

**City of Courts**  
Socializing Justice in  
Progressive Era Chicago

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## The Price of Justice

The idea that the bureau activities of the state are intrinsically different in character from the management of private economic offices is . . . totally foreign to the American way.

– Max Weber

To anyone who takes it on faith that personal gain and public duties don't mix, the realm of local judicial administration in late nineteenth-century America must seem a strange land. In most local communities, from the rural hamlet to the great city, the lion's share of judicial business – civil litigation involving modest sums of money and criminal cases of the lesser grades – came to judgment before justices of the peace. The typical justice had little or no legal training, enjoyed a quasiproprietary control over his office, and collected most, if not all, of his pay in the fees that he charged litigants and criminal defendants for his services. JPs were the foot soldiers of the legal order. They had no power of judicial review, heard no appeals, and tried no big-ticket civil cases or felony crimes. But their courts were the judicial institutions nearest to the people. And to them fell the task of delivering justice in the rising flood of litigation that involved the everyday rights and wrongs of the working people in the nation's industrial cities. In the Second City, where the high-volume judicial market enabled enterprising justices to rake in fees unimaginable in the hinterland, the working people came up with their own nickname for the JP courts. "The justice shops," they called them. The sobriquet ridiculed all pretensions of judicial rectitude in a court where justice was literally for sale. It also captured, in a matter-of-fact way, the unapologetically entrepreneurial spirit of a set of vital legal institutions

that were deeply embedded in the everyday life of the urban market economy.<sup>1</sup>

In Chicago at the turn of the twentieth century, fifty-two justices of the peace, appointed by the governor, did a robust business out of private offices that dotted bustling, low-rent commercial strips. The typical JP disposed of nearly 2,000 civil cases and a smattering of criminal cases each year, exacting a fee, set by statute, for every service he provided – from performing a marriage to issuing a guilty verdict. From this pool of justices, the mayor selected eighteen men for a simultaneous appointment as police magistrate. In this capacity, the justices spent part of each workday trying minor criminal cases in famously seedy police-station courtrooms around the city. Only in their role as police magistrates did the justices receive a public salary, and even that did not stop them from collecting fees of various sorts in criminal cases. By legislative design and venerable custom, most justices were laymen, which meant they were unschooled in the technical niceties of common law procedure and, their critics claimed, unversed in the ethical standards of the city's increasingly self-conscious and self-policing professional bar. A trial in a JP court tended to be a highly informal affair and often proceeded without interruption from lawyers. Justices ran their police courts in a similarly personal style, while assuring that the courts served as instruments of party discipline in the political wards where they stood.<sup>2</sup>

In an era of social struggle and reform, the caseload of the justice courts graphically illustrated the tensions produced by a generation of unprecedented industrialization, urbanization, and immigration. Workers filed civil suits against employers for “wage theft.” Landlords

<sup>1</sup> Aliquis, “The Injustice in our Justices [*sic*] Courts,” *CLN*, March 9, 1878, 200–201. “The Injustice Courts,” *Chicago Times-Herald*, Jan. 28, 1897. Bartow A. Ulrich, *How Should Chicago Be Governed?* (Chicago, 1893), 41–47. See James Willard Hurst, *The Growth of American Law: The Law Makers* (Boston, 1950), 147–52; Eric H. Steele, “The Historical Context of Small Claims Courts,” *ABFRJ*, 1981 (1981), 293–376; Allen Steinberg, *The Transformation of Criminal Justice: Philadelphia, 1800–1880* (Chapel Hill, 1989).

<sup>2</sup> Hiram T. Gilbert, *The Municipal Court of Chicago* (Chicago, 1928), 9–10; Elijah M. Haines, *A Practical Treatise on the Powers and Duties of Justices of the Peace and Police Magistrates*, 15th rev. ed. (Chicago, 1896); *Chicago Revised Municipal Code*, 1905, ch. 50, secs. 1785–1787; “Constitution of 1870,” *Illinois Revised Statutes*, 1911, art. vi, secs. 21, 28; “Law in relation to justices of the peace,” approved June 26, 1895, *Illinois Revised Statutes*, 1905, ch. 79, art. i, secs. 2–5; art. ii, sec. 16; art. xviii, sec. 164; hereafter cited as 1895 JP Law; Harry Olson, “Conditions in Chicago Which Led to the Institution of the Municipal Court,” JHO, box 3.

