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ON THE PUBLIC DEFENDER.

A SYMPOSIUM.

I.

ROBERT FERRARI.²

A committee of the Commonwealth Club of California had the subject of the Public Defender under advisement for some time. At its meeting in March, 1915, it made its report in favor of the office.

Mr. C. S. Tripler as chairman of the Committee on the Public Defender made the following points:

The Public Defender is necessary, because:

1. The poor have to prove their innocence;
2. They are given the third degree;
3. They have to be satisfied with inexperienced or lax appointees of Court;
4. They plead guilty through ignorance, or fear, when they are not guilty; or they plead guilty to a greater offense than they should;
5. "Wise criminals of many priors," on the other hand, plead guilty to a minor offense, and get a light sentence in return;
6. A Public Defender would give a speedy trial;
7. He would give an adequate defense.
8. A Public Defender would not "undermine" the work of the District Attorney, nor secure acquittals regardless of the merits of the case;
9. The disparity between the rich and the poor would be wiped out;
10. Unmeritorious appeals would not be taken when Public Defenders represent most, or all persons;

¹See transaction of the Commonwealth Club of California. March, 1915. Vol. X. No. 2, pages 93-147. The State's Delinquents. San Francisco, California, 1915.

²Member of the New York City Bar. Associate Editor of this JOURNAL.

11. The poor with meritorious cases will be given a chance to appeal;

12. The expense of the administration of the Public Defender office will pay for itself, since there will be a saving in other ways, as in shorter trials, pleas of guilty, shorter waits in jail awaiting trial;

13. But if the expense of the office were as great as that of the Public Prosecutor, the State could well sustain the cost, because of the benefit to the individual, to the law, and to society.

It may be said in comment on the preceding, that the third degree will not necessarily be abolished by the Public Defender. So long as the police department and the law department are separate, there is always danger of conflict and opposition. But if, after the coming of the Public Defender, the defendant is required to take the stand, the temptation to third degree the prisoner is almost gone, though I do not pretend that it is all gone. The police want to make records, too, and they want the honor of a confession—or the advantage of information to be got by the sweat box.

Mr. R. S. Gray moved the adoption of the recommendation of the section.

Mr. A. L. Weil led the discussion, and made the following points:

1. That the Public Defender advocates have not a keen sense of humor in contrast to a convict, he once knew at San Quentin; (they have a keen enough sense of humor to feel keenly Mr. Weil's sally, and to appreciate deeply his compliment).

2. That they "seem imbued with the idea that all the men in the various penitentiaries are innocent." (We have sense of humor enough, and knowledge enough to disclaim any such idea. Whether an individual who can say such a thing, and believe it of advocates of any scheme, has a keen sense of humor, query.)

3. That, therefore, "this notion of a Public Defender is absurd." He contends:

4. That only a "very small proportion of innocent people are ever convicted"; (If advocates of the Public Defender used such loose phraseology they would be immediately called to account. What is a very small proportion? And, furthermore, what has the proportion got to do with it anyway?)

5. That this talk about persons accused of crime making admissions of guilt when they are not guilty is "far fetched": persons do not admit they commit crime. (How shall we prove to those without the experience that people who are not guilty do make false confessions of guilt?)

6. That most people who are accused are guilty, and the guilty should be convicted. (Amen! They should be.)

7. That all trades and professions have clinics in which beginners learn their trade or profession, and that the criminal courts are these clinics in the law profession, and poor people the subject for experimentation. You might as well say that young doctors should not be permitted to work on poor people in the clinics of hospitals. (Young doctors work under the supervision of more experienced men. Inexperienced appointees in criminal courts work under no supervision: they have the full responsibility. But Mr. Weil would be right if he advocated the institution of a similar situation in the criminal courts to that in the hospital. The neophyte should practice under the eye of the master.)

8. That you are not apt to get a "high type of man for a Public Defender." (Why, pray? And why do you not get such a low type for a Public Prosecutor? The opponents of a Public Defender are all agreed that the District Attorney is an angel, although proper inferences from their arguments against the Public Defender would make the District Attorney out to be a devil.)

9. That "it is a very peculiar thing to me that every time a new idea is suggested out pops the salary with it." (We regret that Public Officers should be paid. We share Mr. Weil's distrust of legislatures. The almighty dollar is, no doubt, too prominent in public affairs. But really, with all its drawbacks, we have to attach a salary to the office of Public Defender.)

