1800 – 1911 LAW COMES TO THE NORTH COAST

The Municipal Court of Cleveland heard the plea of its first defendant in 1912. The gavel fell on a new era for justice in the city, creating a new model for courts throughout the state. Before we can review the century of Municipal Court, it is important to examine the era which came before, when the community and its government were in its infancy. Prior to the creation of the municipal court, local justice was administered by the Police Court, Justices of the Peace and the Mayor’s Court. Preceding all those, as well as the advent of Common Pleas Court, statehood and the incorporation of the city, was the circuit judge.

Moses Cleaveland took his first footsteps into what would become our city in July of 1796. Shortly after his party from the Connecticut Land Company started their surveying, the settlers began to arrive. The first was said to be James Kingsbury and family. He was followed shortly by other prominent historical names, like Lorenzo Carter, Nathaniel Doan and David Long, the first doctor. Once the first settlers established themselves in the wilderness that was the Western Reserve, their next step was to institute a system of law and order. Using English law as the example, on August 25, 1800 at Warren, Ohio, Kingsbury was appointed 1 of 5 circuit judges to the first Court of Quarter Sessions of Trumbull County. The authority of these appointments was General Arthur St. Clair, the Territorial Governor. This court was the first formal governmental agency established in the Western Reserve. As the area was surveyed and divided, one portion became Cleveland Township, within what would become Cuyahoga County. Kingsbury would travel throughout the area, (known as “riding the circuit”) making use of whatever structure was available for a courtroom. Kingsbury appointed Lorenzo Carter and Stephen Gilbert as the first constables for Cleveland Township. Neither Carter nor Gilbert sought the constable job in the election of 1802. Carter, upon payment of a $4.00 fee, was licensed by the court in Warren to keep a tavern. It was situated west of Water Street (West 9th) and north of Superior Lane. This tavern would serve the community as a courtroom and schoolhouse. Carter’s decision may have been influenced by the first murder in the village. A medicine man of the Chippewa or Ottawa tribe was stabbed to death by Big Son, of the Seneca tribe. He was said to be avenging the death of his squaw, who died despite the “healer’s” actions. It was also said that “fire water” had a great deal to do with the crime. The village avoided real trouble with the Indians due to the efforts Carter made in calming the emotions of the opposing tribesmen. It might have had something to do with the heavy application of his stock of whiskey that convinced him that his future was in business and not as a constable.
In February 1803, Congress declared Ohio the 17th state. Among the many changes ushered in by statehood were elections. Kingsbury volunteered his residence for the election headquarters. When the 21 eligible voters had finally cast their ballots, Rodolphus Edwards was elected Constable, and Amos Spafford and Timothy Doan were chosen to be the first elected Justices of the Peace. In this era, Justices of the Peace held their own court, attending to matters of minor civil and criminal litigation, conducting their business in whatever facilities they deemed appropriate, usually wherever they had their office. They had final jurisdiction over cases limited to violations of liquor laws, pure food laws, game and animal cruelty laws. These justices had the power to appoint their own constables and special constables; both were empowered to make arrests on sight anywhere in the county. They were known as the “Court of First Resort.” The roster of the Justices from those early years is limited and not always accurate. In those days, some public officials were elected, some were appointed. The source of some appointments may have lacked the authority to appoint. As a further complication, these justices were not required to be scholars of the law. This was the justice system for the area until 1810 when Cuyahoga County was established and there were 57 citizens in the area. The new state legislature created the Court of Common Pleas, which along with the justice courts would operate concurrently for the next 43 years.

**JUSTICE COURTS**

When Spafford and Doan were elected in 1803 as Justices of the Peace, the lack of population in general and the limited supply of lawyers (1 - Samuel Huntington) meant that they would be the least busy government officials in the area. That would change with the creation of Cuyahoga County and the first court of record in Cleveland Village. As the city and population grew, more justices were elected. Many were leaders in their community who toiled in relative anonymity. Some were quite colorful characters like aforementioned Rodolphus Edwards, a pioneer who like many justices, knew a great deal more about farming and woodcraft than they did of law.

'(The story is told that Edwards wrote out his summons in this original form: “In the name of God, amen. Take Notice that We, Rodolphus Edwards, a Justice of the Peace by the Grace of the Almighty, do hereby Summons you to appear before Us, under dread of Dire penalties and Severe tribulations.”')

The early record of these “Courts of First Resort” and of the character of these early justices themselves, led one analyst to judge: “the majority of the men who, in Cuyahoga County, have sat upon this lesser bench, there is no reason to feel otherwise than proud. They have, with few exceptions, administered the duties of their office with discretion and ability. Many of them have filled other positions of trust with fidelity and signal integrity. All of them have been the people’s choice, and the people have rarely erred.” In the city’s first year there were 3 Justices of the Peace holding office. In 1856, the city’s 20th year, there were 6, 2 of whom would go on to serve as judges in Police Court.

The best known of the early justices was probably George Hoadley. Hoadley was a graduate of Yale who worked as a newspaper reporter and tutor while studying law. A former mayor of New Haven, Connecticut, he came to Cleveland in 1830, opening his law practice. From 1832 – 1846 he was a Justice of the Peace where it was said he heard over 20,000 legal cases. In that capacity, Hoadley administered the oath of office to the first Cleveland city
council in 1836. Before relocating to Cincinnati, he served a term as mayor. Hoadley’s son George, minus the “e” in his last name, was elected Governor of Ohio in 1883.

Justices kept themselves busy, primarily engaged in civil law, filing attachments against debtors and processing assessments, but the responsibilities varied from township to township. In many places, justices were responsible for collecting fines for liquor offenses, and they may have been responsible for disbursing the proceeds of those fines, after deductions for the cost of prosecutions, to township trustees or perhaps to the local school. In many jurisdictions, they were responsible for filing of charges against businesses for some offenses such as, the selling of unclean meat, or failing to keep one’s place of meat business in a clean state. These offenses were most often accompanied by or in response to a citizens’ complaint. The justice had the power to employ constables and to appoint collectors for the enforcement of their decisions. There was little or no scrutiny over their operations and many of these justices began to take full advantage of the freedom. Some justices began to invent new ways to enhance their fees. As these ideas began to bear greater rewards, the schemers encouraged their cronies (special constables and collectors) to funnel more business to their justice court. To augment their fortunes, some of these connivers branched out opening justice courts (offices) downtown where their activities prospered. As the ill-gotten gains multiplied, so did the citizen complaints. The groundswell of anti-justice sentiment took some time to reach politicians who were finally moved to introduce legal reforms.

The state legislature in 1886 passed a law which affected the basic interests of the justices of the peace. This law replaced the customary fees which had been the bread and butter of their financial success with salaries, capped at $1,800 per annum for the justice, $600 for the clerk he hired, and a limit of $300 for office rent. All fees the justices generated were to be paid directly to the city treasury. This put a severe limit on the potential income of some justices, for a time. However, the really determined justice found new ways around those limits.

It became a common practice for some justices to sell blank pre-signed court papers, such as affidavits, attachments, appointments of special constables or collectors, as stock in trade. These blanks could be used when necessary to set an enterprise in motion, avoiding the delay proper court procedure would entail. The desired effect was immediacy, and the justice could rightfully expect to share in the spoils, as the matter eventually would come before his court.

For the justices willing to play fast and loose with ethics and the law, their time unmonitored was over. In 1901, a Cincinnati judge ruled unconstitutional the law which gave justices of the peace jurisdiction throughout the county. His decision restricted justices to the township from which they were elected. For the country squires, rural casework was never as abundant or as lucrative as city work. The Cincinnati decision increased the limits of the justices’ ability to generate revenue. Responding to the limits, Justice William Brown of East Cleveland stated publically that if the alleged evils of justice courts were proven true, then they must be driven out of business altogether. He himself had an office downtown for legal work, and saw the need for business development but, “the fault lies with what a justice does with his downtown office.” To weed out the offenders, Brown said, “a few criminal prosecutions under the existing laws would put a stop to all that is objectionable in justice courts.”3
Prosecutors favored directing a grand jury investigation, impaneled to inquire into some questionable methods being employed in police court, to be extended to include various justice courts in the city and county. Allegations had been made as to the inaccurate accounting of fees and fines. Many Cleveland attorneys favored extending the inquest into justice courts. The Cleveland Bar Association had been complaining of the methods and practices in the lower courts, as well as the special legislation that allowed these courts to persecute the poorest of citizens. "There must be an investigation of justice courts," attorney Martin A. Foran said. "The manner in which some of these courts are conducted is reprehensible. The laws governing the justice courts are at fault, they are wrong and oppressive and should be repealed." When the Municipal Association appointed a committee to investigate the justice courts, the number of complaints, from citizens and businesses alike, tripled. Most were centered on country justices conducting court in the city.

Cuyahoga County Common Pleas Court Judge Thomas Kennedy ruled in a case which reinforced the Cincinnati decision. According to Kennedy’s ruling, no justice of the peace elected outside of the Cleveland city limits could exercise jurisdiction within city limits. He cited a section of the revised statutes of Ohio which read: "no justice of the peace shall hold court outside the limits of the township from which he was elected." In April of 1903, Kennedy would issue an injunction prohibiting the eviction of a resident on Clark Avenue. He was convinced to issue the order because the eviction was the result of a decision without a hearing by a justice of the peace, who was empowered by his election to a Euclid Township post. However, the eviction was ordered from the justice’s downtown Cleveland office, where he felt the location gave him jurisdiction in Cleveland. The evictee was not notified of the eviction prior to the issuance of the justice’s order. Although the defendant was denied due process in this case, Kennedy made his ruling in spite of that denial.

A series of rulings in 1903 cases dealt further setbacks to the justices’ cause. County Auditor Wright was able to release a prisoner from the city jail by exercising a rarely used law. A 65 year old laborer was tried, found guilty of assault and battery and was jailed by a justice court. The prisoner was incarcerated for 49 days because of his failure to pay a $5 fine. The auditor was able to use a statute that allowed the release of a prisoner that was confined for failure to pay a fine when the auditor had reason to believe that the prisoner was unable to pay.

Common Pleas Judge Strimple released a prisoner in July who was arrested and bound over to his court by a justice of the peace. A man had been arrested in January, arraigned in the justice court, bound over to Common Pleas Court, and had been held in the county jail since without a trial, awaiting grand jury action. Somewhere this case came to the judge’s attention. Noting the ambiguity of the charges, and the length of his incarceration, Strimple released the prisoner on a writ of habeas corpus. This was becoming a common problem, where a prisoner was lost in the bind over procedures. During the time of the delay, the cost of maintaining the case and defendant was born by the county. Included in those costs was a payment to the binding justice to maintain the case on his books.

During 1903, the County Prosecutor’s office fielded an increasing number of complaints against justice courts. These complaints were not confined to outside the city limits, but stretched all the way from the county line to downtown Cleveland. The complaints and the public posturing that the
complaints drew prompted sparring between Cleveland justices and those from outside the city. Early in 1904, City Solicitor Newton D. Baker campaigned to pass an ordinance to further regulate the business hours of justices of the peace. At that time, justices kept their courts open any hours they chose. Justices in the city were upset when city council passed the ordinance and they vowed retaliation. Some decided they would bar members of the city law department from practicing in their courts, except when tending to city business. These same justices also established a rule that no one but a regularly admitted attorney would be allowed to practice in their courts. “There has been nothing in the conduct of our courts which has made necessary the reforms which the solicitor proposes to introduce,” said Justice Ginley. “We are open here from an early hour in the morning until late in the afternoon daily and my clerk often remains here long after hours. If the law department tries to govern our courts we shall make an equal return which will be as offensive to them.” Justices looked upon the proposed limitations as an attempted restraint of trade.

City Auditor Madigan applied some pressure to the justices from his office. Prompted by city council his office performed an audit of all justice courts in the city. Although some justices resented the intrusion, and others felt the investigation was vindictive in nature, it was legal. “The examination of the justice’s books is legalized by law,” Madigan said. “I cannot imagine why any public official should object to such an inquiry.” When Madigan presented his audit report to city council, the results revealed the extent of the shortage of fee contributions. His examination reconciled the dockets with the amounts turned over to the city. The audit revealed a shortage of $910.60 in contributions to the city. The shortage was shared amongst all 6 of the justices, with J.L. Reilly at $295.75, L.T. Bauder $185.40, E.H. Bohm $177.75, R.T. Morrow $116.45, H.A. Cummings $116, and J.V. Ginley $19.25. Madigan’s report was a simple statement of accounts, with no speculation as to responsibility nor accusation of crime, but many of the justices were incensed, feeling that the city was not entitled to any more payments. Some of the contributions were turned over to the city at the rate of 25 cents on the dollar. With these revelations, Solicitor Baker was unsure how best to compel the justices to complete their contributions to the city coffers. His proposed ordinance to limit justices’ business hours made its first appearance before council.

The publication of the results of the audit of the justice courts resulted in a drive to initiate reforms within the system. Justice Cummings offered an idea of reform he called the “Cincinnati Plan.” Using rhetoric to appease reformists, he acknowledged some reforms were needed and offered this plan, a main component of which was to establish the position of chief clerk. The chief clerk would disburse cases to the justices proportionally, avoiding overcrowded dockets, and adjusting the operations of the court to maximize efficiency. The “Cincinnati Plan” generated a cool response from all parties.

In March of 1904, the Judiciary, Finance and Public Officers committees of city council met with justices of the peace to discuss the pending Baker ordinance. Squires Reilly, Bauder and Ginley represented the courts at this summit. The justices, as a group, were not pleased with the proposal on the whole, and took particular issue with the provision of court hours, which they objected to as an infringement on their personal liberty. Ginley characterized the ordinance as disrespectful. He said, “There should be respect for the courts, lowest as well as the highest. Such things as this ordinance do not tend to increase the public respect for justice courts.” He also took issue with who would be permitted to practice in their courts. “In other courts, none but attorneys are allowed to try cases, but before justices of the peace any small petitfogger is allowed to bring a case. It is these petitfoggers that insult the court.” In his rant, he lamented
the fact that the justices had no law under which to find someone guilty of contempt of court, leaving them powerless to defend their honor. He concluded his remarks with the implication that all was not well within the city’s offices, “I say to the law department, let charity commence at home. I think some regulating of this department would not be amiss.” Reilly reminded the councilmen that justices often deliberate over cases long after court hours have ended, warning that if the fixed hours became law, he would restrict his deliberations to those posted hours, and would consider only 1 case at a time. He said, “This would lose a good deal of time, and I do not believe the city would gain anything.” Bauder in his remarks denied that the council had the authority to regulate justice courts. “The justices are township officials, not municipal officials. They are in no way subject to the council, unless council enters into contract with them. I would not admit that council had the right to fix my office hours, unless I signed a contract giving them that right.” After giving the squires their opportunity to air their grievances, the combined council voted to recommend the ordinance to the full council for passage.10 Police prosecutors notified justices that their cases must be referred to the grand jury. The refusal to accept cases was based on their feeling that there was no law which gave them jurisdiction over misdemeanor cases brought this way.

In an effort to improve the justice court system, Justice Ginley, borrowing ideas from the city of Detroit, suggested the hiring of an assignment clerk. Under the proposed change, those filing cases in justice court would go directly to the assignment clerk, who would place the new case in the system, and who would insure that the collection of fees and costs would go to the correct place. Ginley presented his ideas to Law Director Baker, who had given his endorsement to the scheme.

Despite the gains in regulation of the justice courts, problems continued in 1905. Case in Point: A $16 rug became an item so contentious in a justice court that the final bill for all the litigation and fees was more than $110. The rug was bought on installment, but only the down payment was ever made. After a year of waiting and excuses, the seller filed a replevin in a justice court and took possession of the rug. After at least 8 continuances were exchanged, the case was assumed by another justice, the original jurist having gone out of office. When the case finally came to court, a jury trial was demanded, followed by more continuances. When a jury was impaneled, more continuances were granted. After 9 such delays, a hearing was finally held. The jury found for the plaintiff, assessing damages. For its services, the defendant would pay to the jury $40.50, or $4.50 per continuance. Also assessed were fees to 3 constables for serving papers and fees to the court, amounting to nearly $70, the total being $110.22. The plaintiff was awarded damages of 5 cents.11

The Cleveland Chamber of Commerce was asked to lead the campaign promoting legislation in the state general assembly to restrict country justices to operating within their township limits. It was hoped that by establishing these limits in legislation, it would lead to justices co-operating in a court under the general direction of one assignment clerk. Previous efforts to bring about this restriction were successful in court, but the decisions lacked the weight of legislation. These actions were provoked by the misuse of the powers of the justices, against which attorneys and litigants have been complaining for years. Complaints about justice courts reached such a drastic condition that at a meeting in Columbus of City Solicitors of Ohio, it was decided to demand of the legislature a constitutional amendment to restrict the powers of the justices. City justices were meeting several times a week to discuss remedies to combat the problems of the justice court system. Downtown justices had long endured the blame and embarrassment brought on their profession by country justices. It had long been observed that
country justice courts were full of operators with little or no knowledge of the law, who take actions that are illegal and do defendants a great and lasting wrong. The Chamber of Commerce was recruited to lead this fight due to their long dedication to the best interests of the citizens. The chamber vowed to recruit the Cleveland bar associations as allies in this fight.

