

Humanizing A Court¹

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There began an agitation for a change in the method of handling juvenile offenders in 1900. John C. Ruckelshaus was elected Prosecuting Attorney of the Marion County Judicial Circuit, and upon taking office he appointed me his deputy in charge of the Police Court. While serving in that capacity, I acquired a comprehensive knowledge of that class of our citizenship that makes up the daily toll of police duty. This experience became of tremendous value in my later years as a judicial officer.

At the city election in 1901, George W. Stubbs was elected Judge of the Police Court. He had not been in office very long when he expressed amazement at the growing number of boys and girls being arrested for criminal offenses. The arrest of such boys and girls and sending them to the police station and locking them up in the city prison was abhorrent to his sense of justice. His first effort to bring about a change in those conditions, was to secure the co-operation of George A. Taffe, Superintendent of Police, and Mayor Charles A. Bookwalter in preventing the arrest of such children and their detention in the city prison. With the assistance of these officials, a plan was worked out under which boys and girls under sixteen years of age were taken to their home, and their parents instructed to have them in Police Court on Friday afternoon at 2:00 o'clock, as Judge Stubbs had set apart that afternoon for the trial of such cases. While this plan was only an experiment, it was the means of attracting public attention to a needy and growing problem in the large cities of the country.

These Friday afternoon sessions were held in the Judge's chambers, and the punishment often meted out, in aggravated cases, was whipping which took place in the basement of the station house administered by the father in the presence of the arresting officer. "Squeals from the basement" became frequent headlines in our local papers. The Judge's chambers soon became inadequate for such hearings, and to remedy that situation the Board of Public Safety fitted up an unused room on the third floor of the station house

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and this embryo "Juvenile Court" held its sessions there until the "Juvenile Court Law" was enacted at the legislative session of 1903.

While Chicago is entitled to the credit of pioneering the Juvenile Court movement under the direction of Richard S. Tuttle, Judge of the Cook County Circuit Court, to Indiana belongs the credit of having established in this country the first separate court for the trial of juvenile offenders.

The enactment of this legislation was largely due to the leadership of the late John H. Holliday and a committee of citizens composed of Hugh T. Hanna, Thomas C. Day, Martin M. Hugg, Senator Charles N. Thompson, Mrs. Julia Goodheart, the Reverend Allen B. Phillput, Father Gavisk, Judge Henry Clay Allen, Judge Freemont Alford, and the author.

On petition many of the best citizens of this city, Governor Durbin appointed Judge Stubbs as Judge of the newly created court, who served until his tragic death in 1911. In its article on Childrens' Courts, the *Encyclopedia Britannica* made this reference to the Marion County Juvenile Court: "The Court in Indianapolis, however, gained the reputation of being the most complete and perfect Court in the United States."²

In the city election of 1909, I was elected Judge of the City Court, the name of the court having been changed from Police Court to the "City Court of the City of Indianapolis" at the legislative session of that year. In addition this act did away with the single morning session by providing for all day sessions of the court. I had made the race for the judgeship on a platform that, if elected, I would establish a system of probation in that court.

Many persons are confused by the terms "Probation" and "Parole." These are not synonomous terms. "Probation" relates to the offender who is released by the court under the supervision of a probation officer, and "Parole" relates to the person released from a penal institution at the expiration of his minimum term, or when the action of paroling is exercised by the chief executive. In either instance, they are placed under the supervision of a parole officer attached to the institution from which they are released.

² Arthur G. F. Griffiths, "Children's Courts," *Encyclopedia Britannica* (11th ed., 1910), VI, 140.

The probation system of the city court contemplated the following in dealing with misdemeanants: (a) payment of money fine on installments, (b) suspending sentence or withholding judgment as to first offenders, (c) restitution instead of fines and costs in making good where there was injury to the person or property, (d) drunkenness and the pledge system, (e) separate trials for women and girls.

This was a new departure in the administration of justice. The old method not only in Indianapolis but in the large cities of the country, required the offender at the time of his conviction to pay his fine or have some person become replevin bail, or be committed to the jail or workhouse. This hard and fast rule of the law was always a source of great hardship to the poor. To me it seemed unreasonable to expect a common laborer arrested late at night and convicted in the morning to be able to settle with the state. Such persons, convicted under those circumstances, were sent to the jail or workhouse not because the court had given them a term of imprisonment, but because they were poor, smacking of the old "Marshallsea Prison" of Dickens' day and so graphically described in his story of "Little Dorritt."