and tenants sued each other. Collection agencies' lawyers filed countless suits against unrepresented working-class debtors. Wives had their husbands prosecuted for desertion. Immigrant parents filed criminal complaints against their own children for being "unruly" or failing to bring home their wages. During strikes, the police hauled in union "sluggers." No wonder New York Mayor Abram Hewitt observed of his own city's police courts in 1888 that "the position of police justice is more important to the community than that of judge of the Court of Appeals; the latter finally settles the law, but the former applies it in the first instance, in nearly all cases affecting the life, liberty, and property of the citizens." Some years later, in a speech to the Illinois Bar Association, Chicago attorney Robert McMurdy chided his peers who avoided the justice courts. At stake in routine police court cases, McMurdy said, was nothing less than "the liberty of our humble citizens." Those matters constituted "the really difficult puzzle of such a metropolis."<sup>3</sup>

For many urban civic reformers and commentators at the turn of the twentieth century, the real puzzle was why the JP system, whose roots in Anglo-American legal culture stretched back to the Middle Ages, had survived for so long. If the law was, as the sociologist Edward A. Ross aptly put it in 1901, "the most specialized and highly finished engine of control employed by society," the men in whose hands American cities had entrusted this precious mechanism seemed utterly unfit for the task. Ross mourned "the undignified and demoralizing conduct of many of our police courts, presided over by burly, vulgar-minded political henchmen." Critics everywhere faulted the JP system for qualities long heralded as its chief virtues: its decentralized structure, its administration by lay officials, its swift and informal style of justice. The "iniquitous fee system" lay at the heart of the controversy, as a method of compensation formerly associated with fiscal economy and administrative flexibility came to signify an inherently corrupt contract between plaintiffs and justices.<sup>4</sup>

<sup>3</sup> Hewitt in Mary Roberts Smith, "The Social Aspect of New York Police Courts," *AJS*, 5 (1899), 150; Robert McMurdy, "The Law Providing for a Municipal Court of Chicago," *Proceedings of the Illinois State Bar Association*, 1906 (Springfield, 1906), 2: 82.

<sup>4</sup> Edward Alsworth Ross, *Social Control: A Survey of the Foundations of Order* (New York, 1901), 106, 113–14; Edward F. Dunne, "Against Justice Court Fees" (1904), in *Dunne: Judge, Mayor, Governor*, ed. William L. Sullivan (Chicago, 1916), 83; "The Waste of Time at Court," *Nation*, March 25, 1886, pp. 253–54. See Simeon E. Baldwin, *The American Judiciary* (New York, 1905), 130–31; Charles A. Beard, *American City Government: A Survey of Newer Tendencies* (New York, 1912), 173–84.





The old West Chicago Avenue Police Court, photographed c. 1908, after it had been renamed as one of the neighborhood “criminal branches” of the new centralized Municipal Court system. Courtesy of the Chicago Historical Society (ICHi-34913).

The next chapter narrates the political struggle over local judicial administration that led to the creation of the Municipal Court of Chicago and the dozens of city courts made in its image. This chapter recovers, so far as the historical record will allow, the American way of doing justice that the municipal court movement and its rhetoric of modernity left behind. Because the justices’ dockets have perished, the historian’s challenge is to read through reformers’ condemnations of the “antiquated” and “evil” justice shops to reveal the logic and practice

of the working judicial system beneath. For progressive reformers, one of the greatest needs in American institutions was for urban courts to adopt “business methods,” a phrase they associated with the organizational efficiency and hierarchical discipline of the modern business corporation. But the justice shops had always heeded business principles. The courts operated according to an older economic model of governance. This entrepreneurial model had different implications for governance and a different, though not necessarily greater, capacity for injustice than the corporate model that businessmen-reformers would fight to install in its place.<sup>5</sup>

The surest and shortest route to understanding the political logic and everyday practice of late nineteenth-century justices of the peace is to consider the nickname that working-class Chicagoans bestowed upon their offices, the justice shops. Brush away the odium attached since the Progressive Era to the idea of private gain in public administration – especially judicial administration. What remains is a political creature with deep roots in English and American local governance: the public officeholder as independent proprietor, with privileges and duties established by local custom and law.

