

tution to operate throughout Chicago, as they were presented to those thousands of church-goers by men who must be believed. It was an hour for truth-telling such as seldom comes to a community.

#### **Jury at Lawndale Hospital.**

Out at Lawndale, in the contagious-disease hospital, were the wrecks of women who in the end had nothing from their degradation but disease and the counterfeit clutch on life for the doomed, which is "dope." To them I had sent the twenty-three average citizens of the Cook county grand jury for first-hand corroboration of the terrible things that are possible under the "protection" of city politics, complaisant public prosecutors and the police when money is to be made by "men of influence."

One by one there had come from the twenty broken girls, who gave their ghastly testimony under oath between bursts of blasphemy, stories that sickened some and enraged others and that

sent the grand jurors shuddering to their homes that night—shocked and ashamed of the city they lived in.

It was of such things that the thousands of men and women of the great church-going public heard and of the record of testimony torn from under the raw edge of the rottenest system of protected vice ever set up in Chicago or any other American city. It is not my present purpose again to attempt by a retelling of that revolting record to shock needlessly a public that then and there reawakened.

Rather would I review in another article the results of this great movement to revive the civic conscience that permanently restored my confidence in the soundness of Chicago's heart and mind—lost at the beginning because of the complacent attitude toward things ugly and unpleasant. Many times since I have felt the force of that tremendous thing—an aroused and angry sentiment that, I hope, will never again permit public officials to compound with infamy in a city ashamed.

## **The Fight That Failed.**

#### **ARTICLE VII.**

Out of every evil comes great good, particularly when the pendulum of public opinion gains momentum and swings at full force against those revealed to be responsible for such a thing as the thwarting of two grand jury inquiries into commercialized vice in Chicago. Thus it was with "the bucket of black-wash" that boiled over.

In alluding to the futile February grand jury's investigation as "The Fight That Failed" I do not wish to be understood as saying that nothing destructive to the vastly powerful vice "trust," which went to smash soon after, was traceable to the work of even a weak-kneed body of citizens such as they. Neither then nor now do I desire any condemnation to come to the six citizens who courageously refused to concur in the majority report of "the black-wash grand jury."

Paradoxical perhaps but nevertheless true—had it not been for that very failure, had not a majority of the jurors been led into a disgraceful deadfall by those whose duty it should have been to guide the investigation through to a fair and impartial conclusion—it is doubtful if Chicago to-day would be

cleaner of commercialized vice than at any time since 1917. And no greater good than that could come to the greatest of cities!

#### **Drastic Drive Following Report.**

The most drastic drive against vice dens in the history of Chicago followed on the heels of the return of the reprehensible report in which an astounding grant of absolution was given the police from all blame attaching to the admitted existence of commercialized vice throughout Chicago.

It was an amazing document, which was handed up to the bench by the representative of Cook county's public prosecutor, who admitted in open court authorship of the phrases wherein the department of police was defended against "the heckling of reformers," coupled with caustic criticism of the Municipal court for alleged "failure to co-operate" with those whom even this jury was convinced had connived with commercialized vice lords.

Such condemnation as has come to me from certain sources close to an administration that made the shame of Chicago possible for rejecting that report almost in its entirety I shall continue to regard as the sincerest com-

pliment. I should have resigned from the bench rather than permit it to be filed as a permanent record of the court in which I presided.

Instead the clerk of the court was directed to expunge the "extraneous and impertinent portions" of the report after every grand juror had been polled personally by the court as to whether it had been proved by believable evidence that open and notorious vice existed in any police precinct in Chicago. Seventeen of the panel—one more than is necessary to consider evidence and five more than are necessary to indict—made the startling statement that though they had inquired into conditions in only one police district it was proved that from fifty to one hundred places of prostitution were openly, flagrantly and notoriously plying their trade.

#### **Five Jurors Against Action.**

Five of the jurors whose names I shall make a part of the present record denounced in downright terms the failure of the jury as a whole to follow the instructions I had given, that the jurors conduct the investigation into vice as "an arm of the court—independent of any one, even those present to produce witnesses and advise as to the law." The foreman of the February grand jury joined in with a declaration that he did not concur in the futile findings, but admitted that he had affixed his signature at the request of the public prosecutor.

To consider the causes of an anachronism in law enforcement such as this it is necessary to go back of the beginning of any grand jury investigation of such a shameful situation as commercialized vice and search for a solution to the problem: "How could prostitution prevail at all in a form sufficiently well known to make it profitable where the public prosecutor of Cook county compelled the police to do their duty?"