If any of you could have witnessed the scenes that I have of women and children crowding the corridors of the court, pleading with attaches of the court to say a word to the judge in behalf of a husband and father, you would have felt as I did that this system should be abolished, and some more humane method evolved to relieve that deplorable situation.

During my term of four years, those released under this new plan paid into the court \$34,014 without a scratch of a pen for security. Of the 3,832 persons to whom were given this opportunity, only 143 said "Good Morning" and "Good Night." Occasionally, I would find one of those absentees on the prisoner's bench even though he was there, as the old colored woman said: "under a consumed name." This system worked to the benefit of the individual in several ways—it saved his job—it relieved his family of the humiliation and disgrace incident to imprisonment—but more than all, it saved his self-respect. It is my opinion, this proved to be one of the most helpful reforms ever insti-

tuted in this type of court and is now general throughout the country. I am sure, you would be interested to know how this plan had its beginning. It came about in this way: At twelve o'clock noon I was sworn in and held my first session at two o'clock. A group of ten young colored men were before me charged with indulging in that "national" sport known as "African Golf," but technically under the law Gaming. As I looked at them over the bench I could not help feeling that Solomon in all his glory was not arrayed like one of these—"shirts" that the New York Central might easily have appropriated in illustrating their four track route and "socks" so loud you could have heard them the length of Indiana Avenue.

The first nine were promptly disposed of by assessing fines of five dollars and costs, which meant pay, stay, or lay it out. The tenth one stood there trembling in his shoes. I said, "Are you married or single?" He said "Yes, sir." I asked him "What does your family consist of?" He said, "Washin' and ironin'." I then said, "You don't look like a crap shooter to me, and I am going to treat you differently from these others." "You will receive the same fine and costs, but will be given an opportunity to pay the same on installments." He was released on his own recognizance and turned over to Sergeant Gaddis, a probation officer, with instruction to pay his fine and costs on a weekly basis. The next day at luncheon Howard Stanton, a well-known member of the Bar met me and said, "Judge, you had our janitor before you yesterday. He is the best man we ever had in our building. He is a conscientious worker, and his wife is a hard working woman and takes in washings and ironings, besides doing her own household duties, and with their joint savings, they are supporting a boy and girl in a high school in Louisville where they are receiving special training for social work among the Negroes of the South. If it is not too late, I would be pleased if you could show him some consideration." I said, "Howard, send him to me, and I will suspend the fine and costs, and they may send it to the boy and girl in Louisville."

That first offenders should be saved from imprisonment either in the jail or workhouse became a cardinal principle of this new system. This rule was laid down in the establishment of probation upon the theory that if a boy

was worth saving the place to save him was in the courtroom, and not after he had served a term in a penal institution. This system was not perfect, and it took great patience to deal with such offenders, but those who did appreciate what the court was trying to do for them were in the majority and made good.

More than thirty years have passed since leaving that court and I often meet grown men holding good positions who laughingly remind me of being prisoners before me in the city court, and how kindly treatment gave them an entirely new outlook on life. Charles L. Chute, head of the National Probation Association, while on a visit here, told me that the records of this court showed a smaller percentage of failures than any similar court in the United States.

Restitution was another departure from the old method of handling that class of offenders charged with offenses growing out of personal injuries or property damages. Instead of being convicted at the time of the trial, they were placed on probation, and when it was reported that full and complete restitution had been made, for the injury or damages, the court would withhold judgment during good behavior. To illustrate: A group of seven or eight boys smashed the windows in a vacant house doing fifty or sixty dollars worth of damage; the property was owned by a widow who could hardly afford to meet such a loss. Released on their own recognizance to their parents, these boys paid into the probation department every dollar of the damage done. Restitution so made ran into thousands of dollars.

The accidental and occasional drunk was never incarcerated. In those cases where they had church affiliations, I would send them to their pastor with instructions that if they would take the pledge for six months, I would suspend the fine and costs. This they did, and with the cooperation of the clergy, more than fifty per cent made good. The chronic drunk presented a serious problem. There was little to work on, but I was astonished at the number that were helped through the kindly assistance of friends and relatives. One of the most helpful men who ever lived in this city was the late William Wheeler, founder of the Wheeler Rescue Mission. He was able to help the friendless

and homeless through his mission and made a record of practical Christianity seldom equaled in this or any other city.