10. "I am against this idea of the Public Defender chiefly on the ground that everybody seems to be in favor of it." (Would that it were so. But alas! Mr. Weil speaks whereof he knows in the Commonwealth Club's meeting so far, and does not speak of the great world outside. In the meantime, advocates of all popular causes take note.)

Mr. Frank V. Cornish "comes from Alameda County," and he is "in accord with the remarks of the previous speaker." He got a great deal to do from Justice William P. Lawlor, Justice of the Supreme Court (hereafter more fully mentioned). He was assigned to defend a Chinaman whom he asked "What witnesses he had," and was answered: "What witnesses do you want?" He has never had much sympathy with this project of Mr. Gray's, although Mr. Gray is not seeking the job of Public Defender, because most of those who are arrested, and have "no friends to assist them, and no means of defense are very likely to be guilty."

The Public Defender would abolish the condition indicated by the question of the Chinaman, "What witnesses do you want?" The private lawyer, if not for the money involved, then for the pride of success, will resort to subornation of perjury. I've seen it done, even when the "poor, poor man" had no money at all. But there are some cases, to put it moderately, where the poor man is not so poor that he has not twenty-five dollars—a whole fortune to him—which he can part with, and does part with to the lawyer; or the poor man is not so poor that he has not friends who, once the lawyer has been appointed by the Court, will pay the lawyer "a little something" because of inertia, or because they are ignorant of their rights and so believe that the Court's appointee is a high official assigned by a still higher and more dignified and awesome official—the Court. The Public Defender would not dicker. If you don't believe it, consult human nature—and Mr. Weil's keen sense of humor.

Mr. Belshaw now adds his artillery to that of the preceding speakers. Mr. Weil is wrong now, it seems, in thinking everyone is in favor of "it." Every one seems to be against it, except Mr. Tripler and Mr. Gray. Mr. Belshaw is against it because the advocates of the Public Defender "must start out on the premise that the Prosecuting Attorney is absolutely dishonest and unfit for the job", which is absurd. The Public Defender, however, "if he would amount to anything, would want to make a name for himself." Public Defenders, and even prosecuting Attorneys (any contradiction here)? "Want to be in a position to 'pull the leg' of some large corporation, and they want to make a name for themselves. Therefore, it would be in the line of the work of the Public Defender to defeat justice." (And why is it not in line with the work of the Public Prosecutor to defeat justice. What is sauce for the goose is sauce for the gander.) He continues: "There is no need for a Public Defender, for if the District Attorney performs his work as he ought to do, all he has to do is to see that the people in the case have a square deal. It is not his province to persecute, but to prosecute." (To prosecute. Meditate upon that word. Advocates of the Public Defender take note: prove that the District Attorney does not do what he ought to do.)

The President now intervenes. "Do you think the defendant needs any attorney at all?"

Mr. Belshaw: "I think he does, of course * * * When I was a member of the Legislature a number of years ago, he looked 'for the woman'; which means he looked for the salary behind the job, and the fellow that wanted the job. Whenever a bill was introduced

"I always found him backing the bill: it never failed. So I am opposed to this Public Defender proposition."

(Mr. B's reasoning is interesting as showing the kind of argumentation that must be met. It is one of the problems of democracy to educate those whose business it is to think upon a particular line, to think upon various lines leading to legislation upon innumerable subjects. Though grim, the business is not to be neglected. The labor of educators is even more arduous when a legislator is involved.)

Professor A. M. Kidd pounces upon the ex-member of the Legislature, and has no mercy. "Fourteen years in the Legislature," says he, "does not seem to have enlightened the last speaker very much. According to the Senator's notion, the District Attorney, while acting for the people, can also do equal justice to the defendant. How can he?" The question seems to be unanswerable: it is based upon the facts of human nature.

The argument of Mr. Justice Lawlor is the longest: it covers five large pages.

1. The state gets a bad deal, not the individual: "there is more reason for a defender of the public than for a defender of criminals." (Not accurate, is it, when the Judge says "criminals?") The law presumes all arrested persons to be innocent till proved guilty. It is true that the State is at some disadvantages in its struggle with the individual. The safeguards thrown around individuals were established because the individual was formerly at the mercy of a strong State. That strong State is now a thing of the past. We ought to reconsider, and remodel our procedure. But we cannot do it till we have a Public Defender. If we remodeled the procedure before the Public Defender came into existence, the advantages would be all on the side of the State. If we remodeled after the Public Defender was instituted the advantages and disadvantages would be equally divided between the individual and the State.)