English justices of the peace reached the peak of their social status and public powers between the Glorious Revolution and the Napoleonic Wars, policing and administering their counties with remarkable independence from Parliament and the central government. In contrast to the Continent, where “sovereigns entrusted magistracy to salaried functionaries,” the English sovereign reserved the office of justice for members of the landed gentry, who served in lifetime (freehold) tenure and regarded the office as both an obligation and a prerogative of their standing in their communities. The justice’s powers grew steadily between the fourteenth and eighteenth centuries. He acquired jurisdiction over minor criminal offenses. He met quarterly with the other justices of his county in a Court of Quarter Sessions, where they heard all but the most serious criminal cases, oversaw the workings of parish government, and exercised regulatory powers over the local market. Without general statutes that clearly defined their authority, English justices on the eve of the American Revolution possessed “a local autonomy amounting almost to anarchy.”<sup>6</sup>

<sup>5</sup> See, e.g., Herbert Harley, “Business Management for the Courts: As Exemplified by the Municipal Court of Chicago,” *VLR*, 5 (1917), 1–26.

<sup>6</sup> Norma Landau, *The Justices of the Peace, 1679–1760* (Berkeley, 1984), 1, 6–14. Sidney and Beatrice Webb, *The Development of English Local Government 1689–1835* (London, 1929, 1963), 57–67, esp. 65.

In the American states of the nineteenth century, the powers of JPs paled next to those of their English counterparts. Primarily judicial, they were limited to minor civil and criminal offenses. But the justices presided over a decentralized system of judicial administration that came to be hailed by domestic and foreign commentators as the linchpin of civil liberty and local self-government. The legal historian Willard Hurst called the American JP “the arch symbol of our emphasis on local autonomy in the organization of courts.”<sup>7</sup>

To a remarkable degree, this local autonomy resided in the person of the justice. Freehold tenure and property qualifications were not associated with the office in the states. But like their English predecessors, American JPs effectively owned their offices for the length of their terms. A justice court was thus known to the public not by its district or jurisdiction, as were the higher courts of the states, but by the name of the justice himself. The fee system was integral to this autonomy. Unsalaries public officers, justices executed a personal bond to cover their liabilities and ensure faithful performance of their duties. At their own expense, they set up shop within their township or precinct of residence in a location likely to draw business, hired a clerk if they expected to do a large business, and levied a fee, regulated by statute, for each service they provided – from conducting an inquest (\$5 in 1850 Illinois) or marriage ceremony (12½ cents) to summoning a jury (75 cents) or entering a guilty verdict (12½ cents). In exchange for conferring these governmental powers and pecuniary possibilities upon individual male citizens, Illinois and the other states (all but a few) that adopted the JP system got a flexible apparatus of minor civil and criminal judicial administration at little or no cost to the public. As a shield against inept or corrupt justices, states allowed dissatisfied litigants to appeal their cases *de novo* (as a new trial) to a higher county court – an empty right for litigants who could not afford legal representation. The decentralized and enterprising character of the JP system was well suited to a predominantly agrarian country in which transportation was slow and people typically lived at some distance from a county seat. As the Nebraskan Roscoe Pound sentimentally recalled, the JP’s job was to “bring justice to every man’s door.”<sup>8</sup>

<sup>7</sup> Hurst, *Growth of American Law*, 148.

<sup>8</sup> Henry Asbury, *Advice Concerning the Duties of Justices of the Peace and Constables* (Quincy, Ill., 1850), 232–34; Roscoe Pound, “The Administration of Justice in the Modern City,” *HLR*, 26 (1913), 304. See 1895 JP Law, art. i, sec. 9; Robert M. Ireland, *The County Courts in Antebellum Kentucky* (Lexington, 1972); *People ex rel. McDougall v. O’Toole*, 164 Ill. 344 (1896); Steele, “Small Claims Courts,” 326.

The place of JPs and police magistrates within county judicial systems illustrates the patchwork quality of local governance in late nineteenth-century America. Chicago's justice courts, as both the JP offices and police courts were known, served as the neighborhood outposts of the Cook County judicial system. The county judiciary was a thicket of redundant institutions and overlapping jurisdictions, the institutional residue of earlier waves of reform. Fourteen circuit court judges and twelve superior court judges, all approved in countywide elections, possessed identical jurisdiction: original jurisdiction in all matters of law and equity (except criminal cases), as well as in condemnation proceedings, drainage matters, election contests, and proceedings regarding neglected and dependent children. Sitting judges from the circuit and superior courts rotated on and off the bench of the Cook County Criminal Court, which had jurisdiction over all criminal matters. A separate tribunal, the county court, handled probate, appointment of guardians, and tax collection proceedings.<sup>9</sup>