COMMON PLEAS COURT

When the new state legislature created the Court of Common Pleas, it was to be operated by elected judges, with county-wide authority in civil, criminal and chancery jurisdiction. This court was led by a Presiding Judge and 3 Associate Judges. Initially, the colonial tradition of lay (non-legally trained) judges was the rule, as state law held that only the Presiding Judge had to be educated in the law. The first session of Common Pleas Court was held on June 5, 1810, in the new store of Elias and Harvey Murray on the south side of Superior Street (adjoining the Hotel Cleveland site). The Murray store was prominent in the 1810’s. In addition to housing the court, for 3 years it housed county officials, and during the War of 1812, it was converted into a hospital for wounded soldiers. Once restored to its mercantile status, the store was demolished in 1855.

In 1809, Levi Johnson, 24, of Herkimer County, New York arrived to begin his career as a builder. Versatile in his trade, he would make his name in public buildings, lighthouses and boatbuilding. In 1812, with crime in the village escalating, Johnson was contracted to erect the county’s first courthouse and jail on the northwest corner of Public Square. The courthouse featured jail cells and living rooms for the sheriff on the first floor, with the courtroom on the second floor. The courtroom was also used for town meetings and social gatherings. Johnson truly was multitalented; he was chosen the first county coroner, the first deputy sheriff, and built the first county gallows next to the courthouse. The court docket was filled with the troubles of a growing community. Drunkenness, liquor license violations, boundary issues, assaults and business suits kept the courthouse busy. It was so busy that the original courthouse had to be replaced in 1828.

In 1828, the first session was held in the new $8,000 county courthouse. This second courthouse, a 2 story brick building with a wooden dome, was situated on the southwest quarter of Public Square, facing the lake. The building, like courthouse #1, was also used for community events. By 1832, a stone jail with cells and sheriffs’ quarters was added, fronting on Champlain Street. The building was known as “the Blue Jug.”

In 1836, Cleveland changed its form of government from a village to a city. By this time, there were close to 5,000 inhabitants of the city. The new city charter replaced the village president and trustees with the mayor and city council. This change empowered the mayor and the marshal to hold court for enforcement of city ordinances and minor misdemeanors. Criminal prosecutions continued to be pursued by the Justices of the Peace and the county courts. At this time, the city was patrolled by a group of volunteers who were on watch from sundown to sunrise. A major concern of the citizenry was that the city was protected from crime by a small band of acting constables and watchmen. Although the change in charter gave authority to the elected marshal, he was assisted by constables and volunteers patrolling the streets.
When offenders were apprehended, they were usually dealt with by the mayor’s/ marshal’s court. In the years under this system, despite the combined efforts of the Common Pleas Court, Mayor, Marshall and Justice Courts crime continued to increase and the dockets continued to fill. On May 21st, William Tax fired a gun unlawfully. He was recorded as the first person to be arrested in the newly incorporated city of Cleveland. He was fined $2.00 and costs in court.\(^{14}\)

In 1848, the Superior Court of Cleveland was created, the second Ohio city to get such a court. Sherlock J. Andrews was the judge and George A. Benedict, clerk. This court was conducted for 5 years but was terminated when the state legislature revised the judiciary system under the new state constitution. Holding concurrent civil and chancery but not criminal jurisdiction with the Common Pleas Court, the Superior Court was the city's first specialized court. While it may have been a success in its short term, it was eliminated in statewide judicial reform in 1851. Cleveland courts were significantly altered when the city was placed in one of 9 new Common Pleas Court districts. Judicial specialization began with a constitutional authorization to confer the Common Pleas Probate jurisdiction in a separate tribunal. The Probate Court, run by 1 elected judge, dealt with questions of inheritance, guardianship, incompetency, and other testamentary issues. These reforms gave only temporary relief from the problems of civil litigation, but the criminal justice system was failing the law abiding public.

Criminal cases had so increased that another court system became necessary. A Police Court was authorized by an act of the legislature in the winter of 1852. Opening in 1853 to deal with complaints about crime, this court replaced the mayor with a judge. The new court would have authority over all minor criminal matters, violations of city ordinances and preliminary examinations of many charges of greater importance, with
The election to seat the officials of the new Police Court was held in April of 1853. John Barr was elected as the first judge; the positions of Bushnell White, prosecutor, O.J. Hodge, clerk and Michael Gallagher, Marshal, also became elected officers of the court. On April 18th, the newspapers reviewed the first Police Court opening the previous day, “Hear Ye! Hear Ye! The Police Court of Cleveland is now open, agreeable to the laws of the State of Ohio,” the clerk announced. Until suitable quarters were found, court was held in a back room on the Gaylord block of Superior Street, between Seneca and the Square, above a haberdashery store occupied by J. F. Kilfoyle. The judge had no bench. He occupied a desk, and the clerk had a table near him. Although another table was furnished for the prosecutor, history did not record what accommodations were made for the defense.

A story recounting the first cases faced by the new Police Court in 1853 appeared in the Cleveland newspaper, The Plain Dealer, on June 27, 1935, authored by S.J. Kelly:

“Two amiable drunks and a loiterer were the first to be convicted. Then five firemen of the volunteer fire department had been arrested. They had all been to a theater and after the performance they went to a “grocery.” What you could get at a grocery in that day was quite a variety. They came along old Bank Street and being in a jovial mood they started yelling “Fire.” They ran across Superior Street across from the Weddell House to Cataract Engine House #5 and started to pull out the engine. Three watchmen who had been sitting on dry goods along the street remonstrated and said there was no fire. But the firemen would pull out the engine; they said there was a fire; they had seen a “light” on Pittsburg Street. They were arrested.

A watchman who happened to be on Pittsburg Street at the time testified there was no fire there, nor a sign of one. About the only evidence offered by the defendants was that the 3 watchmen had no business to be sitting on dry goods boxes on Superior Street whittling. They should have been about their duties. They had no business to interfere with the fire department. Four of them were fined $5 each and the fifth was discharged. That didn’t end it. The fire department boys rushed into print. Engine House Co. #5 chipped in and paid the fines. One fireman wrote the papers saying: “that he was a volunteer fireman. He did not have to run to fires. That was the last run he would make, if the police department was over the fire department and could arrest them for taking the engine out.”

Judge Barr witnessed a steady stream of cases involving minor breaches of criminal code, such as drunkenness and disorderly conduct. Additionally, the court was positioned within the
community as the city's chief commercial regulator. Cleveland, like other communities in that age, began using local ordinances against societal problems. Prior to the passage of state codes for such matters as public health or building safety, the burden of such legislation fell upon City Council, who passed local ordinances against acts such as the selling of unwholesome meat. Most cases began and ended in the police court, thus reducing the number of matters advanced to Common Pleas jurisdiction. An odd but true case from the first year (1853) of Police Court:

"Caleb Hunt, a photographer, had a gallery on the upper floor of a building downtown, and like many such structures, this one had a skylight. The skylight was in fact, the only access to the roof. Wild pigeons flew over the city constantly in those days, offering a strong temptation to anyone who considered shooting birds to be a pleasant pastime. The birds often flew very low over the roof of buildings, making for an easy shot to those with experience. Hunt was a considerable sportsman who could not resist the temptation to fire at a live target. He was on his roof shooting away when the city marshal, aroused by the gunfire, went up to investigate. Hunt however, had taken the precaution of locking the skylight from the roof, barring the marshal access. The marshal could not go up, and Hunt was not coming down. The marshal decided not to wait, but rather he would watch for Hunt on the street. Hunt was arrested when exiting the building and the prisoner was taken into court to plead. While he acknowledged having shot the birds, he asked to continue the proceedings to the next day. His request was granted. By morning, Hunt decided against pleading guilty, arguing that no one had actually seen him shooting. He appeared in court the next day, and when the judge pronounced his fine, Hunt replied, “fine for what?” The judge inquired, “Didn’t you plead guilty to shooting fire-arms within the city limits yesterday? Hunt stated, “No sir, I want to plead not guilty to the charge.” The judge asked, “But didn’t you acknowledge having done the shooting?” Again Hunt replied, “Oh yes, but what of that. I will bring witnesses in to the trial who will swear that they wouldn’t believe anything I say.” In the end, Caleb Hunt was assessed $1 to keep up the credit and dignity of the court, but the clerk was instructed not to mind about collecting it."

From The Bench and Bar of Cleveland 1889

But all actions were not as smooth in the new Police Court. Although a new facility on Johnson Street was under construction, the lack of an adequate place for the holding of Police Court forced a number of sessions to be cancelled. These cancellations included the discharge of prisoners from custody. Shortly after his election, Judge Barr began to criticize the conditions in the court, and of course, the salary afforded to the position of the judge of Police Court. A little more than a year into his term, Barr sought to improve his lot and became a candidate for Clerk of Common Pleas Court. When elected, he resigned his judgeship, leaving a void in the court that city council was obliged to fill. In February of 1854, Councilman Parsons requested the mayor be appointed to serve in the police court in the absence of a police judge. The resolution was adopted, and the mayor began to preside in police court. In February of 1855, Common Pleas Judge Starkweather decided that the Mayor had no power to act as Police Judge. His ruling stemmed from the case of J. Smith vs. M. Gallagher, as City Marshal. Because of this ruling, the case against Smith was dismissed. The City Council was forced to elect a judge to fill the unexpired term. They elevated the prosecutor, Bushnell White, who was elected on the 9th ballot.
JOHNSON STREET WATCH HOUSE 1853

Six months after the opening of the first Police Court a new central police station was completed, built on Johnson Street (now Johnson Court). Once known as Orange Alley, Johnson Street came into being when it was renamed by city council action in April of 1850. This new facility (referred to as City Prison or the Watch House) was a 2 story brick building which was built with the best intentions, to provide greater convenience for its public use. On the first floor in addition to the general reception area were 2 rooms in front – one for the jailor’s office, and the other for his sleeping room. Behind these were 2 ranges of cells, 5 cells on each side of the aisle. Each cell was about 8 x 10 feet in size, with a strong and substantial iron window and door. The thick walls were lined on the inside by 2 inch planks, and cells were supplied with beds and other furniture. On the second story were ten rooms used for temporary prisoners, women and boys etc.

At the time the building was originally designed, none of these rooms were large enough to provide sufficient space for the Police Court. Perhaps originally there was no intention to hold court in this building. The Gaylord block may have originally been the most favored location for the court, but once the Johnson Street facility opened, it became the preferred location. The second floor of the City Prison was re-engineered to make room for the police court. Partition walls were removed to create 2 large rooms. The front room would be used by the court clerk and the rear for the courtroom. The judge and marshal shared an office in an adjacent building.

Almost immediately, the papers were critical of the Johnson Street facility. Noting that it “never can afford adequate facilities for a courtroom” and calling it “inconvenient and out of the way,” reports were published that encouraged the city to construct a new courtroom on the 2nd floor of a fire department station, proposed for Center Street. The papers called this idea “a master stroke of economy, and it should be accomplished at a trifling expense.” News accounts considered the second floor remodeling to be bad management. The Johnson Street location was “altogether one-sided” and with the first floor dedicated to prisoner housing, it was regarded as a very unhealthy place to be holding court. “If we were one of the officers of the court, we should certainly protest against being obliged to pass a good part of our time within earshot of the noisy vagabonds who will in greater or less numbers be always incarcerated. The stench rising from the vaults underneath, under the best of regulations, will be anything but agreeable.” The review proved to be absolutely prophetic. But despite the reportorial outcry, the renovation was completed and the police court began using the Johnson Street facility in August of 1853. The new court room featured an elevated judge’s bench, with a separate area for the jury, tables for the attorneys and a desk for the marshal. Outside the bar was an area with seats for spectators. Adjacent to the court room, the clerk’s office was outfitted with desks and a safe. There was also a jury room. During the renovation, gas lighting was installed throughout the building. The cells below the court room would now house only those convicted of drunkenness, vagrancy and similar minor offenses, having been tried and sentenced in police court. State prisoners with more serious charges would from then on be housed in the city jail. The Plain Dealer celebrated the court’s opening with a brief statement: “The Police Court moves into the City Prison, on Johnson Street, next week. The building is a very fine one.”

By 1854, the city of Cleveland and Ohio City merged, with a combined population of nearly 23,000. When the 2 cities united, 4 additional wards were added to Police Court’s jurisdiction. Court and police business swelled, and complaints about the Johnson Street Watch House continued. Despite attempts to improve the noxious atmosphere of the first floor prison, conditions continued to deteriorate. In response to the newspaper complaints, City Council
considered converting the Champlain Street School into a Police Court and prison. The concept of a Champlain Street building transformation was cheered by journalists, but many within the legal community felt that reform would not take place until a city house of correction was established. The issue was resolved when a school building was reopened to teach industrial arts; it began operating the first Monday of January 1857. Also under consideration for conversion was the old Baptist Church, on the corner of Seneca and Champlain Streets. This structure was dismissed because of size as well as the expense of purchase and conversion.

In 1859, four prisoners escaped from the city prison on the floor below the police court. Jack Adams, who had been tried and convicted in Police Court, sentenced to a $100 fine and costs, broke out of City Prison that day. He escaped, using a long board ripped from his cell wall, to pry the bars of the window out of their frame. Three others, James Smith, Joseph Loveland and Milo R. Webster made their way out with Adams.15 The ease with which the escape was made prompted a call for funding a new city prison, against which there was little opposition. Mayor George B. Senter said, “The necessity is pressing for a commodious and better arranged Police Court Room.” Three days later, a thief was convicted in Police Court and taken below to be locked up in the City Prison. After a few minutes labor he knocked off a few bricks, forced open a window, and walked away. He successfully eluded recapture by police. These events led the news writers to conclude that the City Prison was about as secure as a cow pasture.16

City Council created a Special Committee to receive proposals to obtain property on which to locate a new City Prison. They received a number of offers for sites along Champlain Street. All the proposals for property on Champlain Street as well as offerings along the Public Square and Superior Street were filed for consideration. The committee of 5 was appointed, authorized to receive proposals for the purchase of a lot and the erection of a new City Prison. The committee was comprised of Councilmen Rider, Hovey, Oviatt, Thayer and Clark. Initially, the Special Committee on the new Prison recommended the purchase of H.P. Weddell’s lot between Champlain and Long Streets, and an adjoining lot belonging to Mr. Oviatt. The combined size of the building site would be 132 feet wide, 150 feet deep.17 Casting an opposing opinion, Councilman John B. Wigman recommended to the full council to reconsider the notion of purchasing Mr. Oviatt’s property on Champlain Street. He stressed that the price was too high, construction on the lot would threaten the Industrial School, and that the possible sale enabled a member of council to sell his property to the city at a high price.18

In June of 1860, City Council committees requested and received estimates for the construction of a new Police Station / Court. These preliminary estimates put the cost at $13,227, $15,000, and $16,219. The City Engineer’s office published notices to bidders that the city was asking for proposals for the construction of a new facility. The new building for the City Prison and Police Court would be built between Long and Champlain Streets. Plans and specs were available for inspection. Deadline was set at noon on November 26, 1860. Preliminary bid estimates by City Engineers proved to be substantially low, as bids received for the new prison/court ranged from a low bid of $24,864 to $27,544.

Because of a serious illness, Police Court Judge Isaac C. Vail was absent for much of the first 4 months of the 1861. In his place Police Court was convened by Mayor Flint and Justice Hessenmuller.

In May of 1861, the Grand Jury toured the Johnson Street facility. Although the Johnson Street facility was being whitewashed, the reaction to this survey was one of horror. Conditions within the building are more appalling than any they were prepared for. Their report, submitted
the next day, brought disbelief from some members of city council, who arranged their own tour soon after. Satisfied that the Grand Jury report was not full of exaggeration, council instructed their Committee on Police to contract for repair and cleaning of the Johnson Street Station House. Although conditions within the Watch House improved, it was obvious to all that the city would need more room for both court and police. The City Council Committee on Police was instructed to procure or lease a suitable place which could hold the police court and accommodate the police clerk and city marshal, and to procure a suitable place to house prisoners. Unfortunately, the committee could find no suitable room to be procured at moderate expense for police court. In addition, prisoners could not be kept in the county jail for less than 40 cents per day. Therefore, the committee recommended that the Johnson Street Prison be cleaned and remain in use, and that a new prison be considered. Cleveland contracted for the construction of a sewer branch that would connect Johnson Street to the main on Lake Street.