2. Very few innocent people are convicted.

3. Neither the rich nor the poor are denied justice.

4. It is "humanly impossible" for a defendant without means to get the same treatment as one with means.

5. A large number of guilty persons escape punishment.

The attitude of mind of the Justice is represented by the following extracts:

"We are really worrying unnecessarily about the justice meted

out to persons accused of crime. We should worry about the treatment given the State."

"I do not believe that individuals charged with crime, whether they be rich or poor, are denied justice."

"An innocent individual might have a broken leg or sustain some other injury to his anatomy, and he might be a good citizen in every way. But would he be placed on the same equal terms with the rich individual who has been injured and is able to command the best talent?"

The fatalism, and the falsity of the last extract is a retarding element in the case of a great many. A dissertation is not necessary in order to prove that there is nothing impossible about an "approximation" to equality between the rich and the poor, if both rich and poor were bound to accept a Public Defender, just as now the rich and poor alike have to accept prosecution by the same officer. There would always be factors, as social, religious, racial, and other influences to be reckoned with, which would tend to disturb the balance; but no one doubts that for all practical purposes, and in the large number of cases, the equilibrium would be perfect. Take the case the Justice mentions of the poor man sustaining a fracture of the leg. The poor man gets, in all but perfection, the same treatment as the rich man. The injured man is brought into the operating room. Who operates? It is not an interne, or an inexperienced surgeon. It is a visiting surgeon. At least it is a surgeon who is skillful, as skillfulness goes. It can be said with truth that in a large number of cases the poor man obtains far better treatment than the rich man, or the moderately rich man. I, as a professional man, may not go to a hospital dispensary, because it is assumed by the authorities—with what show of reasoning I do not know—that I can afford a private physician. Suppose I cannot afford one. I go without treatment. Suppose I can afford one. I go to a mediocre doctor who is not fit to be connected with a hospital. I have to be satisfied with second rate treatment, when the poor can go to the dispensary without fear of refusal. Again, in a large city there is great confusion and little precise knowledge of professional competence. Take the case of a person who has \$50,000. Whom shall he go to? He is just as likely as not to fall in with an idiot.

The fact that a large number of guilty persons escape punishment is an indictment against the present system of private advocacy. Private advocacy makes it possible to cause the acquittal of the guilty. A Public Defender, employed by the State, would serve the State, and the individual, and not the individual alone.

Of course, a judge dispensing justice must sustain a shock to hear that the poor are denied justice. But it is nevertheless true.

Mr. Tripler replies:

1. The "impecunious unfortunate who suffers a broken leg may not have the same surgical attendance as a man of means, but does he not have the best attendance the community can provide?"

2. But the unfortunate accused of crime—what does he have? Police who arrest him, grand juries who indict him, public prosecutors who prosecute him.

3. Does not the Senator (Mr. Belshaw) know that the Public Prosecutor's reputation also depends upon the number of convictions?"

4. We do not say District Attorneys are intentionally convicting innocent men.

5. Neither the Public Prosecutors nor the Judges, nor the juries can decide if there is no one to produce the facts on the other side.

6. We are not advocating the Public Defender for the impecunious. Anyone may have the services of that officer.

The President put the motion to a vote. Fifteen were in favor, fourteen against, about sixteen did not vote. As the number of members in the Club is 1,259, the President announced that the vote was simply an expression of opinion of the members present and voting, and could not commit the Club in any way.

At the suggestion of the Club there has been introduced into the Legislature of California a bill, providing for a Public Defender, which has the following features:

1. The Public Defender must have been a practicing attorney for at least one year preceding the date of his appointment.

2. The Board of Supervisors for any county, or city and county, in the State may appoint a Public Defender.

3. The term of office is two years.

4. The Public Defender may be removed by the Board of Supervisors after a hearing before it, by a vote of four-fifths of the Board, on the grounds of incompetency, neglect of duty, or dishonorable conduct.

5. Compensation is paid by the several counties; and the compensation is graduated according to the size of the population.

6. Upon request of the defendant, or upon order of Court, the Public Defender shall defend in a criminal court any person who is not financially able to employ counsel.