Beneath these higher-tier county courts stood the more numerous and dispersed inferior courts of the JP system. The Illinois Constitution of 1870 mandated uniformity in all of the state's county-level JP systems, except for the selection of officials, in which Cook County differed significantly. The three official personalities of the system were the JP, the police magistrate, and the constable. Magistrates and JPs, collectively referred to as justices, had identical jurisdiction in Illinois. The principal distinction was that police magistrates specialized in criminal matters and existed only in villages and cities; in rural areas, even that low level of specialization was unnecessary. Constables provided strong-arm services for a fee to JPs and magistrates. They served summonses and writs, raised juries at the request (and expense) of a litigant or defendant, and delivered prisoners to the jailer. In mocking recognition of the sheriff-like authority of the hundred constables who roamed their city, Chicagoans called them "tin stars."<sup>10</sup>

Justices and constables in Illinois enjoyed countywide jurisdiction. In Cook County, the state's largest, this meant that "country" justices based outside Chicago could hear cases initiated by residents of the city, and city justices exercised the same jurisdiction over

<sup>9</sup> Newton Bateman, Paul Selby, and J. Seymour Currey, eds., *Historical Encyclopedia of Illinois with Commemorative Biographies* (Chicago, 1925), 310–11. Orrin N. Carter, "The Early Courts of Cook County," *ILR*, 10 (1915), 80–87. "Constitution of 1870," art. vi, secs. 18, 23. Gilbert, *Municipal Court*, 1–12. Albert Lepawsky, *The Judicial System of Metropolitan Chicago* (Chicago, 1932), 19–26.

<sup>10</sup> Lepawsky, *Judicial System*, 146. "Constitution of 1870." 1895 JP Law.

cases brought from the country – a seemingly dry technical matter with enormous potential for abuse. The justices' criminal jurisdiction included all local ordinance violations (including the routine public order-maintaining charge of disorderly conduct); all state misdemeanors in which the punishment was by fine only (not to exceed \$200); all cases of assault, assault and battery, and public affrays; and vagrancy cases. Their civil jurisdiction covered all cases where the plaintiff claimed less than \$200. (The salaried judges of the county circuit and superior courts tried felonies, the more serious misdemeanors, and the higher-stakes civil actions.) In practice, magistrates did not handle civil cases. But JPs grabbed any business, civil or criminal, that came their way. The justices' criminal jurisdiction also included proceedings for the "examination, commitment and bail of persons charged with the commission of criminal offenses." If a justice found probable cause that a more serious crime had occurred – a misdemeanor or felony punishable by imprisonment – he had to bind over the case to the grand jury of Cook County Criminal Court. If the grand jury decided to indict the defendant, the case was tried in criminal court. All justice court cases could be appealed *de novo* to the circuit and superior courts, which exacerbated the groaning backlog of the county courts.<sup>11</sup>

The justices' "inferior" jurisdiction actually gave them the vast majority of judicial business in Chicago, including nearly all of the civil business of wage earners and poor people, for whom \$200 was a princely sum. In 1890, for example, Chicago police magistrates handled 62,230 cases; they bound over only 2,340 to the grand jury. Thus, more than 96 percent of the city's criminal caseload was disposed of in the justice courts. In any given year, Chicago's justice courts might try more than five times as many civil cases as the circuit, superior, and county courts combined. Newspapermen did not exaggerate when they called these tribunals "the people's courts" or, less grandly, "the poor man's courts."<sup>12</sup>

To the growing number of activists interested in the legal causes of the poor, the size of the justice courts' caseload was only one measure

<sup>11</sup> Gilbert, *Municipal Court*, 10, 15–17. See *Chicago Revised Municipal Code*, 1905, ch. 50, secs. 1785–1787; "Constitution of 1870," art. vi, secs. 21, 28; 1895 JP Law, art. i, secs. 2–5; art. ii, sec. 16; art. xviii; "The Grand Jury," *Chicago Tribune*, Nov. 16, 1882.

<sup>12</sup> *Report of the General Superintendent of Police of the City of Chicago for the Fiscal Year Ending December 31, 1890* (Chicago, 1891), 53; McMurdy, "Municipal Court," 82; MCC 1 (1907), 50–51; "For People's Courts of Justice," *Chicago Record-Herald*, Nov. 2, 1905; "Rescuing the Poor Man's Court," *Chicago Times-Herald*, Jan. 28, 1897.