CHAMPLAIN STREET CENTRAL STATION 1864

After a number of changes to the plans and specifications, and several re-bids, the Council Committee on Public Buildings was finally instructed to enter into contract with the firm of Blackburn and Fuller, for the construction of the new city prison. The site chosen extended through Champlain Street to Long Street, and was adjacent to the Industrial School that was once considered a candidate to replace the city prison. (Champlain and Long Streets were among those that would be eliminated by the Terminal Tower construction.) It was a brick structure, featuring a tower that loomed above the main entrance. The building was located 300 feet west of Seneca Street on the north side of Champlain. The front section housed police offices on the first floor and court room and clerk’s office on the 2nd floor. In back, in 2 separate wings, was the men’s and women’s jail. On Sunday, February 14, 1864, all safes and prisoners were moved from the old Johnson Street Station to the new Champlain Street Station by Marshals and Police. Judge Edward Hessenmueller was the first judge to sit on the police court bench in the first new building on Champlain Street. With the passage of the Metropolitan Police Act in 1866, the police court was joined by the newly formed Cleveland Police Department. The new force consisted of 35 officers and a superintendent. By 1872 the rapidly growing city was divided into 7 police districts manned by fewer than 60 officers. A resolution was adopted by the police commission in 1876, appointing the police court officer as the property clerk of the police court. The old property room at the Central Police Station was ordered refitted for this purpose, and the officer was placed under bond of $1,000. In time, the court needed more property room. Sheds were built at the back of the station lot, next to the armory, to become the police court property rooms. These became known as the “poverty barns.”

City council in 1876 began the process to construct a new city armory. When the Children’s Aid Society abandoned the old Industrial School building to combine with the Eliza Jennings Farm,
it was deemed an ideal location. The close proximity of the new armory with the central station allowed the city to update the physical plant of the police station. To someone in authority, it must have made perfect sense, that the new city armory and police station would share vital services, heat and water. This decision to share utilities would later prove to be very shortsighted.

Thoughts of this issue were not on the minds of those present when the new City Armory opened with a Grand Charity Ball in 1880.

An anonymous local political wag was quoted: “the city might save a great deal of money by abolishing the Workhouse and condemning Police Court criminals to sit in on a certain number of city council meetings. The trouble with this practice would be dealing with the complaints of the Humane Society, who would interfere on the basis of the extreme cruelty of the punishment.”

In 1879, a dispute had developed between the Police Commission and City Council over the use of space at Central Police Station on Champlain St. The court sought the use of certain rooms for the Police Judge and Prosecutor. Although city council had given their permission, the Police Commission so far had rejected requests for these rooms, noting that the Judge and Prosecutor already had rooms set apart for their private use on the 3rd floor. The rooms in question were used by police. The Police Commission claimed that the building was under their sole control, and therefore, despite being paid for by the general fund, police property. Council referred the conflict to the City Solicitor who advised that the facility was paid for out of the general fund and the fact that the city let part of the building be used for police purposes was no reason for the police to believe the entire building was for their exclusive use.

Police Commissioners consulted with Judge Griswold, who furnished the opinion that the Central Station by law belonged to the Police Commission and that because the Police Court and its branches were harbored in that building was no reason why the Police Judge or the council could lay claim to the whole structure. Because of that opinion, Police Commissioners issued orders to the Superintendent of Police to ignore council orders and reject any effort to take possession of the rooms in dispute. The feud was short lived, as the police board knew that fighting with the council that controlled their funding would prove both risky and futile.

Martin A. Foran, a noted former Police Court Prosecutor turned defense attorney, filed a defense motion that changed police court operations. The pleading was intended set aside a warrant and to have a defendant discharged on the grounds that he was not legally held. Foran alleged that the Police Clerk had no authority to issue warrants for the arrest of anyone, unless that warrant was signed by the Police Judge. The issue of warrants had never before been challenged since the establishment of the court some 25 years prior. After he reviewed the statutes and numerous authorities, Judge Solders, decided that all warrants must indeed be signed by the Police Judge because the Police Clerk position is a ministerial officer only, and as such, has no power to issue warrants without the signature of a judge.

By 1881, after less than 20 years, there were rumblings that a new police station/court was needed. Complaints of the building’s condition and the size limitations were appearing in the days papers. Those papers opined that a statute explicitly stated that “all expenses incurred” for “purchasing lands for police purposes and
the supervision and control of the erection, alteration or repair of such station houses or buildings shall be paid out of the police court funds.” It was argued that a large proportion of the time of the court is taken up in hearing state cases, and therefore the state should assume some of the financial burden of the construction of a new building. Opponents noted that a large portion of the Police Court Fund was obtained from assessments in those same cases and the salaries of the Judge, Prosecutor, and Clerk are partly paid by them. Those still smarting from the council/police contest of a few years ago over who would control the police building were quick to opine that if the Police Court Fund had been mismanaged by city authorities let the blame rest on their own heads.

Not so long ago that fund was announced as large and constantly increasing. If it has mysteriously melted away in consequence of unwarranted drafts upon it, the authorities must show a good reason for the now state of impoverishment.

From 1885, Police Court was called upon to decide with finality what qualified as permissible activities on the Sabbath. The issue hovered between those against such pastimes on mostly religious convictions and those who endorsed these exhibitions as harmless diversions. The conservatives on city council who were against such amusements passed Section 600 of the city code, which made illegal the playing of marbles, pitch quoits, or engage in any other game or sport, or cause any other disturbance within the city on the Sabbath Day, commonly called Sunday. The ordinance went on to pledge prosecution. Under this ordinance, a number of arrests of professional baseball players were made, with them appearing before Judge Hutchins of police court. Some cases against players were nolled, with their case against M.F. Walker, the Cleveland catcher, chosen to continue. Walker’s lawyers filed a demurrer to the action, opining that section 600 of the code did not apply to the offense. They argued that the ordinance alleged to have been violated was passed August 21, 1851, and the city had no right to interfere with a game of baseball on private grounds unless a riot or disturbance was created. They alleged that under section 1692 which gives municipalities the power to keep good order, did not give the power to prohibit a baseball game unless said game created a riot or other disturbance. Since there was no mention of a riot or disturbance in the case information, there was no ground for the arrest. They held further that baseball was in those days, a profession as much as the theater or opera and that the games were held after paying a license fee to the city to do so. Baseball was surely as much of a legitimate amusement as any such amusement presented on a Sunday. The prosecutor held that the legislature had given the power to treat the mere act of playing ball on Sunday as a misdemeanor. No riot was necessary to make it so, as many illegal acts were done in silence. He believed that noise or disturbance should not be considered as a matter of the crime. The defense closed by noting that the city had as much right to make an arrest for playing parlor billiards as they had for playing baseball. They included the sport of fishing as equally illegal if done on Sunday.

After days of deliberation, Judge Hutchins ruled that the ordinance especially mentioned “games” and “pitching quoits” but within the ordinance the playing of baseball is nowhere mentioned. The question was whether “baseball” was included in the “any other game or sports”
specification in the ordinance. He wrote, “It is a well-known rule of construction that a criminal ordinance or statute cannot be enlarged beyond the plain and ordinary meaning of the language employed in defining the offense. Nothing can be left to imagination or inference.” Since the ordinance did not specifically include baseball, it could not be included by inference. “I hold therefore, that by no rule or construction can baseball playing on the Sabbath day within the city limits be proceeded against under this ordinance 600.” Hutchins did warn that while this case was an unsuccessful prosecution, his ruling only spread as far as the defendant in this case. The question of the legality of baseball on the Sabbath is not an inclusion to his ruling. The city solicitor was appealing Judge Hutchins ruling, and the Park Superintendent was pleading with the police commissioner to forego any further raids on ballgames until the appeal was settled.

Superintendent A.L. Johnson charged the police board with unfairness in stopping ball games while permitting other violations of the Sunday law without interference. Solicitor Brinsmade agreed that no one form of amusement should be singled out. “If the law is to be enforced at all,” he said, “it ought to be enforced uniformly, favoring none.”

The passage of time did nothing to diminish the need for a new police/court building. Increasing case loads and more crowded jail conditions had the opposite effect, compounding the pressure on city council to find funding for the new structure. Council members debated several alternatives to building a new central station. Their Committee on Finance and the Civil Engineer recommended against building a temporary $4,000 building for Police Court purposes, favoring instead erecting a structure to cost $10,000, which could be incorporated into the Central Police Station when enlarged. The Committee on Police examined the Central Police Station and reported the necessary repairs and costs thereof. The committee prepared a report stating that the building was a disgrace to the city and recommended its replacement. Included in the new structure would be a Police Courtroom and suitable offices for the judge, prosecutor and clerk of court. The committee stated that there was no economy to be gained by trying to improve the existing building, given its size and condition. The cells and interiors are a disgrace to civilization.

While the debate regarding the new building raged on, a decision rendered in Common Pleas Court by Judge McKinney upset the long continued police court practice of suspending a sentence with the agreement that the prisoner will leave the city. The decision was rendered in a proceeding that was found in favor of a defendant who was exiled several times during the length of this court case. The defendant’s attorney filed the habeas corpus writ on the grounds that it is not within the jurisdiction of the police court to suspend a sentence upon the authority of the judge; that in no case can a sentence be suspended unless bond is given and the case taken to Common Pleas Court. The judge decided that police court had no right to suspend a sentence in a misdemeanor. The exception is when bond is given and an appeal filed. However, the judge has no authority to add the conditions of leaving the city. This city has no right to shove its criminals and prostitutes off on some other community.

The City Council Board of Improvements subjected the matter of erecting a new Police Court building to a lengthy discussion, concluding that a good and permanent building should be erected instead of the temporary structure that had been proposed. The city engineer was authorized to employ an architect to prepare new plans for the proposed new central station. By April of 1882, the plans and specifications for the project were available from City Civil Engineer, and the Board of Improvements advertised for bids. The bids that came proved higher
than council was willing to spend. Time passed as the parties who were willing to spend tried to convince those who were able to spend. As the time passed, changes were made in the building plans, rendering the previous bids moot. A news editorial, critical of the continued delays said,

“after fooling around for nearly 2 years, after spending money for plans and advertising, after getting full estimates for erecting a Police Court building and determining its very location, the sage council found out that no provision was made for obtaining the funds (some $10,000) and the whole matter was laid upon the table.”

Five years after the idea first surfaced, the delay still remained rooted in funding. In 1886, the city council committee on police, the county commissioners, and the board of police commissioners met in conference to discuss the construction of a new police and court building. All agreed that a new facility was vitally needed. When the county representatives balked at contributing to the construction cost, Police Commissioner Bradner promised that council was “ready to change its ordinances so that most arrests would be made under city ordinance rather than state laws. He stated, “That will make quite a hole in the county funds.” At this meeting, it was agreed that the joint committee would seek funding through a bond issue.

In September of 1886, Judge Hitchins Condemned the Central Police Station in a letter to City Council:

“Mr. President and Gentlemen:

Permit me to address to your respectful and careful consideration some observations touching a matter which in my judgment is of great public concern. I refer to the condition of the central police station and the police court room quarters. This old building was constructed in about 1860 and with the exception of an occasional coat of paint and whitewash, everything remains there substantially as it was when the building was built.

At that time, the population of the city was in the neighborhood of 44,000; it is now about 230,000, so that the city has entirely outgrown the building and its appointments. That portion of the building devoted to the prison was not suitably constructed originally, and has become by use and want of proper care, a blot on the fair name of our city, and a disgrace to the humanity and the civilization of the nineteenth century. It consists of two dark, damp and filthy holes in the wall, one of which is for the male and the other for the female prisoners. They are gloomy, badly lighted and worse ventilated, and are no longer fit to lock up well fed hogs in, especially in droves. We have from time to time a great many boys and girls arrested, charged with the commission of some petty offenses, which are not in any sense crimes. These children are often delicate and extremely sensitive, and as a rule, are not arrested more than once. And yet, in the present and past condition of the prison, such of these children as do not procure bail are consigned to one or the other of these hell holes to mingle promiscuously with the drunken and dissolute men and women, many of whom are the most depraved criminals.

Again, we have during the course of a year many citizens arrested for violating city ordinances which do not even partake of the nature of crimes, such as, for instance, the street and sidewalk ordinances. But such arrests are also based on an affidavit and warrant and those arrested are likewise expected to furnish bail or go to prison. These are also turned with all the other prisoners into these “black holes”, not of heathen Calcutta, but of Christian Cleveland.
My idea is that a city prison should have a department for the most hardened and depraved male prisoners and another for female prisoners of like character, and a separate and intermediate department for children and for such as are in no sense criminals but who may be charged with the commission of some trifling misdemeanor or with violating some city ordinance. All of these should be made and kept healthy and dry and well lighted and ventilated.

Passing from the first to the second floor of the building we find the quarters of the clerk of the police court and his deputies. They are sadly cramped for room and without the conveniences to properly and decently transact the larger and rapidly accumulation business of that department of the police court.

Passing up still another flight of winding stairs, on the third floor just under the roof, we are ushered into the room of the police court. I hardly know how to begin my description of those classic and historic quarters. I feel that it would be quite enough to say to you Gentlemen, behold them and judge for yourselves! They are too small and are deficient in all necessary conveniences and comforts for the dispatch of the vast amount of business to be transacted therein. They are also too high up and hence inaccessible except by means of a passenger elevator, which has never been provided. All the place which the prosecuting attorney and his assistant have to consult with the thousands who come to them and to draw up and prepare the many papers required in court cases is a little dingy room, made by a little box partition taken off from one corner of the court room, not large enough to hold more than one or two persons at a time, and from which every word spoken above a whisper can be distinctly heard in the outer room, greatly to the disturbance of the court proceedings when court is in session.

The police court is emphatically the people’s court and at some time and in some capacity, either as parties, witnesses, jurors, officers or interested spectators, nearly all the people in the city go there. The old and the young, the halt and the blind are all liable to be called there, and hence, the room in which its sessions are held should be conveniently accessible to all. I am of the opinion that the best plan would be to have the court room, together with the judge’s room, prosecutor’s office and clerk’s office and jury and witness rooms all on the ground floor. They certainly should not be located over the prison where the odors and fumes rising from the same will necessarily impregnate the air which those who occupy and frequent will have to breathe.

I imagine I have already said enough to convince your honorable body that our city prison should no longer remain in the shameful condition which it now presents, and that better facilities should be at once provided for the police court: Permit me, to add, in conclusion, that I believe the remedies and treatment should be heroic in character. The Central Police Station has outlasted its usefulness. “Its offense is rank and smells to heaven.” It should be razed to the ground and not one of its bricks be left to stand upon another, and in its place should be reared a structure with quarters which shall be an ornament to our beautiful city and a decent habitation for all, who may be compelled to go there, either to prison or to court.

All of which is most respectfully submitted.

John C. Hutchins

Police Court Clerk Robert M. Cordes unveiled his report to city council for the year 1886. 6,832 people were arraigned for trial. That number included 4,823 city cases, 1,660 state cases, 248 state examinations and 101 transfers from justice courts. 2,108 defendants were
committed to various institutions, 1,345 to the workhouse alone, with the number of commitment
days totaling 19,965. $61,756 in fines and costs was collected and disbursed to various offices.

Judge Frank H. Kelly ruled in a case involving the arrest of a perpetrator charged with
disorderly conduct and threatening an officer, the arrest was made under state law. Kelly held
that the offense was not under the jurisdiction of the police court of Cleveland, as the crime was
committed outside the city limits. The law he cited which defined the jurisdiction was:

“Section 1788 The court shall have jurisdiction of any offense under any ordinance of the
city and of any misdemeanor committed within the limits of the city, or within 4 miles
thereof, to hear and finally determine the same and impose the prescribed penalty: but
cases in which the accused is entitled to a trial by jury shall be so tried unless a jury be
waived.”

The statute clearly says the court has jurisdiction over city cases, not state cases. The suspect
was rearrested on a warrant charging him with pointing a revolver at the officer.

Judge Kelly was also busy ruling on a case involving the police, warrants or lack thereof,
and the issues of private property, illegal search and abuse of police power. The following is a
copy of a column that appeared in The Plain Dealer:

“PRIVATE PREMISES
The Principle That a Man’s House is His Castle
An Important Decision of the Police Court Concerning the Invasion of a Household by
Police Officers without Writs.