Before the grand jury was charged by the chief justice of the Criminal court last January to conduct an inquiry into vice and all its rotten ramifications, reaching into every corner of Cook county, the petitioners for such an inquiry—officials of the Juvenile Protective association—were sent by the writer to request the co-operation of the chief law-enforcing official of Cook county! And I now challenge any one to deny that fact!

I was informed officially that the request was refused on the ground that the petitioners should first present all

their evidence privately to the prosecutor before he would regard a grand jury inquiry as either necessary to the public welfare or warranted by the situation.

Having no gift for controversy I shall continue to state the facts as they were presented to me without offering any comment as to the merits of any contention that could be made in support of such a stand on the part of the public prosecutor in a community where it has been said that prostitution was "as prominent as the street-car system."

#### **"Must Be Candidate," Is Cry.**

It will be said by those betrayers of their trusts who still sit in public offices in Illinois, that "McKinley must be a candidate" for any office from state's attorney of Cook county to the governorship.

It may be well to say, therefore, before proceeding further with what he has begun as a public duty, that McKinley is not a candidate for anything—not even for re-election to his present place on the Superior court bench next November if his tenure of office must depend on the favor or be balanced by the fear of "the bosses" who have at times controlled public officials in Cook county!

It has been said that I was "the youngest chief justice of the Criminal court ever elected to that high office—at the age of 42." That is not entirely true—I was born on an Iowa farm fifty years ago, not yesterday—a circumstance some one apparently had overlooked.

Immediately on being informed by Attorney Harry E. Smoot, representing the petitioning Juvenile Protective association that there could be no inquiry into commercialized vice with the consent of the public prosecutor—except under conditions which would delay the grand jury until the state's attorney and his assistants had been fully informed as to the character of the evidence at the command of the petitioners—the court said:

"Since September, 1922, every grand jury impaneled from month to month has been instructed that it is a constituent but independent arm of the Criminal court—not an annex to the office of the public prosecutor or to any other branch of this court. The function of the grand jury is to make full, fair and impartial inquiry into any and all alleged violations of law and while the prosecutor may

be present to advise and assist it, the grand jury should be free from any influence of fear or favor in its deliberations incident to the voting of true bills and no bills. You may present a petition to this court on which I shall charge the grand jury to inquire into evidence of law violation with regard to vice or anything else, providing only that the facts presented shall be sufficient to warrant such charge."

A petition was presented, setting forth a serious statement of fact, verified by affidavits of investigators brought to Chicago from other cities and corroborative of the common knowledge that was in the minds of at least 1,000,000 citizens of Cook county. In as strong language as ever came from a court that grand jury was instructed to make full, fair and impartial inquiry into vice.

For the reason that January is perennially the "peak point" of the winter wave of crime, the grand jury was instructed first to consider the cases of crimes of violence against life and property which the prosecutor would present. Even then we were mindful of the necessity of forestalling the familiar propaganda of the police and their apologists that "vice can be suppressed only at the expense of protection for citizens against crimes of violence."

#### **Charge to February Jury.**

For the further reason that I have discussed in some detail in another article the work of this willing body of citizens who were shocked and overwhelmed by the experiences which came to them as members of the January grand jury we will pass on to the next phase of "the vice war." The February grand jury, impaneled a week after the discharge of its predecessor was instructed to "take up where the other inquiry left off"—a report to the court that the charges contained in the Juvenile Protective association petition had been fully sustained as to the general conditions and the open and notorious condition of commercialized vice in Chicago.

Instead the February grand jury, which the court had thought to be composed of citizens of high character, good reputation, broad general experience and a clear conception of the duties of citizenship, chose to begin at the beginning and rehear the testimony previously taken. And there the influence that brought about "the bucket of blackwash" began to work.

On the day this jury was instructed,

I have learned since, a complete list of the names and addresses of the grand jurors was obtained by an agent of a high police official, hinted at in my charge to the jury.

In that charge the grand jurors were told that it was not necessary to prove corrupt motives for nonfeasance or "palpable omission of duty" on the part of the police or other public officials charged with the duty of suppressing vice and crime. Though the motive might be inferred from the failure to function of an official who should have known or did know of a corrupt or vicious condition within his jurisdiction, it was not essential to the fixing of responsibility for that failure to do his duty in the face of a flagrant and open condition of law-violation such as commercialized vice.