7. The Public Defender may, in his discretion, appeal to a higher Court.

8. The Public Defender shall, upon request, prosecute actions for the collection of wages, or claims for labor of persons not financially able to pay counsel, in cases not exceeding \$100.

9. He shall, also, defend persons in civil cases, in which he believes they are being unjustly harassed.

10. The Public Defender shall report to the Board of Supervisors once a month in writing.

11. The Board of Supervisors may refuse to appoint a successor of a Public Defender.

I have the following suggestions to offer on this bill:

In No. 1. The requirement of experience in the practice of law should be increased.

In No. 2. We have an excellent provision for local option.

No. 6. The phrase, "not financially able to employ counsel" is much better than the phrase, "anyone who makes oath that he is not able to employ counsel." The word of the prisoner should be sufficient. And this provision would also knock the bottom out of an argument used by opponents, that to require an oath as to financial ability is to invite perjury.

No. 8. Whether the same man should act in civil and in criminal cases is a question.

As a basis of discussion to the subject to the Public Defender, the bill is not suitable, since there are two distinct questions involved—perhaps three: one, defense in criminal cases; another, defense in civil cases; and still another, may be, prosecution in civil cases.

II.

HENRY A. FORSTER.³

In opposition to the Public Defender project.

We have in this city (New York) a most efficient Legal Aid Society, supported by voluntary contributions, with charter power in the city to contribute thereto to the extent of \$25,000 per year (Laws 1907, Chap. 680), which power has so far not been exercised.

A statutory Public Defender on the Los Angeles model would be legally bound to give a strenuous and technical defense to each and everyone charged with any crime or misdemeanor who demanded that the Public Defender act as his champion. Is it expedient to champion, at the public expense, every red-handed malefactor, every professional criminal, as well as every violator of the city ordinances the sanitary code, the building code and the tenement house law?

William H. Taft, in his address before the Civic Forum of New York City, on April 28, 1908, said; page 15:

"And, now, what has been the result of the lax administration of criminal law in this country? Criminal statistics are exceedingly difficult to obtain. The number of homicides one can note from the daily newspapers, the number of lynchings and the number of executions, but the number of indictments, convictions, acquittals, or mistrials it is hard to find. Since 1885 in the United States there have been 131,951 murders and homicides, and there have been 2,286 executions. In 1885 the number of murders was 1,808. In 1904 it has increased to 8,482. The number of executions in 1885 was 108. In 1904 it was 116. This startling increase in the number of murders and homicides as compared with the number of executions tells the story. As murder is on the increase, so are all offences of the felony class, and there can be no doubt that they will continue to increase unless the criminal laws are enforced with more certainty, more uniformity, more severity than they now are."

Josiah Strong, *Social Progress* (1906), page 171 (Number of murders and homicides in the U. S. since 1885), gives the statistics referred to by Mr. Taft.

Moorfield Storey, *Reform of Legal Procedure* (195-6) quotes Andrew D. White, as follows: "The murder rate in the United States

³Member of the Bar of New York City, Secretary of the Reform Committee of the City Bar Association of New York City.

is from ten to twenty times greater than the murder rate of the British Empire and other Northwestern European countries."

According to the World Almanac for 1913 (page 309), 1912 (page 338) and 1911 (page 336) title "Statistics of Homicides" 95% of murderers in Germany were convicted as against 13-10% of murderers in the United States convicted. In short, 95% of German murderers are convicted as against 98% of American murderers manumitted, according to the World Almanac.

The Public Defender is called for by the plank in the Socialist National Platform demanding "The free administration of Justice." In Los Angeles during the first ten months of his administration the Public Defender appeared in 352 criminal cases and received 6,715 applications for assistance in civil matters.

Would it be for the public interest to give every person with a fancied grievance, every professional litigant and every sorehead the legal right to the free prosecution of any and every civil action they might care to bring?

Would it be for the public interest to give every person desiring to hinder or delay his creditors the legal right to the free defense of any and every civil action against him?

III.

ABRAM E. ADELMAN.⁴

Mr. Forster seems to assume that the Public Defender would give "a strenuous and technical defense" to persons manifestly guilty of a breach of the criminal law, as by their own admission, or if caught red-handed. Where is the basis for his supposition? As stated in an article on the subject in Vol. IV, No. 5, of this JOURNAL. Pages 663-673, the author believes that in our country generally, and in large centers of population particularly, the routine of the Prosecutor's office results in a condition wherein the guilt rather than the innocence of the poor and needy passing through his office, is assumed. Yet we do not claim that any Prosecutor would attempt to convict a person, either rich or poor, whom he knew or believed to be innocent and even though he had the technical grounds upon which to do so. There is no more reason to suppose that the Public

⁴Member of the Chicago Bar.