Police Court Judge F.H. Kelly delivered the following oral opinion yesterday
afternoon in the case of Edward Crook, heard Saturday last, charged with disorderly
conduct in using violent and abusive language toward Patrolman C. Shibley. Judge
Kelly, in summing up the case said:

“In this case the information charges that on the 30th day of April, 1887, the
defendant, Edward Crook, was guilty of disorderly conduct in using violent and abusive
language in the presence of Officer Shibley and others. It appears from the testimony
that the defendant Crook keeps a variety show, saloon, etc. on Ohio Street. Connected
with the saloon and variety show – in the same building – are the private apartments of
Mr. Crook and family. Officer Shibley entered Crook’s saloon early in the morning to
see if a man named ‘Dusty’ was in, and to notify him (Dusty) verbally that he was wanted
in the police court that morning as a witness. Shibley had no writ with him, and no
authority from his superior officers to do so. A man named Jones, in charge of the bar,
said that ‘Dusty’ was in but was asleep. Shibley then requested Jones to call ‘Dusty’ so
that he (Dusty) would be up by the time he (Shibley) returned from transacting other
business. Jones proceeded to the stairway and called ‘Dusty’. Shibley went out,
remaining away fifteen minutes, went back and asked Jones if ‘Dusty’ had made his
appearance. Jones replied that he had not and told Shibley if he wanted ‘Dusty’ he
should go up to his room - #7 – where he was asleep. The room was part of the living
apartments of Crook’s house. The officer thereupon went upstairs and proceeded to
room #7, entered, and finding two beds – one occupied by one, the other by two persons,
asleep – he aroused the two who were sleeping together and asked if a man nicknamed
‘Dusty’ was there. One of them replied that he was asleep in the single bed in the room (pointing to the bed). Shibley went to the bed, awoke ‘Dusty’ and told him he wanted him to go to the police station at once. ‘Dusty’ asked Shibley for time to dress and eat breakfast. At about this time Shibley’s revolver turned in his pocket – hurting his hip – and he took it out. In doing so, it came to pieces. One of the double bed occupants named DeLyle offered to mend the revolver, and the officer handed it to him. Mrs. Crook, wife of the defendant entered the room at this juncture and asked Shibley what he wanted there. He replied, ‘I’m after this man’, pointing to ‘Dusty’. Mrs. Crook then said, ‘You have no business here and I want you to go down stairs.’ Just then Crook appeared at the door of the room and asked the officer what he wanted there and with an oath ordered him to go down stairs, saying that if he didn’t go, he (Crook) would throw him down stairs.

The officer, without moving or attempting to leave the room, replied that he was after ‘Dusty’, not stating at this time or any other that he had any writ or process for ‘Dusty’, or that he had or was about to place him (‘Dusty’) under arrest for any offense. Crook repeated his threat of throwing the officer down stairs, and applied opprobrious epithets to the police force generally, adding that he did not keep a place for crooks or thieves, meaning known offenders or lawbreakers. The officer, so far as his statement goes, making no movement to leave the room or premises at Mr. Crook’s request and demand, said to the defendant, ‘I haven’t said whether you did or didn’t (meaning the crook and thieves assertion). Crook said with an oath, ‘I’ll fix the whole of you.’ The officer thereupon arrested Crook and took him to the station. The testimony of Shibley further discloses the fact that when Crook first ordered him to go downstairs, he (Shibley) said he would do so when ‘Dusty’ went with him. The state introduced two other witnesses, who corroborated in part and denied in part some of the material statements of the officer.

Crook, in his defense, admits ordering the officer down stairs, but denies that he used the violent language which the officer charges him with. The barkeeper Jones denies in toto that he gave permission to the officer to enter Crook’s private apartments. On the contrary, he says (Shibley) went upstairs in opposition to his (Jones) express request not to do so, as Mr. and Mrs. Crook had sick children and he, Shibley, would disturb them. But, however much the testimony of the witnesses for the state and defense may be in conflict upon material points, I shall not undertake to reconcile them, or discriminate between that which is reliable and that which is unreliable. But for the purposes of coming to a conclusion in this case I will take the testimony of the officer alone. It is apparent from his statement that the officer went to Crook’s house on his own responsibility, acting under no order from superiors officers, without having in his possession any of the process of the police court, and in fact, without having been issued, to procure the attendance in court of ‘Dusty’, whom he regarded as a material witness in a case then pending in this court. The officer in going there without process on his own responsibility simply entered that place as any other private citizen had a right to do under like circumstances; that he had no right to compel ‘Dusty’ to get up and accompany him to the station or to exercise any other authority in the premises as a police officer; that when he had notified ‘Dusty’ he was wanted, his (Shibley’s) right to remain there ceased, and that when Mrs. Crook and Mr. Crook notified him to leave the premises – after having so notified ‘Dusty’ – notwithstanding the fact that Shibley wanted
to take his revolver (which was being fixed by DeLyle), it was his duty to have left at once
or else asked permission of Mr. Crook to remain there until the revolver was fixed. His
remaining there then after his mission had ended and his authority – such that it was –
which had been given to him had ceased and having been given no permission by Crook
or his agent to remain, but upon the contrary, being requested by Crook to leave, he
(Shibley) became a trespasser to the extent that Crook would have been justified in
resorting to sufficient force to eject the intruder from the premises.

It is a maxim in law – as old as the law itself – that 'A Man's House Is His
Castle,' and unless the public interests demand it, his home is sacred from the intrusions
of strangers. To that extent is this principle enforced that in the protection of his
domicile or dwelling house a citizen is justified in using force even to the taking of human
life. Applying this doctrine to the case at bar, although the roof shows that under other
and different circumstances the conduct and language of the defendant would have
constituted the offense called 'disorderly conduct', it was wholly justifiable. Mr. Crook
would have been justified in case the officer refused to leave in forcibly ejecting him from
his dwelling apartments of domicile. Such being the case, Crook certainly cannot be
rightfully convicted for pursuing another line of conduct, which under different
circumstances might have amounted to a lesser offense. For disorderly conduct, which is
defined to be that course of conduct on the part of an individual that tends to provoke a
breach of the peace or disturbs the quiet and good order of a community, is a much less
degree or grade of crime than one that involves the infliction of personal violence or the
application of force – such as assault and battery and kindred offenses. Although it is not
a question directly involved in the decision of this case, but as having an incidental
bearing upon the conduct and rights of officers entering the private dwellings of citizens,
it may be well to remark that the authority to enter them without a warrant or process of
a court of competent jurisdiction is only justifiable upon the part of an ordinary
patrolman when, in fresh or hot pursuit of an offender who has committed an offense
within the personal knowledge of the officer; or, where the officer, upon information,
believes that an offense has been committed and that the offender is harbored or secreted
within; or, where the officer believes, or has good reason to believe that an offense has
been or is about to be committed in the premises. It is only a certain class of officers who
under a different state of circumstances than those referred to that have authority to enter
the dwelling house or domicile of a citizen. And they are only authorized to do so by an
express provision of the statute (section 1981, revised statutes of Ohio) which is as
follows: ‘The superintendent, deputy superintendent or a captain of police having just
cause to suspect that a felony is being or is about to be committed within any building,
public or private, or on any wharf or enclosure, or on board of any ship, boat or vessel
within the city, may enter the same at any hour of the day or night, use necessary
measures for the effectual prevention or detection of felonies, take into custody all
persons suspected of being concerned in such felonies and take charge of all property
which he or they shall have cause to suspect has been stolen. Without further remark it is
evident from the proof in this case that the officer in question did not come within that
class of officers described in this statute.

And that an ordinary patrolman has none of the powers which are conferred upon
his superior officers by it. The board of police commissioners is vested with authority to
formulate and enforce rules for the guidance and control of the force under it charge.
And in the exercise of that authority has prescribed certain rules; among them we find one called rule 68, which reads as follows: ‘He (meaning the patrolman) shall, when necessary for the better performance of his duty, enter places which are known as resorts for thieves, notorious characters and other suspicious places, take note of who are present, what they are doing, making his visit as brief as possible and report all such visits and observations to the officer in charge of his station.’ Without discussing the power of the police board to make and enforce such a rule or in the slightest degree intimating that there is a lack of power or propriety in so doing, it is very apparent from the evidence of the case at bar that it afforded no protection or justification to the officer in doing as he did. Entertaining these views of the law and the facts, it is my duty to discharge the defendant.”

Late in 1887 and continuing into 1888, Patrolman Cephas Shibley would have further legal problems, being arrested for visiting a house of ill repute. He lost his position on the police force, and was later found guilty, fined $10 and sentenced to 20 days in the workhouse. Despite his appeals, the verdict was affirmed by Common Pleas Court, which led to a motion in mitigation. Prosecutor Estep worked very hard to see that the immoral ex-patrolman would do his time, regardless of the delaying tactics.

It was also at this time that Judge Kelly was considering a change of court hours. Under consideration was opening the court at 10 am for winter hours. The suggestion was that the prosecutor and clerk would benefit with the additional time for case preparation. The final decision was to continue the regular hours, as any benefit gained in morning delay would be lost on days of crowded dockets, when the court day would necessarily be extended.

At the request of Mayor Brenton D. Babcock various members of the council and state legislature met in the central police station to inspect the building. Under discussion was the possibility that local authorities could petition the state legislature for power to levy a tax of ½ mil in Cuyahoga County for the purpose of building a new central police station. The inspecting politicians toured the facility, giving close scrutiny. The universal expressions of disgust from the visiting officials would indicate a strong urge to approve the tax levy. Conditions inside prisons were well known from the odors to the overcrowding and the unspeakable environment below ground.

While the debate raged the city began a mild renovation of the Champlain Street Station. In 1890, with the Champlain Street court room undergoing repairs, Police Court convened in the city armory and the fragrance of the city prison had more room than usual in which to dilute itself. The drill room seemed to be a model of cleanliness after having undergone recent refurbishment. Men with axes were chopping to pieces and carrying out the accumulated stench while policemen armed with clubs and guns waited to assault the expected throng of central station vermin. The work required a week to complete. The bullpen was whitewashed and the entire courtroom cleaned and painted.

The Plain Dealer reported that it was customary for the police docket to be a long one on the morning following a political demonstration by the Republicans. On recounting a particular Saturday night, complete with a Republican demonstration, the result was Monday morning’s police court docket contained the names of 65 men and women, 56 of whom were arrested for intoxication. One opinion cast was “the way to put down intemperance would be to have Republican enthusiasts cease their Saturday night enthusing.” Judge Kelly was busy for nearly 3 hours that Monday morning disposing of the merrymakers.
In April of 1891 the results of the election for judge of police court was in limbo, as questions were raised regarding the eligibility of Councilman John T. Logue to run for the judicial seat while a seated council member. Judge Kelly said “I have been informed by good legal authority that it is my duty to hold office until the matter is settled. The attorneys stated that Mr. Logue’s election is not legal, the fact being that he was elected to the office while holding the office of councilman, which is contrary to the laws of Ohio. They also stated that it was my duty to hold the office owing to his ineligibility in order to prevent confusion in the police affairs.” The judge assumed that he would remain on the bench until a definitive answer was forthcoming regarding his opponent’s eligibility. In the end, Councilman Logue’s election was upheld.

Finally, in August of 1892, the city contracted with an architect to design the new central police station. The Mayor and City Council were anxious to finalize arrangements for the new central police station so that bids could be let. But before those plans were complete, a major complication surfaced, throwing all the best laid plans into limbo.

On December 9, 1892, at 10:45 am, a fire was discovered in the city armory. By 11:45 am, despite a fire station literally in the next block, the roof was gone and walls collapsed. The armory was nothing but a ruin after one short hour of fire, which broke out in the southwest section of the building, on the 2nd floor. High winds and sparks spread several small fires throughout the neighborhood. It was estimated that there were 20,000 ball cartridges and 5,000 riot cartridges stored inside the ammunition room. Although these cartridges exploded with regularity and great force, fortunately there were no injuries. When the front wall of the armory collapsed, it crushed a fire steamer and destroyed the telephone, telegraph and electric lines. The fire spread to the “poverty barns”, the police court property rooms. Everything stored there was completely consumed. Last to be engulfed were the police stables and storehouses. The horses were saved but the rest was a total loss. The building and assets of the military units housed within were estimated at over $150,000. The best efforts of fire crews and the fireboat on the river saved the surrounding structures, especially the police station, allowing only slight damage. The court, in session when the fire was discovered, adjourned immediately, and the building evacuated without incident or injury.

The major loss for the police structure was the shared heat system, which was severely damaged. While the boiler itself suffered only minor damage, the piping within the armory which provided both heat and water service to both structures bore heavy damage. Property Clerk Gus F. Mog reported that everything stored in the “poverty barns” was destroyed with the exception of 30 brass ingots, which survived the blaze with only minor scorching. Members of the Grays were sifting through the rubble for artifacts; the Cleveland Light Artillery saved more
of their equipment than was thought possible. A brand new piano, delivered a day before the fire, was barely damaged. Much effort was made to extract ammunition which remained unexploded after the fire.

For the short term, the building, for police purposes remained viable. However, the problem was where to hold court and hold prisoners. Judge Logue held a short court session the next day, dealing exclusively with jail cases. His only concession to the cold was to delay the court opening 1 hour. Police officials ordered the lighting of all the gaslight jets in hopes of providing a small measure of warmth, admitting that this was probably a futile gesture. City engineers were optimistic that the heat could shortly be restored. Although their estimation proved correct, the damage to the structure made the decision to replace the old edifice a forgone conclusion.

City Councilman Bole, chairman of the Finance Committee, advised that the time was right for the city to take drastic action in the replacement of central police station. He introduced a resolution calling for the erection of a new city hall on the northeast quarter of Public Square. Bole felt that since the Supreme Court of Ohio ruled that the construction of the Soldiers and Sailors Monument on the southeast quarter of the square did not violate the preservation of public land usage as prescribed by law, then the way was paved for more such public use. His plan would locate a new city hall to the northeast quadrant, the new police station and city prison would be erected on the southeast quadrant, with the northwest section reserved for county usage.30 Because the community would have to replace the armory, the recommendation was to sell the city property on Champlain and Long streets for business and manufacturing purposes and put all the city buildings on the Public Square. The Plain Dealer, in an editorial supporting Bole’s notion, recommended the county place a new jail on the last quadrant. Bole may have convinced the newspaper of the merits of his plan, but he found few takers among his colleagues on the city council. 31

CHAMPLAIN STREET CENTRAL STATION

Finally, an agreement was reached and work would begin on the new Central Police Station, built on the site of the old armory. When work on the new station began in the fall of 1893, half the old station was torn down. When the new building was nearly completed, the demolition resumed. What remained of the old building was completely repurposed as a new patrol station; a 2 story structure with the service room on the ground floor for the ready wagons and ambulance. The new stable would accommodate 14 horses at the Long Street end of the building. At the southwestern corner of the building on Champlain Street there was a 14
foot square tower, now 76 feet high. Housed within were a lookout platform and 3 heavy wrought iron clock faces. Included in the project was the regrading and extension of Bank Street (West 6th) through to Champlain Street. The whole complex was completed ahead of schedule. A portion of the time the new police court was under construction the prisoners were transferred to the west side station, at the 8th precinct. Located at Detroit Avenue and State Street (W. 29th), the 8th precinct served as the court headquarters when the Champlain building was unusable after the armory fire. This was the largest and closest of the outlying auxiliary stations.

The Cleveland Bar Association gathered an assembly of the legal profession in January of 1894 to discuss and develop suggestions for legislation aimed at improving the judicial system in Cleveland. Judge Stone of Common Pleas Court recommended limiting the use of jury trials to expedite case flow. He also suggested legislation to limit the type of cases appealed from Justice Courts to the County Courts. Judge Solders of Common Pleas favored the establishment of another state court which would be placed between justice court and the county court.

This court would be given jurisdiction over state cases now heard in police court. Judge Lamson of Common Pleas Court acknowledged that the present system needed simplification, but emphasized caution. He warned against any change affecting the work of police court and was unconvinced of the need for another court to be shoehorned between the present courts.32

Later in the year, Judge Solders wrote a letter to Representative Buck, communicating his opinions on the state of the judiciary in Cuyahoga County. He stressed the point that police court needed relief and advocated the establishment of an intermediate court or the separation of the police court from state cases. His letter expressed the opinion that the criminal court should be in continuous session, allowing short vacations instead of the present system which for quarterly sessions held months apart. This system also affected the civil branch, where the needless delay congested the dockets, favoring the strong position and created a feeling among the masses that they do not have equal rights.

The conditions in police court did not escape the judge’s attention. Here he noted that the need for relief had existed for some time, feeling that there was too much work for 1 judge as far back as 1881. Since then, the population of the city had doubled with twice as many policemen on the job. He cited the statistics: city offense caseloads climbed from 5,702 in 1881, to 7,491 in 1892, and state caseloads increased from 1,281 to 2,688 over the same period. Solders said, “It is impossible for the court to devote the necessary time to each case that would dignify the proceedings as a fair trial.” He went on to state, “In the absence of an intermediate court, an increase of the Common Pleas bench will be necessary.” To his way of thinking, the suggested court should have “exclusive cognizance” over municipal cases, with, as in the present police court, judges and clerks elected by the city. He recommends the amending of sections 1787 and 1788 of The Ohio Criminal Code which confers jurisdiction. Solders also favored the creation of a consistent system by focusing jurisdiction of each court, specifying local and state case responsibility.33
The new central police station opened in September of 1894. The buff brick building that faced Champlain Street was 3 stories high. The rear faced Long Street, where the building was 2 stories tall. This is where the 2 prisons were located. The interior was trimmed in oak and brass with both gas and electric fixtures. On the first floor was the police headquarters where the offices of the ranking officers were contained. In the rear of this floor were the prisons and detention area. On the second floor the courtroom occupied the entire east side while the clerk’s office occupied the other end. Offices for judge and prosecutor were placed in the area between. The rear of the second floor was the bullpen, used for prisoners awaiting the courtroom appearance. The 3rd floor housed the dormitory and drill room and the telephone exchanger.

