their present status permits the head of each office to build up in his own interest or in the interest of a political faction with which he is associated, a vast machine with hundreds of employees scattered throughout the city. His political obligations take his own thought, time, and attention from his work, and the result is a large expenditure of funds for which no adequate return is secured.

*It is recommended that* steps be taken to determine the best legal methods for changing the method of selecting the chief clerk and the chief bailiff of the Municipal Court. That statutory enactments be made changing the method of selection and placing these two offices under the jurisdiction of the chief justice of the court who should appoint both of them and under proper civil service regulations select all of their subordinates.

### *(d) Less Haste and More Speed in Proceedings.*

The indescribable confusion which results in many of the court rooms is largely due to the fact that judges and other attaches seem anxious to reduce the period of their working day to a minimum. It is no uncommon sight to see a group of six or eight court room attaches sitting in complete idleness in the morning waiting for the judge, and then when the judge arrives to see this group assume an attitude of haste and confusion in order to carry through the bulk of the cases quickly. There is no very good reason for this except in a few instances, the cases can be scattered out over more hours in the day and adequate time be given for the examination of witnesses

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and a clear presentation of the cases on both sides. It, of course, will be objected that this will compel policemen to spend more hours in the court and break into their day still more seriously, but a proper adjustment of the calendar of cases will enable a policeman to know with greater definiteness what hour in the day he is likely to be needed.

*It is recommended that* a committee of judges cooperate with representatives of civic organizations in devising a consistent plan for the ordering of business in these courts in such a way as will permit justice to be administered with celerity but without the indecent haste that now characterizes the work. It should, moreover, be noted that the city has the right to expect its salaried judges to devote more hours in the day to their new work and efforts should be made to enforce at least by the operation of public opinion, a compliance with this general principle.

### *(e) Wide Differences in Judicial Policies.*

The need for strong control in the office of chief justice is nowhere better illustrated than in the statistics which indicate the method of distribution of cases in accordance with the judge who happens to be sitting on the bench. There is a distinct fluctuation in the policy of various judges from one to the other. For example, a certain judge sitting in preliminary hearings in 1927 held for the criminal court only 10 per cent of the cases which came before him. Another judge who sat in the same court and who also heard a great number of cases held 48 per cent of his cases. The total percentage of all judges sitting in 1927 was about 40 per cent. It should be added that another judge held to the grand jury less than 20 per cent of the cases coming before him. It is, of course, a fact that there will be considerable variation in the type of cases coming before a given judge, but this variation is not sufficient to account for the wide differences between the average of all the judges and the particular judges whose percentage is so low. Such surprising deviations from the normal suggest that unquestionably certain judges should be excused from the criminal bench entirely.

*It is recommended that* the chief justice scrutinize these records and where a judge departs in a marked degree from the normal, he be used in some other division of the work of the court unless strong reasons are present for such deviation.

### *16. Partisan Politics, the Ultimate Problem.*

All of the foregoing recommendations could presumably be achieved if the court could be protected from the devastating influence of partisan politics. In the last analysis a court is as good as the ability, the courage, and the political independence of its judges make it. We have shown how sadly these qualities have diminished during the past ten years of the court's existence. We should, therefore, be inviting a very serious trifling with our problem if we should insist upon the accomplishment of secondary objectives when the main objective remains untouched. Such civic interest as is possible in Chicago, and there are apparently definite reasons for hope in a renaissance of activity, should direct itself to deliver-

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ing, so far as it is humanly possible, the Municipal Court from the blighting influence of machine politics.

The extent to which the court is influenced by partisan politics has been shown in various ways within recent months. For example, on April 20, 1928, the *Tribune* secured information to the effect that on that day no less than sixteen out of thirty-seven judges were absent from the city attending conventions of the two parties in Springfield. The names of these judges were published and, so far as we know, no attempt has been made to deny this. There has been in the United States a fine tradition to the effect that while judges are supposed to possess the quite proper right of retaining their interest in public affairs, that active participation in party machinery is not compatible with the best interests of the bench. It is well known that certain judges of the Municipal Court operate definitely as political leaders and bosses in their own communities. Certain ones go beyond this and perform definite activities in behalf of certain well known city-wide political machines. It is not stretching the truth to say that positions on the municipal bench have become to some extent semi-sinecures for the retainers of the feudal lords of Chicago politics. Considering this, and also considering the fact that there is a definitely established relationship between the underworld and some feudal lords, it is not strange that there should be extended to the lords of the underworld privileges and favors by the judiciary of the city. This, of course, constitutes a condition which no self-governing community can long endure.

An unusually frank and conscientious judge of the Municipal Court spoke rather freely to one of the members of the staff of the Survey and indicated quite clearly the difficulties which a judge faces because of the political character of his office. He stated that it is always very difficult for a judge to fail to listen to the requests of political leaders for leniency for political defendants. He said that the office is obviously a political one and his continuance in office depends upon his political prestige with his organization. He cannot always close his ears even though he wants to do the right thing. The judge's failure to go along with the undesirable element sometimes spells his doom for the forces of darkness are "powerfully organized." The better people are not organized and forget very quickly the judge's efforts to do what is right. In conclusion, he said, "After all the human element plays a big part and it is only human for a man to have a desire to continue on the bench and at the present time it resolves itself into a situation of the survival of the strongest."

This statement sums up the whole problem. As matters political now stand, a judge must either yield to influences of a very dangerous if not improper character or risk his official position. Some are able to keep their self respect and because of their extraordinary strength with the voters keep their jobs. Others refuse to yield and find themselves thrust from office. Still others, not strong enough to withstand political pressure, and not courageous enough to face the consequences of loss of official position, yield unwillingly. A still different group, apparently growing larger every term, does not want to maintain high standards. The members of this latter group are themselves a part of the machine. To an increasing extent the Municipal Court is coming to harbor, not only judges who take orders from

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political machines, but judges who are a part of the organization itself. A sort of Greshams law is in operation, therefore, which is driving out into private practice men of courage, legal standing and ability in favor of politicians. The presence of the defects that we have described also explains the fact that many able men who might otherwise seek the bench are prevented from doing so.

In order to restore the balance, it will be necessary for the city of Chicago, through the efforts of private and semi-private organizations, to participate actively in judicial elections. The methods by which this can be done are best exemplified by the system that operates in the city of Cleveland where the Bar Association attempts to relieve judges of the courts, who have been approved by a poll of the Bar Association, from all responsibility in conducting their campaigns. It seeks, so far as it is able, to keep on the bench judges of ability and to see that when a vacancy occurs a proper effort is made to secure worthy lawyers as candidates. This burden should not be carried by the Bar Association alone. It should be shared by all civic organizations in the city. It may be taken for granted that certain of the better newspapers will gladly participate in a joint movement in the next election to improve the quality of the bench.