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Court of Domestic Relations of Chicago

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THE COURT OF DOMESTIC RELATIONS OF CHICAGO.[1]

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If the report of the first year of the Domestic Relations Court of Chicago is not an epoch-making document, since the Domestic Relations Courts of Buffalo and of New York City preceded it in this special field, it is at least an epoch-marking report, because neither of those courts has set forth so fully and clearly the work it has been doing. Moreover, the report states so frankly the principles by which the court is actuated in dealing with the problems presented, and makes it so plain that something besides the letter of the law must be taken into account if they are to be adequately handled, that it deserves study by all who are interested in the welfare of society.

For society is founded on the family, and the Domestic Relations Court deals chiefly with those who violate family obligations in such a way that they commit an offense against the public. Out of 2796 cases in which final orders were issued during the year, 2168 consisted of abandonment or non-support of wife or child, contributing to the delinquency or dependency of children, or failure to send them to school; 416 were cases of non-support of illegitimate children, while 212 only grew out of offenses committed directly by the children or others, or by others against children. In our present social life there are many influences which contribute to these offenses. Judge Goodnow is not content to see only so much of this as the narrow space of his court-room reveals, but he has looked before and after at the procession of offenders as they have passed before him, seeking why they have come there, and how other influences can be brought to bear which will make them again good citizens. The report is therefore not simply statistical, though the figures are complete and very intelligently arranged; it shows how closely a chapter in criminology is connected with the fundamental life of modern society.

In 1987 cases out of the 2796, or more than 70%, the offense consisted of non-support of wife or children, or both, sometimes coupled with desertion. While this offense is often aggravating, and seems to deserve the severest punishment, it differs from almost every other in that severe punishment prolongs and makes complete the suffering of those against whom the crime has been committed. The purpose of the judge in such a case should be, not to inflict retributory suffering on the offender, but to secure support for the family.

[1]First Annual Report to April 1, 1912.

While the cases of illegitimate children, which constituted 15% of those disposed of, do not involve the transgression of legal faimly duties, the conditions as to support are similar, implying similar treatment; and it is worthy of notice that in 130 out of the 416 cases in which final orders were issued the parties married.

That the animating purpose of Judge Goodnow is not only to secure support, but also patiently to acquire and maintain such a knowledge of each case as will enable him to remove the causes of the non-support and restore the normal family relations by the use of all means at his command, is the most important feature of the report. Just as the special court itself was set up by Chief Justice Harry Olson under existing law, so Judge Goodnow has employed, in connection with his power to punish or to withhold punishment, such agencies already organized, even though wholly disconnected with the court, as would guide his judgment and support his efforts for the best results. As the Judge says, he has used "every agency in this city that works for the betterment of society and the upbuilding of humanity." Nothing could be more refreshing, nothing more encouraging, nothing more inspiring, than the establishment of this principle. It not only makes the court something more than a piece of retributory machinery, grinding out day by day its human burden for the prisons, but it brings the welfare agencies of the city into close connection with a wise and well-informed judge in each case, and the advantage of this to those whose good intentions are not always supported by full information or equally good judgment is very great.

This method of handling the cases does not indicate any lack of force or decision on the part of the court, for punishment seems to have been inflicted in all instances where the court thought it was needed; but it carries out the purpose of the court to secure, through a better knowledge of the conditions of each case, a "more just and sympathetic treatment of each offender"—not less just because intelligent and sympathetic.

The marshalling of all these agencies in the report so as to give each proper credit indicates that pride of place and power forms no part of Judge Goodnow's make-up, and emphasizes the underlying principle of organized charitable or welfare work—that only by the intelligent co-operation of all such agencies, of which the court thus makes itself in this respect a part, can the best results be secured. Some churches which have refused to adopt this principle may well profit by the court's example.

The actual good accomplished by these methods cannot be measuerd

by the statistics, for much of it was secured without litigation. In 2896 instances, almost half of those which came to the attention of the court, no warrant was issued. Of these 1173 were referred to other agencies for investigation and 430 for assistance, while 247 seem to have been sent to other courts or prosecuting officers; 980 were simply given advice, while in 66 no action was necessary.

In 514 of the 2796 cases disposed of by the court the accused party was not found, and 1110 more were settled or dismissed, leaving 1172 in which sentence was pronounced, of which 72 were sent to the county jail, and 147 to the House of Correction, while 672 were released on their own bond and 101 gave other surety. Five were held to Criminal Court and 175 merely paid a fine. About one-half of those sent to jail went because unable to give bond in cases of illegitimate children. Those sent to the House of Correction were usually released on bond in 30 to 60 days, when ready to support their families. A strict account was kept of these and other orders to pay money for support, and as soon as any man became delinquent an attachment was issued. This was necessary in 399 cases out of the 900 in which orders were made, but in only 38 was it necessary to commit the delinquent to the House of Correction for failure to comply, a very gratifying record.