Early in 1895, Councilman Hardenbaugh offered a suggestion for improving the local justice system. He proposed a resolution asking the law director to draft an ordinance to be considered by the entire council, the object of which was to divide the city into 3 judicial districts. His opinion was that a state law passed in 1892 empowered the city to establish these districts, each served by a judge and court, all regulated by the city council. The inference was that the bond scandals (discussed elsewhere in the text) were due to the lack of oversight and too much work for one judge. Mayor Blee, weighing in on the Hardenbaugh proposal, was not in favor of severing the city into 3 districts, but did support the notion that 2 judges would prove quite capable of dealing with the volume of cases presented in police court.

Responding to criticism cast by newspapers and the public in 1899 regarding delays in the police court, Judge W.F. Fiedler wrote a letter in The Plain Dealer addressing the conditions in police court. His remarks conveyed the impossibility of keeping up with the docket.

Examining the court over the past 35 years, there was 1 judge and 1 prosecutor, and that staffing continues today. The number of cases now averages 100 a day. In his mind, that would have been reason enough to understand the delay. Additionally, new ordinances regarding Sunday laws and saloon infractions increase the caseload.
On December 15, 1891, the number of cases on the police court docket on this Monday morning reached 100.

Also to be factored was the increase in jury demands. Judge Fiedler and the papers agreed that legislative action was needed to solve the problems which plague the police court through the addition of another judgeship.36

The law authorizing a second judgeship in police court passed with little fanfare in February of 1900. Little known is the fact that this legislation also extended the term of police court judges to 3 years. While numerous candidates publicly discussed their possible entrance in the race, of greater concern was where the new court would be housed. The front running location was the 3rd floor of Central Police Station, which presently housed the police dormitory. Another location included in the speculation was the 8th Precinct on Detroit Avenue. Police Chief Corner preferred the 8th Precinct location rather than the dormitory downtown. He reasoned that because the dormitory was on the 3rd floor of the building, conversion to a courtroom would disrupt the entire building. Also, arrangements would be necessary to provide for the policemen who use the dormitory prior to court appearances when assigned to night shift.

The presence of professional bondsmen in the halls of police court triggered a dispute between courthouse factions that was fought across the newspaper pages. Director of Police Barrett found it convenient to blame Judge Fiedler. In Barrett’s eyes, he allowed these unsavory characters to congregate, clogging the system. Barrett had been attempting to rid the Central Station of professional bondsmen, with limited success. Judge Fiedler scoffed at the idea, calling Barrett a liar when he stated that while he was a councilman and a lawyer practicing in police court, he did not “hang around” the courthouse attempting to land new business. Fiedler characterized the Director’s denial as laughable.37

As the election for the second police judge neared, Judge Fiedler announced that until the second police court was inaugurated, he would accept no more cases to be set for jury trials. In the election for Police Judge in April, Thomas Kennedy was the victor. It was planned that he would preside over Police Court to be held at the 8th Precinct police station on the west side. Although the mayor and judges all agreed that a split court was not the ideal situation, this location was recently constructed and equipped with a courtroom, as well as holding cells. Because it was impossible to divide the courtroom at Central Station, it was hoped that arrangements to combine the courts could be made later.

Later became sooner when a city engineer, making another examination of the Central Station, expressed confidence that the second floor of the patrol barn could be adapted. He was certain it would provide a room large enough, with sufficient light and ventilation, to be utilized as a second court room. A connection to the present court would need to be made to allow for the movement of prisoners.

Illness prevented Judge Kennedy from immediately taking office. Because his new courtroom was not ready to be occupied, the time was not a pressing issue. With the courtroom on the verge of readiness, Mayor John H. Farley speculated that he would need to appoint an acting judge to preside until Kennedy was able to take control. The court would indeed open with
an acting judge officiating. Attorney C.J. Estep was appointed as acting judge in the absence due to illness of judge-elect Thomas W. Kennedy. The court itself was held in the Central Station police dormitory until the room above the patrol barn was finished. The first case before Judge Estep in the 2nd Police Court was against William Astrup, the west-side awning manufacturer. He was charged with assaulting a man named Gunderman. The case was continued into obscurity. Judge Kennedy would sufficiently recover from his illness to take over his seat in police court by mid-June.

The war of words extended to City Hall during the year 1900. Mayor Farley was publicly critical of the court and Judge Fiedler in particular, roasting him in the newspapers for what the mayor felt was the coddling of saloonkeepers. Police would make arrests for Sunday and Liquor Violations, and the mayor would condemn the paltry fines levied against the guilty. The judge countered that the few arrests being made were against those who had complained about or challenged the mayor in some way. The judge always maintained that the mayor had no right to challenge the court’s authority.

The mayor also complained about the lack of backbone the court displayed in dealing with gambling arrests. He accused the court of being too willing to quickly return confiscated gambling equipment after the paltry fines were paid. The mayor and law department felt they were entitled to destroy any and all seized gaming paraphernalia after a guilty verdict was obtained. When the equipment was returned time and again, it drove the mayor to seek out the reporters who were willing to record and distribute his ready and well-rehearsed commentary. The bickering reached the point that when Judge Fiedler went on vacation, the mayor was quick to comment that he hoped the judge would enjoy wherever it was he had gone enough to remain permanently.

During this same period, Police Superintendent Corner began a practice of denying lawyer’s access to prisoners heading for police court. His decision was designed to curtail lawyers from ‘hanging around’ the court, hoping to see prisoners and convince them to retain them as counsel. His opinion was, he was preventing a prisoner from being bled dry by scheming lawyers. He considered it his duty to put a stop to that practice. It was therefore established that attorneys could have access to prisoners at “reasonable hours” and with the approval of Corner, and only when he was convinced that the attorney had a prior relationship with the client.

Mayor Farley continued his criticism of the court, particularly offended by an ordinance presented to council to pay for a night duty court clerk at Central Police Station. Farley opined that having a clerk available to release prisoners on bail after hours was simply making it too easy for criminals to get out of jail early. Adding a night clerk would add another potential abuser into the system. Farley and his supporters in council felt that the court clerk was under no obligation to do business after 6 pm. They decided that the source of the ordinance was a professional bondsman’s instigation, and that the lack of a night clerk would harm their business. Farley continued his rants throughout 1901, relentlessly critical of the police, the court clerk and candidates for police court. Calling both the court and clerk’s office rotten, threatening to veto legislation, characterizing the clerk’s office as a disgrace to the community, the mayor said it was pitiful that the city had to put up with this kind of corruption. The feuding between Mayor Farley and the court officials would not end until his term of office concluded, and he was succeeded by Tom L. Johnson in April of 1901.

In May of 1901, Judge Kennedy changed the policy of treatment for saloonkeepers, in an effort to ease the crowded dockets. The new policy was to suspend the workhouse sentences for
those convicted of violations of Sunday liquor laws. Kennedy said, “*the interpretations of the laws of the state and its’ constitution by the Supreme Court has held that the right of trial by jury may not be denied in any case in which the penalty upon conviction includes imprisonment.*” By eliminating the jail sentence, Kennedy felt the number of jury demands and continuances would be greatly lessened, and with proper fines and costs, Sunday laws could be better enforced. “*no saloon will be kept open on Sunday if the profits realized from it on that day are less than the fine which will be imposed for the violation of the law if the punishment is both certain and speedy.*” The Anti-Saloon League was cautiously optimistic about the changes as they would affect new prosecutions, but were in favor of more harsh penalties for saloonists who were veterans of court appearances, and whose respect for the law was eroded. After the first 2 days of the new policy, over 75 saloon keepers had pled guilty and paid their fines, dropping their jury demands.  

Late in 1901, the police court judges agreed on a rule that all juvenile offenders in police court would be tried in courtroom 2, no matter what the charge. Under the new system, youngsters would practically have a court room of their own, in order to keep them as separated as possible from the habitual offenders. In June of 1902, Judge Kennedy would decline to hear 5 cases brought against juveniles, preferring instead to refer them to the new juvenile court. Kennedy said he would refer all future cases with juvenile defendants to the Juvenile Court, now presided over by Judge Callaghan.  

In an article in *The Plain Dealer*, Cleveland attorney George W. Shaw called for the abolition of justice and police courts, replacing them with a municipal court. His model for a municipal court would have multiple judges, county-wide jurisdiction and a clerk responsible for case assignments. In Shaw’s opinion, this move would eliminate all the abuses rampant in the justice courts, and would allow for the writing of a new and more encompassing municipal code. Shaw may have been the first lawyer to ignore the risk of retaliation to publically call for the abolition of justice courts.  

**SCANDALS**

The face of the Police Court was not without its black eyes. A few lowlights:

In May of 1876, accusations were made against Police Clerk McGinness regarding missing funds. A special committee comprised of Mayor Payne, City Solicitor Heisley and Councilman Ford was appointed by city council to investigate. The investigators took sworn testimony from various witnesses, including the Clerk, his Deputy Clerk Tompkins, Police Captain McMahon, Police Detective Hulligan, Police Superintendent Schmidt, and Judge Peter F. Young. Early on, the investigation grew to included issues associated with the alleged missing funds. Questions arose regarding unrecorded fine payments by assistant clerks. Further, some defendants who received time to pay fines appeared to have received some beneficial treatment by court workers.

Under oath, McGinness admitted that his books were more than a month behind. While he denied that funds were missing, he accused the previous clerk, a Mr. Gardner, of being delinquent in turning over money to justify accounts. McGinness additionally claimed his accounts were as up to date as possible, making references to instructions he received from the judge to accept guilty pleas and fines that were assessed outside of court. The committee inquired about some irregularities uncovered regarding an assistant who admitted pocketing some unrecorded fine payments in order to pay his overdue bills. McGinness maintained his ignorance of these missing transactions, reiterating that any funds found lacking were due to
Gardner’s insufficiency. In testimony, the assistant admitted borrowing the funds but maintained his intention to make restitution.

Police Detective Hulligan was questioned regarding the release of 2 regular court customers, “professional” women who had been released without payment of fines and costs. Apparently, they were released without actually making the required courtroom appearances. Discrepancies were discovered in their stay in police court, as some police personnel at the courthouse were sure the ladies were guests for the night, others were equally sure they were certainly released.

The Police Court Judge Peter F. Young was questioned regarding the ladies, their fine amounts, and the allowance of time to pay. The judge denied instructing the clerk, staff or anyone else to give these or any other defendants any kind of special treatment regarding fines or sentences. Further, he denied there was any sort of special connection between the women in question and his decisions to allow time to pay. Rather, the judge insisted, he had often granted time for payment of fines. He maintained that all delayed funds were paid. When asked if his dockets were altered to conceal missing payments, he affirmed that there were no records which could vouch for the accuracy of the journal. In a statement, Judge Young admitted that human error may be the reason for discrepancies in court records. He stated that maintaining the accuracy of handwritten recording of court proceedings as demanded by law was most difficult. He complained that there were some cases about which he was questioned by the committee, where the accuracy of their information was at odds with his.43

The committee reported their findings to the city council on June 13, 1876. Police Clerk McGinness was found at fault for:

- Making late reports
- For receiving fines upon pleas taken out of court; this practice was regarded as too easily abused
- Interceding for suspended sentences or time to pay; the clerk must not interfere with the sentencing
- Allowing a subordinate to permit his habits of life to interfere with the proper conduct of the office duty; in this case the clerk must demand the subordinates’ resignation, or termination.
- Taking irresponsible parties for bail; discovered coincidentally to the original investigation
- Becoming responsible for payment of fines; reprehensible conduct for a clerk of court
- Not recording in court journals when the suspension of sentences came to his knowledge

The committee recommended that Deputy Clerk Tompkins deserved the most severe penalty for allowing a “profligate style of living” to lure him to defraud the city. The committee endorsed the action in spite of his candor and truthfulness in his testimony regarding his actions.

In all, despite what was uncovered, the committee did not ask council to remove those who were found to be at blame. Noting that the wrongs were the result of a “careless and negligent following of loose and irregular practices”, and that there was “no evidence that the leniency shown prisoners was for purposes of gain”, no further action was recommended. The committee held that the problems of the police court stemmed from irregularities that have grown into the system, and that a system of reforms to combat them must be introduced. They stressed in their opinion that for the prevention of such abuses, further legislation was required to
regulate the procedures of the court. They closed by praising Prosecutor Foran, who had been so outspoken regarding abuses in the court.

Councilman Barrett drew the attention of city council when he offered the following resolution:

“Whereas one Charles Day was arrested November 12, 1893, charged with receiving and concealing stolen property valued at $1,000, and whereas the hearing in said case was continued from time to time, until so far as the public has any knowledge it was lost in the shuffle or dealing as in vogue at the city police court: Therefore be it resolved that the director of law be directed to investigate the records of said court, and if necessary, of the police force, with a view of ascertaining the facts and reporting the same to this council.”

Councilman McKisson added “If this administration desires to investigate the courts, I move to amend so as to include all the courts – the justice courts anyhow.”

Barrett countered that this resolution was intended to investigate a single case, not a court. He was persuasive and the resolution was adopted.

An editorial in *The Plain Dealer* endorsed the Day investigation, but urged that the probe go further.

“If the conduct of that court has been efficient and straightforward, an investigation will result in a certificate of good character, which it sadly needs. Should it result in disclosures discreditable to it, such disclosures are nothing more than the public have a right to. Either the police court officials or the public are most seriously interested in having an investigation that is thorough and complete.”

Since the Day case merited analysis, the editor’s opinion was that it made sense to probe for more cases of similar circumstances.

“If this investigation is to be worth anything, it must go to the bottom. It should take in all cases of seemingly unwarranted dismissal without trial and more especially the more serious cases of discharge without punishment.”

The paper claimed that statistics from the past year showed nearly 20% of all persons sentenced to the workhouse were turned loose without serving as much as an hour of that sentence. An investigation made as deeply as the public interest demanded was sure to uncover the court and workhouse records to fully substantiate the accusation. According to the editors,

“The source of the whole trouble is in that court and an investigation should go on until the official at fault, whoever he may be, is nailed upon the barn door of public contempt. It is high time that public officials in whom the people repose grave trusts should be taught that those trusts are sacred and not to be lightly bartered away for pernicious political influence. We sincerely believe that the spirit of the people of Cleveland will sustain such an investigation and indorse such a lesson.”

Director Farley (Director of Public Works) presented a resolution to the Board of Control (subcommittee of city council) calculated to cause an investigation in Police Court. The resolution said:

“Resolved that the Director of Law and Director of Accounts are requested to examine the records of the city Police Court with a view to reporting a statement of all remaining bonds that have not been declared forfeited; also, those that have been declared forfeited,
giving a statement of the name of the person charged, name of offense, date of bond and names of sureties, with such other particulars as will give an intelligent understanding of the entire bond method of the court; also a similar statement in regard to fines and sentences that have been remitted by the court." 45

Farley explained that he wanted the board to adopt the resolution. His desire was to focus an investigation on the laxity in the payment for the forfeitures. His argument was persuasive enough to once again get a resolution adopted.

Director Farley maintained that this investigation was not politically motivated. “If the court makes enough money to be self-sustaining any surplus goes into the city treasury. If it runs short the city treasury has to make good the deficiency. I am of the opinion we have a right to go through the city records to learn how the business was conducted.” Farley said he was developing a scheme that would solve the bond forfeiture problems but it would require new legislation. In his mind, the issue of setting aside a bond or if a sentence is altered, such action should be done publically. He added, “The records of that court are public property and we have the right to go through them. The business of professional bondsmen should be broken up. There are a great many men who make this their business. If this is to continue, the law that requires bail bonds is all a farce.” His quote seems to indicate the path he wanted the inquiry to take.

This investigation instigated by The Plain Dealer editorial reached the highest levels of the court. Court Clerk Theodore McConnell scoured the archives to develop a list of forfeited bail bonds. He publically announced his intention to turn over the list to the prosecutor to begin the collection process. He cautioned the professional bondsmen that serious complications loomed for those who did not or could not make good on any bonds. Deputy Clerk Jones, in connection with the investigation said:

“During the administration of a former judge of the police court a list was made in the clerk’s office of the forfeited bonds which had been set aside by the court. It was written on foolscap paper which, when pasted together measured 37 feet in length. Why the list was never made public I do not pretend to say. It was kept in the clerk’s office for a considerable length of time and then destroyed.” 46

Director Farley promised publically that the investigation of court records would be rigorously prosecuted. Police Clerk McConnell said the list of forfeitures found in the archives was of sufficient length to include the tenures of multiple judges, at least from John T. Louge to his successor W.F. Fiedler. Council chose 2 men to be the committee to investigate.

While from the beginning the court clerk said that the records of over 22,000 cases were available for inspection, the committee members, Director Madison and Mr. Lawrence, displayed a lack of interest. The newspapers opined that Lawrence paid no attention to the task at hand, instead concentrating on his personal business. Madison, who had conducted some preliminary interrogations, stated that the task was too large for him to personally investigate every record.