of their social significance. The *nature* of the caseload, the types of cases and people the justices had power over, meant that the justice courts put the systemic problems of the industrial city before the public. Addressing the Illinois Bar Association in 1888, Joseph W. Errant, a Chicago lawyer who represented poor clients in the justice courts on behalf of the Protective Agency for Women and Children, noted that “a claim for \$10 sometimes involves more of human justice than a claim for \$100,000.” The justices exercised full jurisdiction over the most common criminal offenses, including vice, petty theft, and assault, and they served as gatekeepers to the criminal justice system for defendants accused of the deadliest felonies. Nor were the penalties at the justices’ disposal a small matter. A \$200 fine – let alone one for \$20 – could erase the slim margin between independence and dependency for defendants and their families. If a convict failed to pay his fine, he was committed to the city’s House of Correction (the “Bridewell”) to “work it out” at 50 cents a day. Of the 7,566 people incarcerated in the Bridewell in 1882, for example, all but 190 were imprisoned for failing to pay fines. The majority of the women prisoners identified themselves as servants, prostitutes, washwomen, and seamstresses. The men included common laborers, sailors, teamsters, railroad workers, butchers, and clerks. For John Peter Altgeld, the German-born Chicago lawyer and future Illinois governor, these figures carried a powerful social message: “*our penal machinery seems to recruit its victims from among those that are fighting an unequal fight in the struggle for existence.*” Viewed in their social context, as people such as Altgeld and Errant insisted upon viewing them, the only thing inferior about the justice courts was the wealth of the people who appeared before them.<sup>13</sup>

The Constitution of 1870 set the same qualifications for justice of the peace and police magistrate as for judges of the higher courts of the counties. An aspiring justice needed to be a male citizen of the United States, at least twenty-five years old, a state resident for at least five years, and a resident of the town, county, or city from which he would be selected. With the exception of Chicago’s justices and magistrates, every judge in the state, from the chief justice of the Illinois Supreme Court to the lowliest country JP, was elected. (This included Cook County JPs from outside the city limits.) In Chicago, only the constables were elected. The constitution specified that JPs in Chicago “shall be appointed by the governor, by and with the advice and consent

<sup>13</sup> Errant, “Justice for the Poor,” 77; John P. Altgeld, *Live Questions: Including Our Penal Machinery and Its Victims* (Chicago, 1890), 163, 206, esp. 168, emphasis in original.

of the senate, (but only upon the recommendation of a majority of the judges of the circuit, superior and county courts).” This appointment process reflected downstate legislators’ deep-seated suspicions of participatory democracy in Chicago, but it had a loftier justification. In theory, the county judges, who heard appeals from the justice courts, would form an opinion as to the caliber and corruptibility of incumbent justices and local attorneys and would thus be in a position to recommend “fit and competent” men for the minor judiciary. In practice, this provision subjected the judges to heavy pressure from office-seekers and their patrons – aldermen, ward bosses, and party leaders. Another cloud of political influence hung over the selection of Chicago’s police magistrates, who were appointed by the mayor with the consent of the City Council.<sup>14</sup>

In matters of compensation, the fee system ruled. In Illinois, JPs, police magistrates outside Chicago, and constables all earned their livelihood from fees, according to schedules determined by statute or ordinance. Constable fees were tacked onto the court costs paid by litigants or guilty defendants. As early as 1881, the Chicago City Council established a salary for police magistrates and forbade them to collect fees while in police court – a significant reform that, judging from many later reports, was but loosely obeyed. The magistrates also routinely fled the police courts in the afternoon to collect fees in civil and criminal cases in their JP offices. Although the General Assembly tried to check this practice in 1897, legislating that no justice of the peace could simultaneously hold the office of police magistrate, Chicago ignored this reform. The City Council of Chicago did not alter the language of its ordinance, which required that magistrates be chosen from the justices of the peace. On the eve of the Municipal Court’s creation, Chicago magistrates were still earning both a city salary and fees from their own offices.<sup>15</sup>

<sup>14</sup> “Constitution of 1870,” art. vi, sec. 28; *Chicago Revised Municipal Code*, 1905, ch. 50, sec. 1786. See Olson, “Conditions in Chicago”; *People ex rel. McDougall v. O’Toole*, at 350.