Defender would lend himself to the defense—strenuous, technical or otherwise—of persons whom he knew or had reason to believe to be guilty. The public must necessarily vest discretion as to his acts in the Public Defender, just as it does in the State's Attorney. Government cannot exist at all without vesting power and the discretion to use that power in agents. Prosecution for malfeasance in office would lie against the Public Defender, as against the State's Attorney, upon proof of his corruption.

One of the existing conditions creating a real need for the Public Defender is that "every professional criminal, as well as every violator of the City Ordinances, the Sanitary Code, the Building Code and the Tenement House Law," to use Mr. Forster's language, has "a strenuous and technical defense" by hired lawyers; for the law is today a business, and success in the law business, as in any other, depends upon the amount of money the practitioner makes, which in turn depends upon the number of cases he can win. Even granting the argument of Mr. Taft, cited by Mr. Forster, that crime will decrease by the more certain, uniform and severe enforcement of the law, such enforcement will more likely come from a public official who does not get fees from alleged law-breakers for defending them, than at the hands of their privately paid counsel. The present situation discriminates unjustly between those able to hire counsel and thereby obtain a strenuous and technical defense, and the poor and weak, who are grist to the Prosecutor's mill.

It is not just nor logical that voluntary contributors to Legal Aid Societies shall shoulder the burden of legal protection to the poor and weak. The equal protection of the law is a public function, if anything, and society as a whole, if anything, is responsible for the classes which are at present the object of the private charity of Legal Aid societies.

Mr. Forster asks the following questions:

Would it be for the public interest to give every person with a fancied grievance, every professional litigant and every sorehead the legal right to the free prosecution of any and every civil action they might care to bring?

Would it be for the public interest to give every person desiring to hinder or delay his creditors the legal right to the free defense of any and every civil action against him?

We claim that a public paid trial bar could administer even civil law much more justly and efficiently than it is at present administered.

Space forbids a discussion of that proposition here. Mr. Forster is referred to the Symposium on the subject, in Vol. IV, No. 5, of this JOURNAL, pages 650-673.

IV.

J. H. STOLPER.⁵

I have your esteemed letter of June 17th, with enclosures, (your comment in the Tribune of June 4, 1915, and "Public Defender, Walton J. Wood," in the Globe June 14, 1915). While, as I have said to you in your office in New York, I respect your sincerity in this matter, I did not agree with you then, and I cannot possibly agree with you now. There is no question in my mind, that Walton J. Wood is right, and if you will indulge me, here are my reasons.

1. You are against the Public Defender idea for two reasons. First, you claim that in New York in this particular the Legal Aid Society is sufficient. Second, that free justice is socialistic, and in the application of the principle it would have the effect of finally destroying the bar, and you are against socialism in every aspect.

You are mistaken, as it seems to me, in all these propositions. No private agency, not under the direct authority of the State, not acting with all the powers of the State can ever aspire or attain that usefulness, that a Public Defender can attain. He is an officer of the ruling power, he serves the same sovereign, as the Prosecuting Attorney and will receive the same respect from courts and juries as the Prosecuting Attorney, and it goes without saying that he should be just as capable. Armed with all the powers of the State, with the right to administer oaths, he can do what no Legal Aid Society can ever accomplish. He can actually prevent the conviction of the innocent, and he is not compelled to defend the guilty.

2. You are against the Public Defender because free public defense you say will abolish the bar. You are again mistaken for you have in New York public dispensaries where all who need can go and get medical treatment free, yet there are still private doctors practicing in New York.

⁵Member of the Bar of Tennessee and Oklahoma. Muskogee, Okla. This communication is a copy of a letter dated June 22, 1915, and addressed by Mr. Stolper to Mr. Forster. It is published here with the approval of the correspondents.

3. Why are you against free justice? Free justice does not mean free legal services. If the State can force the helpless to come into court, it should at least give him a fair degree of protection when he is in court. Do you know that while each constitution guarantees free justice, justice is the most expensive luxury, for only the rich can indulge in it. It takes money to go to court. As far as socialism goes, if public defense is socialism, so is municipal water works, police protection, city lighting of streets, etc. I am not afraid of where the source of an idea or principle originates so long as it works for the greatest good of the greatest number as the Public Defender does.