Clerk McConnell had a lengthy discussion with Madison at a city council meeting. He assured Madison that the court books were available at any time they see fit to examine them. He was equally confident that there were no discrepancies. He explained “that every forfeited unpaid bond in his office is for some trivial offense, which has been disposed of. Whenever a bond in a state case was forfeited and not paid within a reasonable time he turned it over to the county commissioners to tend to the collection. Frequently persons are arrested for a
misdemeanor and the bond is given for their appearance. The next morning when they fail to appear, of course their bond is forfeited. They come around later in the day or the next day. They are either found guilty and fined or declared innocent and acquitted. In such cases the forfeiture of the bond is set aside, and that is how so many unpaid forfeited bonds accumulate in his office.” Both Mr. Lawrence and Madison told the papers they have not yet found the time to devote to the matter. The investigation of police court records was yet to begin.

Evidence suggests that the business of the police court had been decreasing yearly and expenses increasing yearly. Fines were no longer building a surplus of funds, and costs of increasing prosecutions are being paid for by general funds. It was thought that the loss of this funding was due to forfeited bonds. Additionally, the decision of the board of control to actually proceed with the investigation rankled some members of the council. When suggestions were made for an appropriation to pay for the inquiry, several councilmen balked. “Why should we do that?” asked Councilman Straus, “the board of control has not consulted us about this matter. They went ahead without regard to us, and now they come and ask us to make an appropriation to carry the thing along.” The newspapers were certain that until council made an appropriation to pay an expert to investigate, nothing much would come of this matter.

Lawrence and Madison early on were combative, staking out territory or merely being petulant. Lawrence was slow to be involved, leading Madison to begin interrogations on his own. He stated that he was not pleased with the narrow focus of the inquiry, saying “I will not consent to the investigation of any one man.” Some members of council sought to limit the years to be investigated, either for expediency or for political interest. Madison insisted that the records to be included would begin with the present year, but would go back as far as the evidence led. But with Lawrence and Madison reportedly too busy to take serious part, the investigation reached a standstill. Without an expert to do the actual investigation, there would be no active investigation. Council was miffed that the Board of Control could instigate the process but require council to fund it. The matter concluded when the interest in the investigation withered by the end of January of 1895. With no funding from council, no hearings were held, no depositions taken. Councilman Barrett made no further issue of the Day case, and Director Farley busied himself with contract and funding problems stemming from the Superior Viaduct project. When the newspaper coverage stopped, the investigation stopped quickly and quietly.

In 1899, an issue came to light involving the payment of state and city fines that called into question the methods and practices employed by Police Court Clerk Abe Honecker. The clerk maintained that his monthly reports were accurate and available to the auditors. After a month-long investigation Auditor Salen reported to city council the violations discovered. Although the investigation was to cover the previous 5 years, the 50 plus page report covered only what was found in the first 8 months of 1899. Among the abuses investigators found:

- Posting the city journal was in violation, lagging behind by at least 1 month, disregarding the required daily posting
- The system of records and bookkeeping was found unsure and inexact, with no index kept and cases not numbered consecutively.
- Bond forfeitures could not be traced without examining the entire docket. Dockets contained numerous erasures.
- Tracking continued cases was a haphazard affair that led to cases misplaced and lost.
- Procedures involving the non-payment of fines were confusing and often at odds with the determinations of the judge and the efforts of the clerk to collect.
Prisoners were often given unlimited time to pay, often making no payment at all. Accounting for who and when fines were paid was problematic.

Reconciliation of the cash bond procedure was inscrutable, plagued by erasures and forfeitures.

The auditor recommended that the system of bookkeeping be revolutionized, with many more checks and balances, and an auditor clerk who would attend court sessions and keep a record of all case dispositions for cross checking later. In response to the allegations, the clerk requested city council appoint an unbiased committee to investigate the allegations made against the conduct of his office. Honecker characterized the auditor’s actions as purely for political effect. Police Court Judge Fiedler was outraged by the auditor’s accusations, accusing the auditor of laboring under the necessity of creating controversy to aid him in his run for mayor. Auditor Salen denied the accusation.

The battleground in the war of words being fought between city hall and the court was the newspapers. They were quite happy it escalated when Mayor Farley chimed in saying, “the Police Court is a travesty of justice, an insult to decency and rotten to the core” and “the report speaks for itself.” Judge Fiedler responded, “Mr. Farley is following his usual tactics in trying to create a sentiment against the police court, so as to divert the attention of the people from his miserably corrupt and incompetent administration.” Assistant Law Director Beacom weighed in on the controversy, declaring that the law was clear it was the duty of the clerk of police court to make detailed reports of the financial operations of his office. Further, he ruled that it was the responsibility of the Auditor to prescribe the forms and methods used for accounting by all offices and departments of the city government.

Adding more controversy to the news, Director of Police Barrett issued an order to Chief of Police Corner forbidding the release of prisoners unless the release papers were signed in ink by both Police Court Judge Fiedler and Clerk Honecker. Both the judge and the clerk questioned Barrett’s authority to dictate the methods employed by the court. Both expressed objections, saying who would sign and what would be signed would not be matters dictated outside the court. Despite Barrett’s orders, Judge Fiedler did not sign release orders. Orders signed by Honecker alone were ordered to be processed until such time as Director Barrett could consult with the law director. The clerk was faster to request a ruling, obtaining from Assistant Law Director Excell affirmation that his signature or that of a deputy was sufficient, if signed in full.

Following that ruling, Auditor Salen sent a directive to Clerk Honecker which dictated changes he suggested in the wording on the release forms, under the guise of clarity. This could have been more interference from the police director or more from the auditor alone, but the coincidence is too remarkable to ignore. City Council, after taking testimony from members of the police court clerk’s office, deemed the investigation conducted by Auditor Salen and his men as a flawed inquest, based on incomplete investigation and flawed by political motivation. An unnamed city official with alleged ties to Auditor Salen told The Plain Dealer that the goal of submitting the critical report to council about the police court inquiry was to generate embarrassing press for the court clerk. Hoping to spoil his re-election bid with adverse press, the unnamed source said in all probability the council probe of the report would return with information that will be favorable to police court officials. Obviously, this scenario was counter to Salen’s aims. The informant claimed that Salen employed a number of detectives who probed some of the figures mentioned in the report, with the dual goal of uncovering embarrassing information and/or persuading some to come forward with claims of misdeeds. The council investigative committee visited police court to examine files which were cited in the Salen report.
for financial discrepancies. The accountants were at a loss to explain why the court files did not coincide with the allegations made in Salen’s report. These were the same investigators who furnished the analysis for the Salen report; the same accountants who now had no explanation for their inability to produce any damaging evidence.

The feud between the police court and the city auditor continued to simmer, with the auditor complaining to city council about being denied access to the court books, and court clerk maintaining that the auditor had no right to access the books on demand. Both sides appealed to council for action. This forced a meeting between Honecker, Salen and Councilman Steuer, and representatives of the municipal association. Honecker told the councilman that his objection was with the near daily interruption of business that the auditor caused by harassing clerks with incessant inspections. Salen maintained the need to be informed of the practices in the court, particularly regarding the cases that, in the auditor’s mind, the judge discharged without proper documentation. Honecker felt this to be an abuse of the auditor’s power. In the end, Steuer concluded that the investigation would be concluded soon and these issues would be addressed when the final report was aired.

Unwilling to allow the matter to settle, Salen went on the offensive in the newspapers. In an article in The Plain Dealer, Salen vowed to force the police court to adopt his bookkeeping methodology and oversight. He intimated the use of mandamus proceedings and if necessary, impeachment of those who refused to cooperate. Within two weeks, Auditor Salen announced that the bickering between his office and the police court has ceased. In his statement, Salen made reference to the bookkeeping system used in the court that inhibits his ability to verify entries in conjunction with specific case numbers. Therefore, he will now concentrate his audits on money totals due to the city and make no effort to correct case discrepancies.

The end of the century did not bring an end to the problems occurring in police court. A scheme by which several thousands of dollars was stolen from the Cuyahoga County treasury through the use of bogus police court vouchers was uncovered. The scam was revealed by attorneys W.T. Clark and J.M. Williams who had been examining the annual report of the county commissioners and reconciling all the vouchers in the county auditor’s office. A grand jury was quickly impaneled when irregularities within the police court voucher books were discovered; the common denominator of the scheme was the same signature of a police court clerk, who was charged in the scheme. At the heart of the scheme was money paid on police court vouchers in hundreds of cases where no witnesses were called. Through the exchange of the vouchers, about $8,000 was siphoned out of the treasury.

Although the grand jury was initiated, news of the discovery leaked out. The investigation continued, with attempts to secure transcripts of trials and tracking the identity of those who presented the vouchers for payment. Examining the vouchers themselves revealed that the cash figures on many had been altered, raised to wrest more money from the till. The scheme seems to have been in effect for several years. The police clerk who was the sole signator on the vouchers was also under indictment for manslaughter. Honecker said there was no means for his office to discover the scheme. He pronounced that it was the responsibility of the auditors to track voucher accounts and verify the use and presence of the witnesses.

Auditors agreed that the full total of funds nicked by the voucher scandal is $7,687, on a total of 143 bogus vouchers. The scheme was traced back, and limited to, vouchers cashed as far back as March 1900. The vouchers in question were all signed by one Tony Deisner, an employee in the court clerk’s office.
The scandal and the resulting investigation had far reaching effects. A number of departments within city government made use of these vouchers for witness compensation. Adding more problems for the investigation was the discovery of missing voucher books from 1899. It was thought the missing volumes had been removed and examined by auditors during the recent city council/city auditor probe of the court clerk bookkeeping. It was the subject of a vigorous search as well as some political posturing. A city council committee formed, charged with the examination of the court voucher scandal. They were to report on their investigation, and suggest new methods to avoid a scandal such as this in the future. The committee was composed of 3 members of council, Howe, Kohl and Hitchens. By special invitation, Judges Fiedler and Kennedy, Clerk Honecker and others were in attendance. Councilman Kohl took the opportunity to state for the record that fraud had obviously taken place, and that council was committed to prevent any such occurrences in the future. He also took the opportunity to criticize Judge Kennedy for his program to waive jail sentences for liquor violations of saloon keepers. He pronounced such methods as worthy of condemnation and not within the authority of a judge to alter such sentences against the public opinion. Judge Kennedy did not specifically engage the councilman in this discussion, preferring to confine his remarks to the acknowledgment that opinions differ upon this subject.

The council committee assigned City Examiner Russell to make a complete audit of the books of the police court clerk, after which he concluded that there could not be a worse system of bookkeeping than that used by police court. Council assigned him the task of creating a new system for use in the court; he indicated that this would not be a difficult task. Councilman Kohl willingly commented to reporters, saying “There is a rottenness in the police court clerk’s office and has been for a long time. I do not think that this is a time for using sugared words. It is time to look things in the face and call a spade a spade.”

Kohl did not mince his words with Clerk Honecker, who told the committee he would be glad to accept a new system for bookkeeping if he thought it was an improvement upon that which was in use. Kohl jumped at the chance to lecture Honecker, saying “It is not for you to say whether it is an improvement or not. It has been shown that your system is wrong, and if this committee sees fit to recommend another system it is not for you to pass upon its merits. You will do well to accept any recommendations that may be made.”

Tony Deisner, the ex-police court assistant clerk who was the root of this scandal, was facing charges of second degree murder in connection with the shooting death of a bartender, as well as the indictments for Forgery, Uttering and Falsely Making Warrants in addition to the inquiry surrounding the missing vouchers. Deisner eventually pled guilty to making false claims and to certifying those claims to the county auditor when he appeared in criminal court. Each of these charges would have carried a sentence of 1 – 10 years in the penitentiary. The other indictments facing him were held in abeyance. (Although originally indicted in the murder of Morris Katz, the charges against Deisner and Charles E. Dalton were dropped 1/23/1903.)

Police were searching for an unnamed individual said to have been Deisner’s accomplice in the voucher cashing scam. Although the phony vouchers were made out to different beneficiaries, the endorsements were all in the same handwriting. Examining all the phony vouchers also revealed 1 which matched a name of an actual witness in a case. Police originally believed the accomplice to be George M. Fox, who was a well-known character in and around Justice, Police and Common Pleas Courts. Although Fox was the only person indicted as an accomplice, other persons of interest, 2 women among as many as 4 others, whose names were
used on vouchers, were possibly implicated. Police were engaged in a search for the alleged accomplices, but they had already fled the jurisdiction.

Judge Kennedy resigned his seat on the police court bench on January 1, 1903. He would begin his term on the Common Pleas Court the following day. His last day on the police court bench was highlighted by the presentation to him of a gold cane by the court employees. This was not the only gift bestowed, as he dealt with his full docket but continued only 4 cases, discharging the rest without fine or workhouse sentence. Attorney George H. Schwan was appointed to fill the vacancy created by the Kennedy resignation. This appointment was made by Governor George K. Nash, and expired immediately after the spring election. Schwan was a former Assistant Police Prosecutor.

Court Clerk Abe Honecker was forced to turn away a number of witnesses in pending trials without their fees because the police court fund was more than $2,000 overdrawn. Without the compensation for appearances, witnesses could refuse to testify and the city could not compel their attendance at trial. It was hoped that the fees could be paid in May when additional funds became available. City council authorized the transfer of $8,500 from the Fire Department Fund to the Police Court Fund. This transfer would allow the court clerk to pay outstanding witness fees and court salaries.

The state legislature had been working on a new municipal code since the late stages of the 1860’s. Urged on by the Ohio Chamber of Commerce and the Ohio Bar Association, what had begun as an honest effort toward municipal reform turned into a complicated exercise in negotiation. In every corner of the state there were factions who supported some or all or none of the proposed bills. Each succeeding edition produced potential problems for some section of local government. Each section of proposed code therefore became a test of wills and political power. This was the slow evolution of the municipal code.

Cleveland’s police court would see its moment of crisis just after the turn of the century. When the code regarding the police court was revised, many interpreters were certain the proposed law eliminated the second police court seat. These analysts predicted that Judge Fielder would be ousted by the new system. Fielder, when asked about the matter said that his attention was drawn to the question some time ago and that he had so far been able to reach no decision on the question of his position. Fielder said he was confident that an official interpretation of the code would sanction the existence of 2 police courts and that his place on the police court bench would last until his term expires. Those who maintained that Fielder would be ousted based their opinion on a list of sections in the old code, which the new one repealed. Among the list is section 154.513, the section which created the additional court. “There is certainly a bad jumble caused by the new municipal code in police court affairs,” said Judge Fielder. “I do not understand yet just what my status is, but from looking over the code, it would seem to me that at the present time there is no police judge at all. The new arrangement places things back under the old system, makes the term of a police judge 2 years instead of 3, and hence it strikes me I am already out of office. Any way you look at it, it is a bad jumble and the solution is hard to see.”

Of the 470 cases disposed of in police court on July 6, 1904, over 50% were for intoxication charges. All but 2 of the prisoners were discharged. This was the heaviest docket in police court history. Both judges were busy all day and they were forced to continue many cases. “Trial by waiver”, where over 150 prisoners charged with intoxication were allowed to sign waivers as soon as they were able to stand, enabled those prisoners to be released.
A question much debated since the adoption of the new municipal code was decided before Judge Phillips of Common Pleas Court. Who had final jurisdiction in misdemeanor cases was an issue that created a great deal of uncertainty in the minds of police court officials. He decided that the police courts were given by virtue of the municipal code. Judge Phillips heard 6 cases which presented the question of jurisdiction. In each, the verdict was the same. In his judgment, the new code which repealed the statute which conferred final jurisdiction to police court in misdemeanor cases, but also re-enacted the same statute at a further point. “Consequently,” Phillips declared, “the police court always had and has still the power to finally adjudicate misdemeanor cases.”

The problems of forfeited bonds, bondsmen and complaints about lax procedures in police court rise again in 1904, this time through accusations by Police Chief Kohler. The county auditor once again delivered forfeited bonds to the county prosecutor, who would attempt to recover approximately $3,800 in bond funds. Once again press coverage of complaints about bonding of criminals, this time from Chief Kohler, called into question the method and necessity of bonding in police court. City Solicitor Newton D. Baker vowed that the city would pursue retribution vigorously.

BEGINNING THE END

The Legal Aid Society of Cleveland was incorporated in May of 1905 for the purpose of furnishing legal assistance for those unable to afford it. They immediately averaged a new case per day, most involving members of the burgeoning population of recent immigrants. The Legal Aid Society would play a pivotal role in the transformation of the local courts that was soon to occur.

In 1905, Police Prosecutor Manuel Levine initiated what would become his one man crusade against the evils of Justices of the Peace. He promised a full and thorough investigation into the conduct of justice courts following the trial of David Zinner, an appointed special constable who was charged with embezzlement. Levine was convinced that the Zinner trial would be the key to a deeper probe into the conduct of justices both in and out of the city. “I intend to show their rottenness and corruption,” Levine stated. “Before I am through I will show up the manner in which fees are charged by constables and reveal to the people of Cleveland the true state of affairs existing in the justices courts. I do not intend to let this matter rest with the Zinner case, no matter what the decision, I will bring as many violators of law to justice as I can.”