There is in all this a cumulative influence in repressing evil. An avowed purpose of the court is to give prompt trials, and to inaugurate a system whereby delinquent husbands may be promptly compelled to support their families. This system, so promptly executed, prevents delinquency, and the number of families in which it is effective increases as it becomes better known.

It is a benefit to offenders also, in revealing to them the real nature of their conduct and showing them that it is easier to fulfill their obligations voluntarily than under pressure of punishment. The salutary influences of some of the various agencies, backed up by the power of the court, in reuniting the broken ends of family ties have made happier lives for a number of men who might otherwise have continued to shirk responsibility.

The financial gain to the family, and indirectly to the community which would otherwise have to support them, is large. The report shows that there was collected during the year by the court from men brought before it $36,679.20 for the support of their dependent wives and children; and an examination of the figures discloses a general monthly increase during the year, the total for the last half being almost exactly twice as much as it was for the first half. As Judge Goodnow says: "This monthly increase of amounts paid in does not indicate that aban-

donment, dependency or bastardy is on the increase, but that those who have heretofore suffered in silence are bringing their complaints to the Court of Domestic Relations, where they are afforded relief which heretofore they could not find."

Nor does the table of collections show the full amount realized through the court's work, for in about half the cases the sums are ordered paid directly to the wife or custodian of the child or children, and a careful examination of the orders indicates that during the year "at least $75,000 has gone to the support of women and children that would otherwise have been spent elsewhere while the families were objects of charity."

The economic aspects of this actual addition to the resources of the community ought to make a strong appeal to the people of Chicago. This is not as great a benefit as the moral and social results in the families, but it would be interesting to know what the total cost of the court has been, and how the balance stands financially. The sums collected will apparently still continue to increase.

Looked at from any standpoint it is evident that Judge Goodnow's conscientious work has been excellent, and therefore anything he says as to changes in the law which would facilitate it should be carefully heeded.

The gravamen of the offense in desertion, so far as the community, and often so far as the family, is concerned is non-support, and the law should cover it whether accompanied by desertion or not; in other words, it should apply to desertion *or* non-support, as the laws in most states do. The present Illinois law of 1903 was so written when introduced, but unfortunately it was changed, by accident or design, in its passage so that the offense consists of desertion *and* non-support, and it does not reach the more numerous cases of non-support where the man does not leave the family. Judge Goodnow rightly says that this is the most serious objection to the act, and he wants it amended so as to make non-support of either wife or children a crime.

He also calls attention to the inadequacy of the penalty in the case of illegitimate children, which is limited to $100 for the first year and $50 for nine years more, which is quite incomplete, and leaves a large deficiency for the community to supply in some way for half a dozen or more years after the law has been fully enforced. There is no reason why the obligation to furnish support, where a man's responsibility is clearly established, should not be the same for an illegitimate as for a legitimate child. In Ohio, Nebraska and Wisconsin the non-support law applies to illegitimate as well as to legitimate children. No injus-

tice has resulted from these laws, and the authorities who have had most experience in enforcing them are emphatic in their opinion that a non-support law should include illegitimate children. Some theoretical objections to this have been raised by those who have had no experience, but who are averse to complicating a family desertion and non-support statute with obligations depending on relations originally unlawful; but if not so included the law relating to illegitimate children should require the same support and up to the same age as the the non-support law. The needs of the children are the same, and the community should require the father whose identity is properly established to supply them in the same way.

When a man cannot give bond for his appearance, or cannot make the payments ordered, in the case of an illegitimate child, he must be sent to jail for six months, and 33 men during the year were imprisoned in this way. Judge Goodnow says "this enforced idleness is a crime," because it lowers the man's physical and mental condition, and wants the law changed, as it should be, so the man can be confined in the House of Correction or some place where he can be given regular work.

This statement applies to all imprisonment and especially to that for non-support, where the cause is often a desire to avoid work. Men sentenced for non-support during the year seem to have been confined in the House of Correction where hard labor is part of the punishment, and this no doubt had much to do with the speedy change of heart which made them ready to do their duty if released; but hard labor is not required by the law itself. While this does not make much difference under Judge Goodnow's administration it would strengthen the law to have it require hard labor as an invariable part of the sentence, and also provide that for each day's hard labor performed the dependent family shall receive 40 or 50 cents. In the District of Columbia and Ohio this provision has proved of the greatest advantage in the execution of the law and the conversion of offenders, and the amount paid for such labor has been a gain to the District or county.