<sup>15</sup> *Chicago Revised Municipal Code*, 1905, ch. 50, sec. 1787; 1895 JP Law, art. 1; sec. 1; Lepawsky, *Judicial System*, 142–63; William T. Stead, *If Christ Came to Chicago! A Plea for the Union of All Who Love in the Service of All Who Suffer* (London, 1894), 3–5, 52; Ulrich, *How Should Chicago*, 42–43. I verified the existence of double-dipping justices by cross-referencing JPs listed in the 1904 “Chicago Business Directory” with justices identified as police magistrates in the local biographical digest. Of the sixteen justices listed in the digest, four were clearly identified as having served simultaneously as magistrates and JPs after passage of the statutory amendment forbidding the practice. “Chicago Business Directory,” *The Lakeside Annual Directory*

The paucity of professional training, formal procedure, and centralized discipline lamented by legal professionals of the early twentieth century was lauded by an earlier generation as essential to the democratic character of the JP system. As the Illinois Supreme Court opined in 1873, “Justices of the Peace are established in every township in the State, to enable parties not acquainted with the formal requirements of law to obtain speedy trials, without pleadings, and without being compelled to employ counsel skilled in the law to assist.” The justice courts provided forums where ordinary people could file their own civil suits and criminal complaints, and argue their own cases. Indeed, justices were expected to instruct litigants in how to proceed with their cases. In Chicago, immigrants often relied on the untrained counsel of fellow countrymen who were better versed than themselves in the language and folkways of the justice courts – if not of the written law.<sup>16</sup>

The typical justice court was no marbled hall of justice. Justices might hold court in a space they rented for the purpose or in their own homes or places of business – carpentry shops, dry goods stores, even barns. It was common for justices, especially in rural areas where their services were in limited demand, to wedge their public duties into a week filled with other kinds of work. As early as 1872, the *Chicago Legal News* vented the disapproval of an increasingly self-conscious professional bar by publishing a description of a supposedly typical justice court. “In an upper room, reached by a rickety pair of stairs, in a slimy, weatherbeaten, tumble-down frame structure, this dispenser of justice is found, dealing out law, cheap in quality and price,” the article reported. “The most ludicrous spectacles are here presented. Usually as many as can gain admittance elbow each other in their efforts to draw attention, thinking their success or defeat depends on their physical exertions to obtain a prominent position in the estimation of the dirty court and its chief centre.”<sup>17</sup>

No doubt the JP office could be a rough place. The police courts were rougher still: crowded, smoke-filled rooms, in which immigrant boys accused of stealing coal from the railroad tracks and couples arrested for fornication were herded together in the sawdust of the “bullpen” with pickpockets and prostitutes, while bondsmen and lawyers peddled their wares. But if we read through the journal’s professional biases, the traces of a rich local legal culture emerge in the justice

*of the City of Chicago*, 1904 (Chicago, 1904); *BOC* (1905), 103, 113–14, 471, 504.

<sup>16</sup> *Bliss v. Harris*, 70 Ill. 343, 345 (1873); McMurdy, “Municipal Court,” 96.

<sup>17</sup> Quoted in Herman Kogan, *The First Century: The Chicago Bar Association, 1874–1974* (Chicago, 1974), 32.



shop. The weatherbeaten surroundings did not dissuade a throng of people from wrestling their way into the justice court to seek an economical resolution to their problems. For the majority of a justice shop's clientele, a crowded room in a frame structure probably bore a stronger resemblance to their own homes and places of work than did the neoclassical appointments of a county courthouse. The physicality of the proceedings – the brush of elbows, the jockeying for position – also corresponded to the physical quality of everyday life among working people in a way that a more formal courtroom might not. All of this suggests an atmosphere that may have made the administration of justice seem less remote from the rest of the litigants' lives. Given the demand for the justice's services, one might have arrived at a conclusion opposite that reached by the *Chicago Legal News* – that instead of reforming or abolishing the justice courts, the state ought to have created more.<sup>18</sup>

The men who presided over the justice courts in Chicago were a mixed lot. Although their dockets have perished, some biographical evidence survives. The public reputation of the justices followed the lines of an 1892 Cook County grand jury report, which charged that “there are many men occupying the position of Justice of the Peace in this county who are wholly unfitted for this responsible position, both from lack of ability and want of proper comprehension of the rules of law, justice or honesty.” But reformers had to concede that some justices were well qualified. Of the fourteen justices profiled by Michael L. Ahern in his celebratory *Political History of Chicago* (1886), most had received some college education – an exceptional achievement in their time. Democrats and Republicans were well represented in Ahern's selection, as were immigrants and natives. Police magistrate George Kersten, a Chicago-born Democrat, got his start in business as a cigar maker and began reading law only after his appointment as a North Side police court clerk in 1880. Three years later he accepted an appointment as a justice and then as police magistrate. “Respected by the masses to begin with, his career on the bench up to date has made prospects for him which are decidedly enviable,” Ahern noted. Irish-born Peter Foote taught law at the University of Notre Dame before accepting appointments as justice and police magistrate. “He is now pushing a most flourishing justitial business on Madison near Clark Street,” Ahern wrote approvingly. A few justices even possessed considerable wealth. D. Harry Hammer studied law at the University of Michigan, belonged to the Union League Club, owned

<sup>18</sup> Altgeld, *Live Questions*, 187; Errant, “Justice for the Poor,” 79–81; Stead, *If Christ Came*, 301, 343–45.