One of the most interesting cases was that of Pearl, a whiskey and morphine fiend, whom I got rather tired of trying to help. It just seemed that she had reached that stage where she was beyond any help and the court was powerless to change her fixed habits. I sentenced her to the correctional department of the Woman's Prison to serve thirty days and pay a fine of one hundred dollars and costs. About two weeks after she had been committed to the institution, Mrs. Hopkins, our probation officer, in charge of women, came to me and informed me that she had just received a letter from Pearl's mother, who was the widow of a physician and resided in Richmond, Virginia. She said Pearl was a graduate trained nurse and had been the wife of a physician, but that they had been separated for a number of years. She could not say that this separation was responsible for her downfall, but it, at least, was a contributing influence and pleaded for her release. Mrs. Hopkins replied to this letter telling the mother all that we had done for her daughter but without any success. Later on she received an answer to that letter, in which was enclosed a draft for one hundred and twenty-five dollars, pleading with Mrs. Hopkins to secure her release and to use the money to pay for her treatment at the Keeley Institute, then located at Plainfield, Indiana. Mrs. Hopkins laid this letter before me, and I told her that I would release Pearl upon two conditions. First, that she would take the Keeley cure, and second, that when released from the Keeley Institute she would go back to her mother in Richmond, Virginia. Pearl agreed to this, and upon completion of the course of treatment, returned to her home in Richmond. We did not hear from her until a year later. One morning Mrs. Hopkins came to me holding a letter in her hand, and said, "Judge, I have just received a letter from Pearl, and please let me read it to you." She read the letter. In it Pearl, told of going home, and after re-establishing herself among friends and relatives, she went out to a tract of land lying between the James River and Virginia Penitentiary, known as "Penitentiary Bottoms," and peopled by poor blacks and whites. There she opened a mission, and

was doing a similar work to the Rescue Mission in Indianapolis.

Then, there was a traveling salesman who had spent a whole day trying to reduce our liquor supply. The police caught up with him in the early evening and sent him in. When he appeared before the court he had a pretty good hangover. He was well-dressed and had all the appearance of a good businessman. I asked him where he lived and he told me St. Louis was his home, and he traveled for a prominent shoe firm. I accepted his plea of guilty, but continued the case for a couple of days committing him to the county jail, so that he would get rid of the hangover. When he was brought back to the court on the date set for the disposal of the case, I informed him that on his plea of guilty the fine and costs would be eleven dollars. He said, "Judge, that is all I have on me, and it will pay my fare back to St. Louis." I then told him to place the money with Sergeant Gaddis, and if he promised me that he would go straight home, I would suspend the fine and costs. To this he agreed. I then instructed the Sergeant to take him to the Union Station, place him on the train and give the ticket to the conductor.

About ten or twelve years later a man came to the Criminal Court where I was then presiding, introduced himself, and he told me of the incident of his arrest and how the money that would have paid his fine and costs bought his ticket to St. Louis. He then told me that upon his return home he became converted, and he was now the Superintendent of the Industrial Division of a large and successful rescue mission in Brooklyn. I chatted with him for almost an hour and learned of the great work being done in Brooklyn by this agency in the uplift "of the down-and-outer," and closed his visit by saying: "Judge, that beats getting a hangover."

On another occasion I had a Negro boy charged with grand larceny, specifically, stealing three gold rings, with diamond settings. Just as the arresting officer introduced the rings in evidence, the proceedings were interrupted by the Clerk of Detectives, who held a telegram in his hand, which had been sent to the detective department by Major Peyton, Superintendent of the Reformatory at Jeffersonville and read: "If the State has a good case against Dan Barrett, hold him, and I will send for him." When I examined the