Zinner was employed by Joe Mintz to collect $18 on a garnishee from Harry Katz, a contractor employed by Harry Bernstein, the Republican political “Czar” of the 13th and 15th wards. Zinner was successful in getting $10 from Mrs. Bernstein but gave her a receipt in full. Of this sum, $4.05 was set aside as Zinner’s fee and, according to Police Prosecutor Levine, Zinner refused to give Mintz a penny and pocketed the entire amount. According to Levine, after Zinner was arrested, he paid the money over to Justice Fellows. According to testimony at trial, the fees charged by Zinner were far in excess of what was allowed by law. He was found guilty by Acting Judge Selzer, fined $5 and costs, the penalty for the most trivial misdemeanor.
The total amount Zinner claimed as constable fees was $4.05, and the law allowed a fine up to that amount. The prosecutor was pleased with the outcome, the verdict setting a precedent was more important than the amount of the fine.

The trial of Special Constable David Zinner became the first skirmish in the war that was about to be fought by Prosecutor Manuel Levine against the Justice Courts. The evidence of excessive fees and unscrupulous practices revealed in court gave investigators a clear pattern to watch for when examining other justice courts. The Zinner trial disclosed evidence of excessive fees paid to constables. In addition to collecting fees from multiple parties for the same case, Zinner circulated business cards printed “David Zinner, Attorney At Law” and “Law Office”. His explanation, that they were his partners cards with his name on them, when told in court, brought smiles and snickers from the crowd. Zinner was instructed to refrain from circulating such cards, and his case progressed. Zinner was eventually tried and convicted in Judge Fielder’s court of 3 charges of embezzlement. He was sentenced to a fine of $50, costs and 30 days in the workhouse for each offense. He was about to be transported to the workhouse when his attorney, Thomas Robinson, asked Common Pleas Court Judge Kennedy for leave to file a Bill of Exceptions in the case. Kennedy ordered Zinner’s sentence suspended until his petition could be heard.

Zinner jumped bail prior to his hearing. Judge Fielder ordered his bond forfeited and issued a capias for his arrest. It was rumored he was advised to leave town until after the upcoming election. Spending nearly a year as a fugitive, he was captured locally when he returned to visit his family. In August of 1906, Zinner was sent to the workhouse to begin his sentence.

Police Prosecutor Manuel Levine continued his campaign, issuing warrants in June against a Justice of the Peace and a Constable, charging extortion. The complaint in this case was for padding fees and costs, swelling a $20 debt into $85 on a non-itemized bill. When an itemized bill was obtained, items listed were billed in excess of the amounts allowed by law, and totals on each did not agree. The suspects were arrested promptly and both were tried and found guilty. The maximum punishment was a fine of $200 and disqualification from any office of public trust or profit for seven years. When Levine announced that these arrests and convictions were in direct response to public complaints about the practices of justices and constables, he was confident that more victims of justice swindles would come forward following this successful prosecution.

Citizen complaints were the most abundant source of investigative leads, but occasionally a city justice who tired of being the object of public scorn would provide information against an offender. One city squire revealed to prosecutors another method the justice courts used to separate the public from their money. Some justices had appointed special constables, and apparently a few of them banded together over this scam. It worked like this: a complaint was made against a man for assault. A special constable was paid to obtain an arrest. Although no papers were filed, a hearing was supposedly held and a verdict rendered. However, no arrest was ever made, no actual trial held, and no enforceable verdict issued. No one was the wiser until a plaintiff was threatened again by a “convicted” thug. After several inquiries the plaintiff threatened to go to the prosecutor. Although he received a quick refund, it was not quick enough to keep the issue a secret. City auditors theorized that more than $100 a day was illegally taken by justice courts in phantom fines and costs that were never protested or reported to the prosecutor.
In July of 1905, a movement that began locally among a small group of attorneys was being embraced by the local and state bar associations. The legal profession was beginning to rally behind the request of the state legislature to enact a law which would attach to the office of “Justice of the Peace” a requirement of a law degree. At that time, a law degree was not mandatory, and many who held the position had in fact no legal education at all.55

Levine pressed charges against another justice and constable, charging extortion. This charge could be justified for the billing of fees and costs in excess of what was allowed by law. The ensuing investigation revealed that entries in ledgers made by the justice had been altered to coincide with items on invoices furnished to defendants. The items on these invoices which were billed in excess of that allowed by law were denounced by the justice. He placed the blame squarely on the part of the constable. The constable was arrested on a warrant for extortion, for “unlawfully and knowingly demanding and receiving more and greater fees and costs than allowed by law.” He denied the charges. Prosecutor Levine, in concert with City Solicitor Newton D. Baker, discovered another team of justice and constable involved in a similar action and promptly pressed the same charges against them.

On trial for extortion in the first of these prosecutions, the justice made several important admissions under the cross-examination of Prosecutor Levine. He admitted that although he had been a justice of the peace for 5 years, he denied any knowledge of some critical rules governing the procedures required of justice courts. The most staggering revelation was that the justice claimed not to know that his judgments, regarding verdicts, fines and costs were to be recorded at the time of their rendering. He also denied any knowledge of the proper procedures to be followed by constables. When the verdict above was announced, Levine was pleased with the outcome. “I feel well satisfied with the verdict,” he said. “I believe the conviction will have influence and will help us correct other abuses in some of the justice courts.” The justice was sentenced to a fine of $150 and costs, and 20 days in the workhouse. The constable was given a $50 fine, and costs and 20 days in the workhouse. In both cases, the 20 days incarceration was a maximum penalty. When the defense moved for a new trial the judge declared, “I have gone over each fact as presented, and I can find nothing which would justify the granting of this motion.” He added “Justice Courts should, more than any other courts, be absolutely free from any deceit that might deprive the poor of the few cents which they have. No outside justices have any moral right to open offices in the city. If they do so, they should be compelled to close up and do business in their own townships. They bring discredit upon the entire system.”

Prosecutor Levine intimated afterward that he was in possession of evidence against as many as 25 justices and/or constables, and predicted that these 2 convictions would be followed by many more. Verdicts of guilty were rendered in the extortion cases against the remaining justice and constable. The jury deliberated for more than 2 hours before reaching a consensus. The conviction of the justice incurred a fine of $200, and 20 days in the workhouse. The constable was given a $50 fine, and 20 days in the workhouse. After sentencing, both offices were declared vacant under statute, and both were disqualified from any office of public trust or profit for 7 years. Prosecutor Levine said, “We are ready to proceed in other cases we have in prospect. I also believe more people who have been swindled and have kept quiet will now come forward to make complaints.” Councilman Dewar suggested using a councilmanic investigation of justice courts and pressed council to ascertain whether this step would indeed be illegal. City Solicitor Newton D. Baker, when asked about the possibility of such an investigation, felt that such an act would not be legal. After researching his options, he determined that city council had no power to conduct an investigation into the possible crimes of the justice courts. It would
City Solicitor Newton D. Baker lobbied the Cleveland delegation of the state legislature to attempt to rid the state of the Justice Courts. He presented the legislators with a plan to replace justice courts with a municipal court. One of his ideas - reduce the salary of justices, making it so low that no one will accept the office.
someone were to try to devise a means to do the devil’s work, he could invent nothing worse than our police court system.”

Crane denied making the above statement and Fiedler ordered him to appear in court where he would be confronted by the author of the interview. Both were under subpoena to appear. Judge Fiedler resented what he called the affront to the dignity of the court and vowed to reveal the true identity of the author of the commentary.

In December of 1905, the Legal Aid Society began an inquiry into the justice courts to monitor how well the poor are taken care of in court. Their response was to urge a reform and reorganization of the justice system. They favored passage of a bill emphasizing a number of points, including:

- The complete substitution of salaries to replace the fee system, with the salary equal among all magistrates regardless of seniority.
- Random assignment of all cases
- Geographical limitations on justices of the peace to the township from which they were elected.
- Limiting the practice of prosecution to attorneys
- Knowledge of the forms and theories of laws a mandatory qualification of all justices.

Legal aid advisors placed the greatest importance on items 1, 2 and 3 as the most necessary improvements. After an exchange of ideas, their final proposal would include a few adjustments:

- #1 salary provisions would include constables as well as justices.
- #3 was limited to actions of Attachment, Garnishment and Forcible Entry and Detainer.
  Include the repeal the law giving justices the power to appoint special constables.

The society monitors also noted some chronic abuses:

- Warrants had been issued for the arrest of respectable citizens on groundless charges without the least inquiry by the justice into the merits of the charges.
- A large number of collectors and hangers-on had spread over the city, instigating litigation with the knowledge and consent of the justices, who rewarded their efforts by appointing them special constables in cases brought by them into court and allow them exorbitant fees.
- Some of these justices, it was discovered, were financially involved in collection agencies which customarily brought claims into their courts for adjudication.

The offenses charged are not, it should be understood, attributable to all justices, but nonetheless were common occurrences and show the danger to which the community was subjected by this class of officers. Legal Aid investigators discovered that many of the justices currently operating from offices in the city were in fact, residents of Cleveland who had been unsuccessful in standing for election as justice of the peace. Several had in fact, moved temporarily to the outlying townships, and were successfully elected as a justice, and established offices in the city. In this way they had been able to do business as justices in the city. (The Legal Aid Society investigators characterized this machinery of justice as operating for revenue only.)

State legislators from Cuyahoga County wasted no time in January of 1906. The first bill they introduced for the New Year was a combined justice and municipal court bill, the first of its kind. Authored along with the Legal Aid Society, the municipal court feature of the bill had been in draft form under discussion for 2 years previous. The measure would replace the justice
courts with a municipal court, which would work in conjunction with the police court, handling all civil matters involving amounts up to $1,000. This court would be empowered to rule on cases of habeas corpus and divorce suits. This court would be made up of not less than 2 and no more than 8 judges, who would rotate between municipal and police court. It was believed that a strong effort would be necessary to push this bill through. Unfortunately, the uphill battle for this bill proved too steep as this bill did not survive to the voting stage.

Prosecutor Manuel Levine pressed yet another case in the war against justice courts using testimony that another court clerk altered records. In the court of Justice R.T. Morrow, Clerk Sanford admitted that certain records in the case of R.G. Finley, restaurant proprietor, had been changed. The alteration led to charges against Constable George Schaufele, for Extortion and Oppression. The complaint against the constable centered on his insistence to be paid an exorbitant fee, which Finley claimed he was compelled to pay using restaurant receipts. The clerk, in altering the record, sought to hide the extorted fee with figures more typical in such a case. Levine was able to secure the clerks key admission after 2 days on the witness stand.

Meanwhile, William J. Francis, after being found guilty of extortion, decided to cease conducting a Justice of the Peace court. Prosecutor Levine had warned him that he ran the risk of further prosecution by continuing as a justice. It was through his attorney Charles Selzer that he communicated to Levine that he would cease his operation. Francis however, continued to press the appeal of his conviction to Common Pleas Court on a Writ of Error. He remained free on bail, pending his appeal.

In the spring of 1906, the Lamb Bill, which aimed to curtail the abuses within the justice system, passed the state senate and was to be voted on by the house the next week. The 2 main features of the Lamb Bill were amendments to section 583 of the revised statutes of Ohio. At present, justices had the power to issue Attachments, proceed against goods and effects of debtors, and try actions of Forcible Entry and Detention of real property all within the entire county. The Lamb Bill, as written, would eliminate these provisions from the statutes. It was felt that by eliminating these major sources of graft and oppression, many of the complaints about Justices of the Peace and the entire system, would be reduced. The Lamb bill, although not completely effective in eliminating all sources of abuse, was felt to be a good compromise compared to the Metzger Bill, which was more comprehensive and radical in character, but had more opposition. The Legal Aid Society was confident that the passage of the Lamb Bill would be sufficient to discourage justices from outside Cleveland from carrying on their business in Cleveland proper. Prosecutor Levine described the Lamb Bill, pending in the legislature, as getting more than half a loaf.

Convicted Justice of the Peace William Francis could never be accused of being a quitter. He was arrested in April, charged with the Usurpation of Office because of his refusal to cease holding court despite his conviction for extortion, and his promises to cease court operation. Levine had warned Francis he would be arrested if he persisted in holding court, calling his attention to a statute which holds as unfit for office any public officer after being convicted of a felony. Nevertheless, Francis continued to profess his innocence and appeal his conviction. Francis was released on bail furnished by his attorney Charles L. Selzer. Unfortunately for him, the workhouse sentence imposed by Common Pleas Court was upheld.

In May of 1906, city council was reviewing a proposed ordinance which they hoped would go a long way toward solving the problems in the justice courts. A major proportion of the problems plaguing the justice courts were caused by the competition to generate fees, the lion’s share of income for constables. Named the Zinner Ordinance, this law proposed 2
remedies directed at this source of problems. First, the law would provide an assignment clerk whose function would be to distribute cases among the justices on an equitable basis. This would equalize the work of the justices who were already on salary. Second, constables would be placed on straight salary, removing the possibility of any financial windfall from excess fees.

Former Constable David Zinner reappeared in the news. Zinner was paroled from the workhouse, but violated his parole. In September he was returned to the workhouse to serve his remaining sentence. Zinner’s many cases were a stunning example of the oft-voiced complaint regarding the granting of too many continuances in police court, as this defendant had been on the police court docket since May of 1905.

The report for the year 1906 was released early in 1907, reporting that the total number of cases disposed of for the year was 29,471. Of these, 23,295 were city cases, 5,444 were state misdemeanors, 679 were state felonies, and 53 were transferred from justice courts. A total of 2,173 were sent to the workhouse for ordinance violations, 1,075 state prisoners were committed there. These sentences accounted for a total of 80,220 days served. The fines and costs imposed for city cases totaled $39,615.55, and $65,264.50 in fines for state cases. The total paid out for witness and juror fees $14,001.

CLOSING STATEMENT

Following the exposure of and the successful prosecution for the corrupt practices used within the Justice of the Peace courts, the Legal Aid Society began lobbying the state legislature for a municipal court. Their behind the scenes efforts began as early as 1905, planting the seeds of judicial reform into the minds of legislative leadership. These lobbying efforts, coupled with the combined forces of the Legal Aid Society and the city Chamber of Commerce, would bear fruit in the second decade of the 20th century.

In 1906, they helped prepare the first bill designed “to remedy the evils growing out of the Justice Court system.” The provisions of this bill, in addition to instituting limits on justices and altering their jurisdiction, also called for the establishment of a municipal court in all cities. The bill was intended for state-wide application. By the time the bill was introduced to the legislature, it was 1908. This bill in its final form met with strong opposition rallied by Justices of the Peace from all over the state, dooming it to failure. Throughout this skirmish, the Cleveland Bar Association stayed above the fray. While some more vocal members were publicly crying for reform, the organization refrained from involvement. Their action was confined to the occasional published resolution condemning actions of a justice that garnered some publicity. If the bar was less than interested in judicial reform, their apathy was countered by the aggressive demand for reform coming from the Chamber of Commerce/Legal Aid coalition. The combined group was able to channel their efforts in a variety of ways. Some members studied individual cases and justices, documenting actions and results. Others were in constant contact with legislators, functioning as a reminder to the lawmakers that they were determined to keep the cause of a municipal court on the legislative agenda. The Society/Chamber alliance forged close ties with a similarly dedicated group in Chicago, where the desire to establish a municipal court system and spur judicial reform had equally found support.

While lobbying in Columbus continued, the police prosecutors were dealing with problems between their office, the justice courts and the public itself. When a complainant was refused a warrant by prosecutors, they often turned to the justice courts. Prosecutors alleged that there a plaintiff could secure a warrant for a $5 fee, regardless of the merits of the case. The
justice, lacking final jurisdiction, would bind a defendant over to police court. When the case reached there, it was often nolled by prosecutors due to a lack of sufficient cause. Prosecutor George Baer said,

“It is the aim of the prosecutor’s office to try to patch up difference between litigants when there is insufficient cause for arrest. We cannot keep people from going to justice courts and getting warrants, but we can set the defendant free when the case reaches our court. If the case can be patched up out of court with a summons and a little advice, we try to do it. Such a procedure generally saves time, money and can save each party some disgrace.”

Although Prosecutor Levine’s pursuit of justices would continue through 1907, there were fewer opportunities to prosecute. Justices were feeling the pressure of prosecution, and were less willing to take the risks, knowing their political influence was on the wane. Public opinion, fed by complaints in the newspapers, was turning against the justices. In November of 1907, Manuel Levine, the Assistant Police Prosecutor and William H. McGannon, an Assistant County Prosecutor were elected to the police bench. Both had been deeply involved in the prosecution of crooked justices, and swept their way to the court bench on that well-earned wave of popularity.