“a large amount of real estate,” and had “one of the finest libraries in Chicago.”<sup>19</sup>

On the eve of their abolition in 1906, fifty-two JPs pushed a justitial business in Chicago. Sixteen made it into the elite biographical digest *The Book of Chicagoans* – not a representative sample, but illuminating nonetheless. In party affiliation, the justices listed split between seven Republicans and eight Democrats, with one unidentified. Five of the men had been born abroad (three in Ireland alone – a strong showing found throughout Chicago government), but the other eleven were native-born. Though the law stipulated no formal educational qualifications for justices, almost all had attended a college or university. Most also had experience in other lines of work. Irish-born Republican Miles Kehoe worked in a Chicago brickyard and later in the teaming business before becoming the youngest man ever elected to the state senate. Irish-born Democrat James C. Dooley served as a clerk and deputy in the Cook County sheriff’s office for nineteen years before accepting appointment as a justice in the town of West Chicago. Once appointed, most justices hung on to the job. Chicago-born Democrat John K. Prindiville, one of the city’s best-known justices, served continuously for twenty-seven years – ten of them at the infamous Harrison Street Police Court – before the reformers abolished his job.<sup>20</sup>

The commercialism of the justice shops was an integral element of a judicial system and legal culture in which, for as long as anyone could remember, many officials had gotten by on fees alone. The 1850 JP manual listed fees not only for justices and constables but also for jurors and witnesses in civil cases, and even for citizens tending jail. At the turn of the century, the unsalaried state’s attorney of Cook County was still receiving \$20 for each felony conviction won by his office and \$5 for each misdemeanor, and he took a 10 percent cut of all forfeited bonds. Well into the twentieth century, seasoned litigants in the Cook County courts knew that a tip in the hand of the right clerk or bailiff would ensure speedier service.<sup>21</sup>

<sup>19</sup> Grand jury quoted in Ulrich, *How Should Chicago*, 41–42; Michael Loftus Ahern, *The Political History of Chicago* (Chicago, 1886), 149–58, esp. 149, 152, 157.

<sup>20</sup> “Chicago Business Directory,” in *The Lakeside Annual Directory of the City of Chicago, 1906* (Chicago, 1906), 2563; *The Lakeside Annual Directory of the City of Chicago, 1905* (Chicago, 1905), 13, 78, 103, 113–14, 117, 145, 170, 193, 231, 306, 325, 396, 471, 504, 514, 580; *BOC* (1905).

<sup>21</sup> Asbury, *Duties of Justices*, 235–36; Ray Ginger, *Altgeld’s America: The Lincoln Ideal versus Changing Realities* (Chicago, 1965), 212; Haines, *Practical Treatise*, 1093. The 1905 Municipal Court Act expressly forbade clerks and bailiffs from accepting gratuities. “An Act in relation to a municipal court in the

Even within this transaction-driven judiciary, the entrepreneurial energy of Chicago's justices of the peace – wedged between “junk dealers” and “Keystone Hair Insulators” in the *Chicago Business Directory* – was unsurpassed. Many of these state officers kept offices in the Loop and other convenient locations, favoring the 100-block of Clark Street, a section known for its saloons, gambling rooms, and dance halls. Though a location easily accessible by foot or streetcar was essential to any mercantile enterprise of the era, location took on a special significance for justice courts due to the frequent requests for a change of venue. Under Illinois law, a “venued” case went to the nearest justice court, enabling a canny justice to boost his business by setting up shop near a particularly unpopular colleague. In one case egregious enough to catch a reporter's eye, Justice Hennessy supplemented his own business with the frequent change of venue cases from Justice Hotaling's neighboring court. When Hennessy moved his office a few doors south, a third neighbor, Justice Moore, dispatched his clerk to measure the distances between the three courts. Finding that his court now stood four feet closer to Hotaling's office than did Hennessy's, he asserted his right to Hotaling's venued cases. The fast-thinking Hennessy built a long staircase that stretched from his office toward Hotaling's, and so reestablished himself as the beneficiary of Hotaling's unpopularity.<sup>22</sup>