rings I could not tell whether they came from Kresge's or Woolworth's, but when a young lady of dusky hue took the stand to establish their ownership and value, I was almost convinced that they must have come from Tiffany in New York. I asked him how long he had been on parole, and he replied about nine months. I then asked him how long he had served in the Reformatory, and he replied, "five years." I said, "five years, what crime did you commit?" Then he told me his story. He was a bell boy in the Wescott Hotel at Richmond, Indiana, and one morning a traveling salesman complained that someone had stolen twenty-five dollars from his room. The bell boy was suspected, and the money was found on him. He was promptly convicted in the Circuit Court and sentenced to one to fourteen years in the reformatory. He became very efficient in his work and as no one was interested in him he was held for five years, although entitled to parole at the end of his minimum sentence. So I said, "You have served five years for stealing twenty-five dollars, which is more time than anyone ever served at Fort Leavenworth for wrecking a national bank." Then I asked, in a general way, if there was anyone in the court room who knew the defendant. A gentleman came forward in response to my question whom I recognized as Adjutant General Ward of our state militia. He said, "Yes, I know Dan, and our acquaintance began under these circumstances. During the Spanish-American War our regiment, the 161st, Indiana Volunteers, was on its way to Cuba, and we were held up for several hours at Atlanta, Georgia, and while we were waiting for orders to move, one of our regimental officers picked up this young man for a mess boy, and he remained with us until the regiment was disbanded. We took an interest in him and found him employment but I never learned that he was in the reformatory until I heard that telegram read this morning. If I had, I would have gone to Governor Durbin, who was the Colonel of our regiment and made an appeal for his release. During the time he was attached to our regiment he was honest, conscientious and upright, and it is for that reason I am here today to say a word in his behalf." I proceeded with the evidence which disclosed that he was rooming at the home of the prosecuting witness whose testimony showed that she had taken her rings off in the bathroom and carelessly left them there, where Dan found them, and put-

ting them in his pocket went on to his work. In the meantime, the girl missed her rings, and reported the alleged theft to the police. After hearing his story and the interesting statement of General Ward, I decided to probation him to the general and withheld judgment until employment could be secured. Then I instructed the Clerk of Detectives to wire Major Peyton that the evidence was insufficient to hold him as a parole violator. A year later he came to the court to ask my permission if he might go to Chicago where friends had secured him a position with the Pullman Company. As he had been fully discharged from his parole, I told him he was at liberty to go there, or to any other place where employment could be obtained. As the tears rolled down his face in gratitude for the help given him, I am sure that you would have had the same feeling of satisfaction that I had, that he had been saved from being made a victim of the reformatory.

Another reform established while I was judge of the city court was a separate session for the trial of women. It seemed to me unfair to see women wedged in between drunks, thieves and murderers on the prisoner's bench; that whatever their offenses were, they should be tried separately and apart from the male offenders. So the court work was arranged and Wednesday afternoon was set apart for the trial of all cases involving women defendants. The results justified the change. Out of it grew an amusing incident. One of our local papers quoted an excerpt from the *Boston Post* in which it said: "Judge Collins of Indianapolis has established 'Ladies' Day' in the City Court." From that time until the close of my term, no colored female was brought in the court that she did not request that her case be postponed until "Ladies' Day."

One morning Sergeant Jessie Streit came to me and told me that he had just slated a young woman under circumstances that were peculiar, and he asked me to question her, and, if possible, try to find out where she was from, and to have the court matron get in touch with her parents. He told me that in making his rounds, the keeper of a house of prostitution in the west end, had called him into the house, where she had been detaining a girl. The girl had come to the house and asked if she could become an inmate, that she was from out-of-town and had no friends or relatives. She

brought the girl into the room, and she was questioned, but she gave such evasive answers that no headway could be made with her. Then the Sergeant told her she would have to go with him, and he took her to the police matron, where she was being held. I told the Sergeant to bring the girl into court and I would interrogate her. She appeared to be about eighteen or nineteen years of age, well-dressed, and of a good appearance. I asked her where her home was, and she said, "Peru." I asked her what her father did, and she replied, that he was an "engineer." Her answers to other questions convinced me that she was not telling the truth. I then called Mrs. Hopkins, our court matron, and directed her to place the girl in the Faith Home and to hold her there until the Wednesday session of the women's court. The following morning the court bailiff brought a man to the judge's room saying that he was from out-of-town and would like to talk with me. I asked him what I could do for him, and taking a copy of the *Star* out of his pocket, he pointed to a paragraph in the column called "City Briefs" which said, "Unusually attractive girl brought into City Court is held for investigation." Then he said, "Mother and I read that item and somehow we believe it is our daughter. She has been living here, but we have not heard from her for several weeks." I looked at him and thought there was something in his features that favored the girl. I sent for the court matron and told her to take the man out to the Faith Home, and if it was his daughter, they were to release her to him as no charge had been filed against her. Later, Mrs. Hopkins told me that the girl threw her arms around her father, and they both cried like babies. Then she learned that the father was a substantial farmer, and that they lived about two counties southeast of Indianapolis, that he had a large farm and splendid home, and there was no occasion for her going through the experience that was told to him. She concluded by saying that it was the old story of the lure of the city to a country girl. Parks and entertainment seemed so attractive that it looked as though life in the "big" city was one grand, sweet song.