Consider then the concern not only of high police officials, but others familiar with the facts in the famous case of Theodore Roosevelt, then police commissioner of New York, who was sustained by the Supreme court of the state in his removal from office of a police captain for this very thing that now confronted Chicago—failure of anyone in authority to admit knowledge of a condition of commercialized vice so open and notorious as to bring from the health commissioner the suggestion that "penny-slot-machine" prophylactics be installed in the hundreds of prostitution places "to protect the public."

It will be remembered that this blunt Bundesen suggestion, put forth as a health-protection measure in the public press, aroused a storm of comment fully a month before the February grand jury was charged. It will be remembered that the same bold Bundesen before both "vice grand juries" told of two years of futile efforts to close a majority of dens of disease and degradation and that he conducted a "clinic" at Lawndale hospital for the grand jurors and convinced them that there must be at least 250,000 cases of social diseases in Chicago annually.

#### **Judge Trude Estimates Profits.**

It will be remembered that Judge Daniel P. Trude, who had been sitting for months in the Morals court, estimated from his experience with the workings of the vice machine that the profits of prostituted womanhood, "police protection" and perversion in Chicago were not less than \$13,500,000 annually. That the "keepers" were protected from jail sentences by a law that then only provided a fine upon conviction.

tion and that the levying of large fines by Municipal court judges "only raised the rate for protection" for the girls and kept them chained to a scarlet slavery more securely than before.

It will be recalled that after a week of listening to such testimony the grand jury suddenly was switched off to the hearing of a hundred or more policemen, that the Rev. John H. Williamson, "law-enforcement commissioner" in Mayor Thompson's cabinet, was forced to sit outside the grand-jury room for two and one-half hours of an afternoon waiting to tell at first hand his knowledge of the partnership between police, politics and vice lords while "procurers" and prostitutes, both white and black, were ushered in before the jury to deny that there was such a thing as open vice.

But why go on? It is all so recent that the public remembers that Mrs. Joseph T. Bowen, president of the Juvenile Protective association, while ill was ordered "subpoenaed before the grand jury by any means necessary" on the suggestion of Violet Phipps, characterized by Chief of Police Fitzmorris as "one of the two most notorious dive-keepers in Chicago"; that the chief himself was the last witness to be heard of the host of policemen who protested that vice was impossible to suppress, but could only be "curbed"; that the grand jury after listening for a full day to as clever and energetic a man as ever headed a police department anywhere signed "on the dotted line" the worst whitewash report ever delivered to any court.

What the public does not know or remember for that reason of the things that went on behind the scenes of the Chicago vice crusade of 1923 I shall not attempt to tell at this time. What it did know, later learned and understands now was more than sufficient to break down even that last-ditch defense of commercialized vice, reared behind official connivance and "the blackwash that boiled over" before me on the morning of March 1 in the Criminal court.

Then had come the moment when the chief justice of that court "could take it or leave it" and bow before the power of a vice machine that had polluted even a branch of his own court. He chose to do neither—but to load it back

where it belonged—on the shoulders of the seventeen citizens of the jury who had been led away from their sworn duty and upon those who mixed the whitewash which turned black as one looked at it.

#### Notice Served on Officials.

"As an officer of the court," the counsel for the Juvenile Protective association was directed to serve immediate notice upon the state's attorney, the sheriff and the coroner of Cook county and upon the chief of police of Chicago of the existence of 100 or more places of prostitution listed in the record of the grand jury—and to proceed against any and all of these officials who failed to take proper action, by warrants for the officials themselves sworn out before the chief justice of the Criminal court, "sitting as an examining magistrate." There was magic in that final phrase!

Before another grand jury could be assembled there came a drum-tight general order from police headquarters which directed that day-and-night watch be kept at front and rear of "every known place of prostitution in every police precinct in Chicago" and with it an amazing admission.

The public was told. "It will take two-thirds of the entire police force totaling 6,000 to keep watch on these places"—that "negligible" and "necessary evil" which the poor police had been doing their best to combat and "curb." Also it was hinted that the crime curve would rise on the chart to great heights and again the police would be "absolved" from all blame and the fault would be with "the heckling reformers."

But it will be remembered that the antivice watch was kept for more than thirty days, during which crime of all classifications in Chicago declined 37 per cent, according to the report of Clerk James A. Kearns of the Municipal court. Vice lords and their women fled the city in such large numbers that to day, according to all agencies of reform, Chicago is cleaner of commercialized vice than at any time since 1917 when the government assumed general charge of moral conditions in the big cities.

And that—"The Fight That Failed"—is what was meant when we said at the beginning. "Out of every evil comes great good."