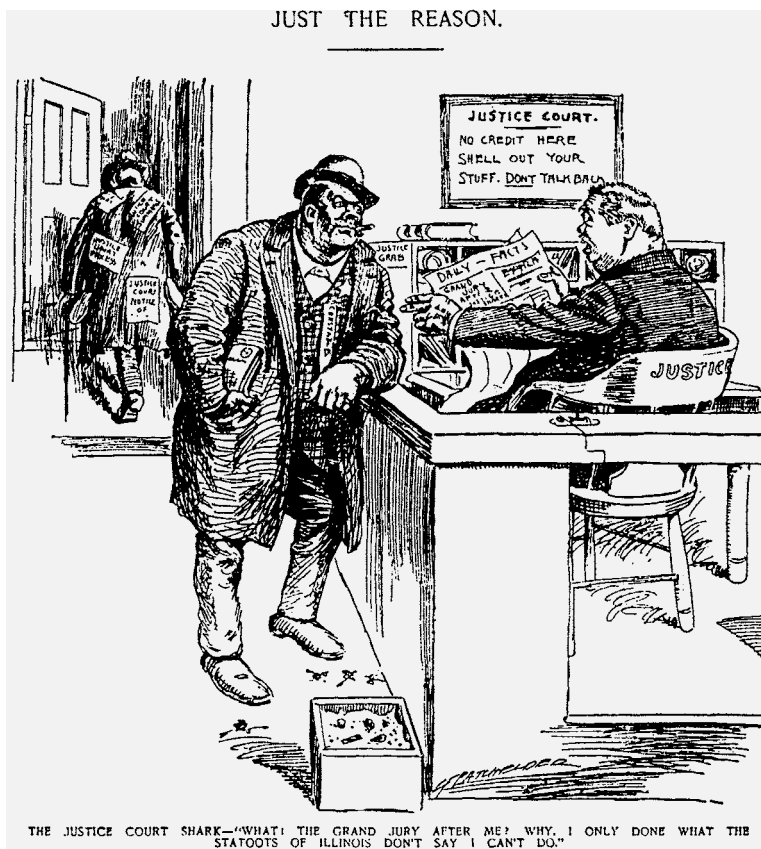
Thus were the ways of the justice shop, a petty bourgeois state office that existed on the same plane of urban sociopolitical experience with the saloon keeper–precinct captain, another political creature increasingly set upon by middle-class reformers at the turn of the century. In name and in practice, the keepers of the justice shops personified everyday justice in nineteenth-century Chicago. As a new century dawned – a century whose keywords would include organization, efficiency, and professionalism – closing time loomed for the justice shops.

A cartoon is worth a thousand slurs.

In 1897, the *Chicago Daily News* blazoned page one with a cartoon that captured the growing public dissatisfaction with the city's JP system. It depicts a constable – hat cocked, cigar planted in jowl, coat pocket bursting with writs – leaning his massive frame against a justice

city of Chicago,” approved May 18, 1905, *Illinois Revised Statutes*, 1911, 715. But some officers continued the practice. See Elmer E. Baldwin to Harry Olson, Nov. 26, 1915, MCC, box 4, folder 29.

<sup>22</sup> “Chicago Business Directory” (1904), 563; 1895 JP Law, art. iv, sec. 34; Lepawsky, *Judicial System*, 67; Grant Eugene Stevens, *Wicked City* (Chicago, 1906), 42.



The Chicago daily newspapers regularly ridiculed Chicago's "justice shops," as seen in this cartoon by Batchelder, "Just the Reason," which appeared in the *Chicago Daily News*, Nov. 30, 1897. Courtesy of the Chicago Historical Society.

shop counter while awaiting his next assignment. The bug-eyed, buck-toothed justice, whose resemblance to a rodent is clearly intentional, reads a newspaper with the headline: "GRAND JURY AFTER JUSTICE SHARKS." Above his desk hangs a sign that says, "JUSTICE COURT. NO CREDIT HERE SHELL OUT YOUR STUFF. DONT TALK BACK." A lone law book rests on a shelf. Retreating from the office is a citizen, his empty pockets hanging out and his back papered with summonses. In the caption the justice shark exclaims to his constable, "What! The Grand Jury after me? Why, I only done what the statoots of Illinoi don't say I can't do."<sup>23</sup>

<sup>23</sup> Batchelder, "Just the Reason," *Chicago Daily News*, Nov. 30, 1897.