She had been unfortunate in her employment and lost several jobs, and when out of work she was ashamed to tell her people of her predicament, that she had no means to tide her over until she could get employment, and in a fit of discouragement, after walking the streets for three nights with

no place to lay her head she was confronted with the urge to commit suicide or the alternative of going to the house where she was found and there to sell her body and soul.

Thirty years ago the city of Indianapolis had a population of approximately three hundred thousand, including a Negro population of fifty thousand. During World War I large groups of Negroes were attracted to Indianapolis to meet the demands for labor in the large industrial plants. At the close of the war many of those who came as temporary residents decided to make Indianapolis their permanent home, increasing the Negro population by a large percentage.

Early in the 1920's, I realized that in order to do effective work among the growing colored population, probation should be extended to cover them and be under the supervision of one of their own race. The problem of appointing competent persons as probation officers was solved at the legislative session of 1927 of the General Assembly, which enacted a law granting to the judges of circuit, criminal, municipal, and city courts in cities of the second class, the power to appoint probation officers, defining their duties and fixing the salaries of such appointees.³ At first blush it looked as though the legislature had made provision for a lot of new jobs for the political "faithful," but those who thought that "politics is politics" met with a rude awakening. The socially-minded men and women interested in the enactment of this legislation, promptly announced in the public press that all applicants would have to pass examinations to be eligible for appointment. With the approval of the various judges, a committee was formed, composed of Homer Borst of the Community Fund; Howard Jensen, Professor of Sociology, Butler University (and now at Duke University); Eugene C. Foster, Director of the Indianapolis Foundation; Reverend Lynn A. Tripp, of the Church Federation of Indianapolis.

The definite purpose of the judges and the committee was to secure the best talent obtainable for these positions. This committee was successful in securing the services of Charles L. Chute of New York City, Secretary of the National Probation Association in preparing questions for the examinations. The form of examination as prepared by him has become the standard for Indiana.

³ *Laws of the State of Indiana, 1927, 75th Regular Session, CCX.*

Among the applicants taking the first examination under the statute, above referred to, was the Reverend John L. Coleman, who was serving as pastor of a Presbyterian mission in this city. He was a graduate of McCormick Theological Seminary in Chicago, and with a fine scholastic background had no difficulty in securing a high mark at the examination and was immediately assigned to the Criminal Court. He served in the Criminal Court for a period of three years which covered the last of my term in that court. Coleman made an excellent probation officer. Of the hundreds of cases referred to him, where probation was ordered, he had a minimum of failures. He made a remarkable record. He left such a good impression that the three judges who have succeeded me as judge of the Criminal Court each appointed a high grade man to that place. Before Coleman left the court, he informed me that he was the first full-time colored salaried probation officer to be appointed in the United States. Within two years after leaving the Criminal Court, he received a call, which he accepted, to serve as pastor of the Lombard Central Presbyterian Church of Philadelphia, having one of the largest colored congregations in this country.

In closing my twenty years of service on the bench, the records show that I passed on more than one hundred thousand cases, that in the probation department of the Criminal Court alone, there was collected in money fines and costs seventy-five thousand dollars, restitution was made in the sum of eighty thousand dollars, and that deserted wives and children received more than seventy thousand dollars. The interesting fact about these items just presented is that this was all done without any specific legislation on any of the subjects. Notwithstanding the large volume of business in these courts, through our probation department we were able to assist ten thousand men and women to stand on their feet and get a start toward a new and better life. The inspiration to be of help to men which was the underlying influence was beautifully expressed by the poet Foley in these lines:

I don't set up to be a judge of right or wrong in men;
I've lost the trail myself and may get lost again;
So, when I see a man who looks as though he'd gone astray;
I want to shove my hand in his and help him find the way.