Every day, at the end of the court session, Judge Fiedler closed the day with music, having done so throughout his police court term. For the first few years, he would sit on the bench in the empty courtroom, and hum a tune to himself. After all, he was well known locally as a singer in maennerchors and saengerbunds. (Traditional German singing societies, locally they date to 1873) In later years, he was joined by a staff member and the music began to feature lyrics. As his time on the bench was drawing to a close, the music featured 4 part harmony, featuring Fiedler as the baritone, Clerk Davidson as alto, Court Officer Lehman as tenor and Bill Halloran rumbling the bass. Their repertoire featured favorites from stage and sanctuary. One night the song might be “In The Shade Of The Old Apple Tree”, the next “Onward Christian Soldiers”. When Halloran suggested the last night’s song might be “Shall Auld Acquaintance Be Forgot?” the judge replied, “No, we’ll sing ‘Say Au Revoir, But Not Goodbye’, I am not out of the game for good.”

The year 1908 showed a big reduction in the number of prisoners sentenced to the workhouse. The total for 1908 was 1,335; that total was less than half the 1907 total of 2,837. Much of the credit for the reduction was being claimed by Police Chief Kohler, whose men were operating under his “Golden Rule” policies. Police refrained from arresting intoxicated persons unless absolutely necessary. First offenders caught in misdemeanors were released with a reprimand and warning. The result was a decrease in arrests from 30,418 in 1907 to 10,085 in 1908.

Fiedler wasn’t going to go quietly. He filed quo warranto proceedings with the Supreme Court of Ohio, hoping to extend his term on the police court bench. They ruled that such a filing must be initiated in Cuyahoga County Common Pleas Court. Unless the lower court issued a restraining order and held a hearing on the points of the case, Judge-elect Levine would take office on January 1st. Fiedler filed his action claiming the law that gave his seat to Levine on January 1 was unconstitutional. His reasoning was that it conflicted with a previous law which placed the end of Fiedler’s term as January 2nd. Fiedler’s windmill tilting was for naught. Manuel Levine and William McGannon took their places on the same bench to begin their terms in Police Court at the New Year’s morning sunrise court. Fiedler made no effort to contest the
seating of the new judges. There were nine celebrants of the old year who lined up to greet the new magistrates, accept their lectures and be discharged.

Throughout the era, laypersons held the offices of Justices of the Peace. Since the city’s founding, Justices of the Peace did not require legal training; the honorary office depended on fees for payment. There had been periodic complaints by Cleveland lawyers about the behavior and lack of expertise of certain Justices of the Peace. These concerns intensified as members of new political groups won election to the office. Ethnic prejudice combined with an emerging sense of legal professionalism to promote reform. An 1886 attempt to professionalize the Justices of the Peace suggested an emerging approach to legal reform that would dominate the bench and bar throughout the era. In 1906 when efforts aimed at creating a municipal court to replace the Justices of the Peace failed, critics secured legislation that abolished the fee system and replaced it with a yearly salary. Supporters hoped the new arrangement would make the office less attractive, reduce the monetary incentives to stir up business, and professionalize the disposition of petty disputes.

In 1908, the Legal Aid Society/Chamber of Commerce coalition once again lobbied the state legislature to take action. The concept they now supported was an amendment to the state constitution to adopt the Illinois plan for courts. This action would limit Justices of the Peace to their elected jurisdiction, and would eliminate city justices entirely. Generally agreed that the bill would be hotly contested, the forces against this change had many allies. Enemies of the bill were varied in their opposition. Some were against as allies of the justices, crying restraint of trade. Other reasons cited were an unwillingness to remove cases from Common Pleas Court jurisdiction, the hesitancy to create yet another bureaucracy, and a reluctance to accept a court system whose concept originated in Illinois and not Ohio.

In 1910, the police court probation system was initiated, with James B. Vining as Probation Officer. Judge Manuel Levine was acknowledged as the leading advocate of the probation department. Levine, as a police prosecutor, sought to create a system that gave a second chance to first offenders. Seeking to encourage the first offender to avoid the temptations of his or her particular crime, another main function of the department was to collect and disburse funds from probationers to their neglected families.

A number of reform initiatives intended to improve the course of justice in the lower courts came to life in Cleveland in 1910. The Chamber of Commerce formed a committee to consult with attorneys and judges and together authored a number of draft bills for both the state legislature and local court consideration. The Chamber, together with the Legal Aid Society, developed the beginnings of the “Public Defender System”, intending to introduce this concept to the police court. Their plan featured an attorney, employed by the city, who would defend all worthy prisoners who could not meet the expense of an attorney.

Their draft of a bill to establish a municipal court was drawn to provide for the election of 4 judges. The jurisdiction of this court would cover all civil actions now going to Justice Courts, as well as those that went to Common Pleas Court. In each case, the dollar amount would cap at $1,000. This court would also handle appeals of cases first tried by Justice Courts and Police Courts. The practice and procedure of this court would mirror that of the Justice Courts in general, and Common Pleas Court when considering an appeal. The bill would require the 4 judges to be residents of the city, practice law for a minimum of 5 years. These judges would draw a salary of $4,500 per year. Their suggested bill would also provide the court with a clerk, deputy clerks, chief bailiff and deputies, and their salaries. The term of the clerk would be 4
years, and for the judges, 2 for 4 years and 2 for 6 years. Should the bill pass, the election would take place in the fall of 1911.

The Municipal Court Bill was introduced to the Ohio General Assembly on February 22nd by State Senator Albert Mendolson. By March, the Senate passed the bill by unanimous vote. The House passed the measure unanimously by the end of April. Compromises agreed upon between legislators provided for 5 judges, 1 chief justice and 4 subordinates, who would assume all cases over which Cleveland justices had jurisdiction. Civil case limit was to be not more than $1,000. On May 24, 1910, the Mendelson Bill became law without the Governor’s signature. The first municipal court created in Ohio would have 5 judges elected in 1911.

Despite any measure of success that the court could offer, Councilman George F. Arnold introduced a resolution before the full council asking for a vote to abolish the position of Police Court Probation Officer. Arnold preferred that the work done by Probation Officer Vining to be performed through the office of the Director of Public Safety, the Parole Officer of Common Pleas Court, or the Probate Court. Arnold thought a better use of Vining’s salary would be to employ 2 additional policemen. With the vote posturing along party lines, Republicans favored the ouster of Vining. Democrats threatened to delay appropriations for everything pending in council should Vining’s position be eliminated. Arnold lost this fight and Vining’s position and Probation’s existence were preserved. At the end of the year, Judges Levine and McGannon officially reappointed Vining to the Probation position. As the only Probation Officer, his caseload hovered constantly around the 300 client level.

The passing of the Municipal Court Bill prompted the first candidate for the Municipal Court of Cleveland to declare his candidacy before the city executives could debate the location of the new court. Milan M. Gallagher, a figure well-known in Cleveland political circles, opened the campaign with the announcement of his candidacy. City officials were gathering suggestions for possible locations, and gathering estimates regarding building size. Highly recommended was the old County Courthouse on the northwest quarter of Public Square. Cuyahoga County Commissioners may have been willing to make this building available as a home for municipal court due to the opening of the new courthouse on Lakeside Avenue.

The new municipal court eliminated the city justice and police courts. However, the term police court would remain in use as a branch of the new court, along with civil branch. The court would be structured with 2 judges assigned to the police court branch and 2 assigned to civil cases. Constables as a title will be replaced by bailiffs who will be appointed by judges. Assistant bailiffs will be selected from civil service lists. Terms of office will be 4 years. In November, the chief justice and two associate judges will be elected for the full terms, while two associate judges will be for 2 year terms initially, so that the elections could be staggered. In March of 1911, The Cleveland Chamber of Commerce submitted a bill for legislative consideration to increase from 5 to 7 the number of judges for the new municipal court. Introduced in the House, it was referred to as the Edwards Bill. The bill would establish the minimum salaries of the elected and appointed positions of the court and clarify the position of the City Solicitor, who would act as prosecuting attorney and would act with authority to appoint assistants. This bill would enable the Chief Justice to appoint a replacement for an associate’s vacancy, and the associates would vote to fill a vacancy of the Chief Justice. This bill created several budgetary problems for Mayor Herman C. Baehr, his staff and City Council. Unsure of how many judgeships to budget for, support staff and courthouse space estimates varied widely. In the end it was decided to allow for the extreme in all personnel estimates. Courthouse space
allotment, the requirements which would be their most difficult consideration, would have to wait for the confirmation of the number of judges.

In April the Edwards Bill passed the House with notable changes. The court clerk position would be by appointment rather than election, and the jurisdictional ceiling of civil matters was increased. The Senate passed the Edwards Bill. The bill as approved by both houses added 2 more seats to the court and increased the monetary jurisdiction to $2,500.

At the end of May, former State Senator Albert Mendolson filed a suit in Common Pleas Court, aiming to have the new Municipal Court Law declared unconstitutional. Mendolson was the sponsor of the original Municipal Court Law, which was replaced by the new law just passed. His contention was that the new law was passed without sufficient members of the assembly present to vote. The suit noted that the state constitution required a 2/3 majority vote of the legislature when a new law was created. The new Municipal Court Law passed with only a vote of 65 members. With 110 members total, 65 unanimous votes was not sufficient to constitute a 2/3 majority. The suit asked for an injunction preventing any primary vote until the legislature could reconvene and pass the measure with sufficient voters present. In early June, Judge Phillips of Common Pleas Court declared the new Municipal Court Law legal. In his decision, Phillips held that the new law was enacted by the 1910 legislature. The changes made by the last legislature were in the form of an amendment, consequently a majority vote was all that was necessary to make the changes.

The 2 year fight by the Chamber of Commerce to reduce the number of Justices of the Peace concluded in July of 1911 when Probate Judge Hadden granted a motion by City Solicitor Baker. By the judge’s decision, the number of city justices was reduced from 5 to 1, effective 1/1/1912. None of the justices opposed the action. As a result, there would be no justice ticket submitted to voters that coming fall. Although the order was to be effective in 1912, the effect would not be felt until 1914. Justices Chapman, Kahatchnick and Morrow would hold their office for the next 2 years, Terrell and Dowling would be the first to go, their jobs eliminated the upcoming January 1. The reduction was viewed as necessary with the upcoming opening of the municipal court, but by law one justice court must remain.

An editorial appeared in The Plain Dealer on August 2, 1911, in anticipation of the establishment of the court:

“DON’T MAKE THIS COURT A REFUGE

The municipal court which is to be established in this city on January 1 largely supersedes the justice courts and entirely supplants the present Police Court. The number of city justices is to be reduced gradually from 5 to 1.

With the abolition of the one court and the practical supplanting of the other should go many of the evils which have arisen in the administration. Such was the ideas in the minds of those who argued for the establishment of the new municipal bench. Such probably is the expectation of the average good citizen who has given the matter any thought.

However, the quality of a court’s work depends more upon the personnel of its judges than it does upon its legal foundation. If the Cleveland municipal court is to accomplish the good planned for it the court must be composed of men of character and ability. That court should not be considered a refuge for pettifoggers or a place of dignified retirement for political pensioners.

If the new municipal court is allowed to fall into the hands of judges of justice court size, it will be a court of that caliber. If the court commands no abler judges than
the old police court had, it will hardly be better than a re-established police court under another name.

The necessity for care and discrimination at the present time rests upon an even more compelling argument. The municipal court is new. There are no precedents to hamper the public selection of competent judges. The opportunity is right for giving the court an auspicious “send off”, of putting it at the start upon a plane of high character and efficiency.

This court personnel will in an important degree be standardized by the selections to be made by primaries and at the polls this fall. The type of judges chosen now will influence the municipal bench for years to come. It is much easier to permit an established court to deteriorate than to strengthen one which has been allowed to decline.

Candidates for the various municipal judgeships are now offering their names for public consideration. Scan these lists. Eliminate the weaklings. Urge some strong men to enter the contest. The salary is enough to command lawyers of ability. Let us not sacrifice this opportunity to establish the new municipal court upon a merit basis.”

At the end of August the final list of candidates for the municipal court vacancies was published. There were 3 entrants in the race for Chief Justice. In an era when there were no constraints on the number of candidates for judge, there were 21 contenders seeking the 4 year terms, while 17 aspirants sought the 2 year terms. There were only 6 nominees seeking the office of Clerk.

The Supreme Court on October 4 supported Ohio Attorney General Hogan when they ruled he was correct when he filed a suit challenging the nomination process for municipal court judge. Hogan’s opinion was that candidates for the new court could not be nominated by petition alone. The local bar associations chose their endorsements despite Hogan’s opinion, against which their membership was unanimous. The ruling would allow the election to be open for all. Although the bar associations predicted complete election chaos, the election process went smoothly, without confusion or protest.

Negotiations between County Commissioners and city officials established the rental terms for the old courthouse on the square at $20,000 per year. The court would occupy the second, third and fourth floors and would also make use of the circuit courtroom on the fifth floor for the Chief Justice. The cost would include heat, lights, janitor, elevator, and telephone service.

At 11 o’clock on the morning of December 31, 1911, Acting Police Judge Lee told Court Officer “Smiling Bill” Halloran to adjourn court. As he had done every day for years, Halloran rapped 3 times on the table, bringing everyone in the courtroom to his feet. After the customary “Hear ye, hear ye, hear ye,” he announced court adjourned.

This was the last time, as the Cleveland Police Court passed out of existence with that adjournment. On January 2, the new Municipal Court of Cleveland replaced the old court. Many connected with the old court were there to see the closing session. Chief Justice elect William McGannon, County Auditor Prestien and County Recorder Paul Schreiner, former court clerk, were there for the closing.

Halloran closed the party, leading the singing of “Auld Lang
Syne” amid the handshakes. Dan Cull and George Baer, each former Police Prosecutors would be the new judges in these rooms when the new court convened. The old court transferred only 18 continued cases from the last docket.

Patrick Loftus, 7606 Home Ct. NE was the last man to be sent to the workhouse from the old court. He was given a sentence of $25, costs and 30 days for neglecting his parents. The last case disposed of was that of Jack Schreiber, 5270 Lorain Ave., who was charged with destroying property. He was discharged.

The new court would open at 9:30 AM on Tuesday, January 2, 1912.
Chapter 1 1800 – 1911 Law Comes to the North Coast

1 A History of Cleveland and Its Environs – The Heart of New Connecticut Volume 1
By Elroy McKendree Avery The Lewis Publishing Company 1918 Page 497
2 The Bench and Bar of Cleveland by James Harrison Kennedy and Wilson M. Day
“The Justices and Their Courts” by W. R. Rose Cleveland Printing and Publishing 1889 Page 59
3 The Cleveland Plain Dealer Historical Newspaper January 17, 1902
4 The Cleveland Plain Dealer Historical Newspaper April 14, 1902
5 The Cleveland Plain Dealer Historical Newspaper November 9, 1902
6 The Cleveland Plain Dealer Historical Newspaper July 30, 1903
7 The Cleveland Plain Dealer Historical Newspaper February 13, 1904
8 The Cleveland Plain Dealer Historical Newspaper February 16, 1904
9 The Cleveland Plain Dealer Historical Newspaper February 24, 1904
10 The Cleveland Plain Dealer Historical Newspaper March 26, 1904
11 The Cleveland Plain Dealer Historical Newspaper April 14, 1905
12 Cleveland - The Making of a City by William Ganson Rose
World Publishing Company 1950 Page 63
13 Cleveland - The Making of a City by William Ganson Rose
World Publishing Company 1950 Page 109
14 Cleveland - The Making of a City by William Ganson Rose
World Publishing Company 1950 Page 149
15 The Cleveland Plain Dealer Historical Newspaper July 23, 1859
16 The Cleveland Plain Dealer Historical Newspaper July 26, 1859
17 The Cleveland Plain Dealer Historical Newspaper May 2, 1860
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19 The Cleveland Plain Dealer Historical Newspaper May 23, 1861
20 The Cleveland Plain Dealer Historical Newspaper March 11, 1879
21 The Cleveland Plain Dealer Historical Newspaper June 3, 1881
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24 The Cleveland Plain Dealer Historical Newspaper September 23, 1885
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Photos and Illustrations

*From: “A History of the City Of Cleveland” by James Harrison Kennedy:

*James Kingsbury originally from The Cleveland Herald 12/20/1847, Norval Jordan artist pg. 56
*Lorenzo Carter pg. 70
*Samuel Huntington pg. 97
Gaylord Block composite photo by Steve Kocevar – twitter.com/sharkyfin5
*Judge John Barr pg. 123 Norval Jordan artist
*Levi Johnson pg. 144
*Moses Cleveland Frontispiece
*First Courthouse and Jail pg. 166
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*Old Central Police Station drawing pg. 397

General Arthur St. Clair sonofthesouth.net
George Hoadley old-picture.com
Newton D. Baker britannica.com/biography
Sherlock j. Andrews findagrave.com
Martin A. Foran Courtesy of Cleveland Memory Project
Judge John C. Hutchins heritagepursuit.com
Aftermath of fire Cleveland Public Library Photographic Collection
Reconstructed Champlain Cleveland Police Museum
8th Precinct Police Station Cleveland Police Museum
Second Champlain Courtesy of Cleveland Memory Project
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