As Judge Goodnow says, non-support of wife or children should be an extraditable crime, as it already is when coupled with desertion, which is made a misdemeanor under the law. It would be a mistake to make it a felony to secure extradition, as was done by New York, followed by other states since, for it could not then be handled in Judge Goodnow's court by his efficient methods, which conclusively demonstrate the unwisdom of indulging in undue severity in such cases.

In this connection it seems proper to state that although Illinois

was at the time extraditing deserters who had fled to other states on the charge of misdemeanor people in New York assumed that it was necessary to raise the offense to felony in 1905 in order to secure extradition, and some of them still maintain that it was by doing this that subsequent extraditions were made possible; but the record shows that Illinois in the five years from 1906 to 1910 inclusive, going quietly on under the existing law, brought back 128 deserters on the charge of misdemeanor, while New York, with a population more than 60% larger, brought back only 122 under its felony law, which makes the proportion of such extraditions as related to population 80% greater in Illinois than in New York.

Offenders brought back to New York City under this law must be tried in the Court of General Sessions. One of them extradited from St. Louis a little more than a year ago was confronted in court by his wife and little daughter, and in beginning the evidence it appeared that he had not answered a letter the child had written him. This made the judge so indignant that he refused to let the man say a thing in explanation and at once fined him $1000, the money to go to the family, and sent him to the penitentiary for a year or two. This prompt action of the judge was fully reported in the newspapers, and seemed as commendable as some of the apt judgments of the cadis in the good old days of Haroun al Raschid; but inquiry several weeks afterwards revealed the fact that not one cent of the fine had been paid, and also that not one cent of seven such fines of $1000 each, imposed in the same court in 1910 under the felony law in addition to imprisonment, had been paid.

The man was under a long imprisonment at the expense of the state, such resources as he had in St. Louis were being dissipated, the family was as destitute as before and no one was any better off. The fault, however, lies not so much with the judge, for most of the offenses for which men are convicted before him deserve severe punishment, as in getting the case into a court which deals mostly with murder, burglary and such crimes; but the contrast with the exhaustive preliminary investigations by Judge Goodnow, and his patient efforts to ascertain all the circumstances in the case in order to follow just the right course, is striking. It need not be said that the Domestic Relations Courts in New York City do not employ such methods as the judge refererd to, and it is quite unfortunate that they are not given jurisdiction of non-support of wife or child as misdemeanor, so that they could secure extradition and handle the cases in the wisest way.

A National Desertion Bureau has been for some time maintained by the United Hebrew Charities of New York, and if an agency for

finding delinquent husbands is established, as the report suggests, it may well be in connection with that, or closely related to it; and the law should also contain a provision that when, in the judgment of the Court of Domestic Relations, it is desirable to bring a deserter back from another state, the County Commissioners shall furnish the necessary funds. A law of 1907 in Indiana contains this excellent provision.

The cost of extradition in New York City has averaged about $100 in each case, including quite a number from Chicago and some from San Francisco. The cost in Chicago, more centrally located, would probably be much less; but even if it amounts to more than the $2500 or $3000 a year probably required on this basis, the amount ought to be readily furnished if thought worth while by a judge who, by his patient and faithful work is already adding $75,000 a year to the assets of the community.

The law of 1903 might be amended to cover the above amendments and some other minor points of which the judge speaks; but perhaps a better way would be to pass instead the Uniform Law on Non-Support and Desertion recommended by the Commission on Uniform State Laws. This was modeled largely on the Illinois law, with such changes, like the principal one now asked for by Judge Goodnow, as later experience had indicated, and it would not be out of place for Illinois, in bringing its law up to date, to return the compliment by adopting the law of the Commission as such, with such minor modifications as the paying for extradition and requiring hard labor in every case as the Commission has left to be worked out in each state. If it is thought best not to include illegitimate children under it the present law relating to them can be changed so as to make the obligation to furnish support and the method of compelling it the same, as they should be.

The work of a Court of Domestic Relations is of the greatest importance because it deals with the problem of family life, already under a strain because of the high tension at which people of the present day live, and it is to be hoped that the results in those already instituted will lead to the establishment of a similar court in each city large enough to maintain it. In smaller cities the work may be best done in the Juvenile Court, as it is now being done by Judge Taylor in Indianapolis, Judge Addams in Cleveland, though Cleveland might be large enough for a special court, Judge Black in Columbus and Judge DeLacy in Washington. Chicago is better by reason of what Judge Goodnow has accomplished during the last year. It was when the hands of Moses, the ancient law-giver, were supported that the battle was won, and all good citizens of Chicago should support Judge Goodnow in the battle against indolence and vice in which he is doing so much.