V.

REPLY BY HENRY A. FORSTER.⁶

In reply to your letter of June 22, 1915, upholding the socialistic "free administration of justice" (National Socialist platform 1912), type of Public Defender now existing in Los Angeles, I beg to say:

Has any other nation constitutional provisions, which its courts of last resort characterize as "a shelter to the guilty," which "has no place in the jurisprudence of civilized and free countries outside the domain of the common law, and is nowhere observed among our own people in the search for truth outside the administration of the law" (*Twining v. New Jersey*, 211 U. S. 91, 113), or as "the privilege of crime" (*State v. Wentworth*, 65 Maine, 241)?

(See quotation from former President Taft in Mr. Forster's letter above and the reference to Josiah Strong, Moorfield Storey, and the World Almanac.)

The Chicago Tribune for December 31, 1914 (page 22), gives the number of homicides in the United States in 1914 as 8,251, and the number of executions in 1914 as 74; of which 72 were for murder and 2 for another felony.

According to the Judicial Statistics, England and Wales, 1913 (Part 1—Criminal Statistics, Table D, page 18), there were reported to the police of England and Wales during the year 1913, 111 murders of persons aged more than one year and 67 murders of infants of one year or less. The cause of the difference between 178 reported

⁶A copy of Mr. Forster's reply to Mr. Stolper under date of June 25, 1915.

murders in England and Wales in 1913 and 8,251 reported murders in the United States during 1914, and a similar difference as to the number of murders and other crimes between Germany and the United States, is that Germany and England punish their murderers and criminals, while we manumit our murderers and enlarge our other criminals.

If public defense in criminal cases is a matter of absolute legal right, it will be the duty of the Public Defender as an advocate to assert every technicality, whether statutory or by technical procedural decisions, which may tend to acquit his guilty client (New York City Bar Association Law Reform Committee Report against Public Defender, pages 19-23).

Frederick L. Hoffman, Life Insurance Statistician of Newark, New Jersey, says ("Homicide Record of American Cities," Spectator, October 22, 1914, page 216):

"The position of the United States in the matter of violent deaths is decidedly deplorable. Every international comparison proves that the homicide rate of the United States is probably the highest for any civilized country in the world."

The articles "Reorganization of the Bar" (4 Journal American Institute of Criminal Law and Criminology, 650-673) and "Reorganization of the Legal Profession" (8 Illinois Law Review, 239-245) frankly assert that the idea of public defense ultimately includes the formation of an official trial bar to be paid solely by the State or Municipality, who are to have the exclusive privilege of trying all cases; that all litigants should be denied their present constitutional right to either select or pay their trial counsel, and their official trial counsel should be selected either by lot or by some public officer, such as a judge, from the official and state paid trial bar (4 Journal American Institute of Criminal Law and Criminology, 654-673; 8 Illinois Law Review, 243-5).

The socialization of the bar, the taking away of the bar's rights as counsellors, and the denial of every litigant's right to either select or pay his trial counsel is unconstitutional (*Ex parte Garland*, 4 Wallace, 333; *Cummings v. Missouri*, 4 Wallace, 277).

To allow a free Public Champion to any and every civil litigant on any claim or defense whatsoever, would be equivalent to legalizing and encouraging general private war or reintroducing the long abolished ancient evil of unlimited trial by combat with free public champions.

Dr. Stolper as Public Defender of Oklahoma made the fine record he did there by resolutely refusing every bad or doubtful case or defense, which "free administration of justice" Public

Defenders would not have the right to do. The records of the Department of Charities and Corrections of Oklahoma show that in the great majority of Dr. Stolper's cases he, as a state-wide prosecutor successfully championed the cause of wronged orphans or legal minors (Indians) against white powers that preyed and who acted as if Indians had no rights that whites were bound to respect.

In short Dr. Stolper, an appointee of the State Department of Charities and Corrections, was really a State wide supplementary prosecutor, with discretionary power to act or refuse to act, on every kind of civil or official delinquents; he went into every county of the State and prosecuted successfully, generally for civil wrongs, but sometimes for official misconduct, many hundreds who otherwise would not have been prosecuted.