blacks was never a large proportion of the Chicago population in this period, the absolute numbers of American blacks in the city increased ten fold from 1870 to 1900, and went from over 30,000 to almost 234,000 between 1900 and 1930.[61] A major race riot occurred in 1919.[62]

Newspapers and the Political and Intellectual Climate of the Times

After the turn of the century, newspapers flourished, announcing the "news," creating the tone for public discourse, and often setting the agenda for reform.[63] Partly because of their financial independence from both business and government, the newspapers were the institutions most likely to expose corruption and graft among public officials. This role continues today.[64]

In Chicago during this period newspapers in literally dozens of languages had wide circulations; they appeared, were bought and sold, and then disappeared or merged.[65] *The Chicago Defender*, the national black American newspaper, was founded in 1905. The Daily

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INST. CRIM. L. & CRIMINOLOGY 622–23 (1920).

[61] ALLAN H. SPEAR, BLACK CHICAGO: THE MAKING OF A NEGRO GHETTO, 1890–1920, at 12 tbl.1 (1967).

[62] *See* WILLIAM M. TUTTLE, JR., RACE RIOT—CHICAGO IN THE RED SUMMER OF 1919 (Univ. of Ill. Press 1996) (1970).

[63] The relationship between the media, in this period newspapers and later radio, the courts and crime was even more tangled than at the turn of this century. These overlapping relationships and the role of individual publishers and reporters in celebrated court cases in the early twentieth century is brilliantly portrayed in J. Anthony Lukas' comprehensive narrative of the legal events, journalistic reporting, and political and social circumstances surrounding a 1904 trial in Boise, Idaho, concerning the murder of a former Idaho governor by mineworkers. The trial was the political sensation of the day. Clarence Darrow represented one of the principal defendants, the mineworker's flamboyant leader "Big Bill" Haywood. Much of the labor history recounted took place in Chicago. Although the trial was set in Boise, Idaho, six New York newspapers had reporters covering the trial, dispatching front page stories for months. *See* LUKAS, *supra* note 14, at 155–200, 632–749. This book is particularly valuable on the history of the union movement, labor politics, and socialism, in addition to providing a detailed, powerful narrative of a sensational trial of the period and the role played by the press, the lawyers and the principals in the law and politics of the day.

[64] *See, e.g.*, Ken Armstrong *et.al.*, *Cops and Confessions—Coercive and Illegal Tactics Torpedo Scores of Cook County Murder Cases*, CHI.TRIB., Dec. 16, 2001 at 1; Ken Armstrong & Maurice Possley, *The Verdict: Dishonor*, CHI. TRIB., Jan. 10, 1999 at 1.

[65] Chicago newspapers changed hands, changed names, made money, lost money, and kept publishing. "*Chicago Herald* [daily] (established 1881; followed *Chicago Daily Telegraph* 1878–1881; published as *Chicago Herald*, 1881–1895; as *Chicago Times–Herald* 1895–1901; as *Chicago Record–Herald* 1901–1914; as *Chicago Record–Herald & Inter Ocean* 1914; as *Chicago Record–Herald* 1914–1918. In 1918 combined with *Chicago Examiner* to form *Chicago Herald and Examiner*.)" BONNER, *supra* note 28, at 303.

News and the Chicago Tribune both published throughout most of this period, as did dozens of other papers in English and many, many other languages.[66]

Newspaper accounts of cases, especially criminal cases, and most of all sensational murders,[67] were important then, as now, in spearheading political campaigns, especially campaigns for State's Attorney, the chief prosecutor. Reports of summations at trial and testimony by colorful witnesses were front page news. Mesmerizing speakers such as the legendary Clarence Darrow [68] commanded large paying audiences in public halls and filled courtrooms with spectators and reporters.[69] The law and accounts of sensational cases were very

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[66] In 1888 when the *Chicago Daily News* was sold for $350,000 its circulation was more than 200,000. MICHAEL EMERY & EDWIN EMERY, THE PRESS AND AMERICA: AN INTERPRETIVE HISTORY OF THE MASS MEDIA 165 (1992). "The years 1910 to 1914 mark the high point of the numbers of newspapers published in the United States." *Id.* at 289. Chicago in 1902 had four morning newspaper and four afternoon papers, not counting the many, many ethnic newspapers in languages other than English, or *The Defender* and the *Broad–Axe*, the papers serving the black community. *Id.* at 292. Papers came and went so frequently it was hard to keep track of them.

[67] Newspapers reported murders and police activities as a staple of the news. Front page coverage of murder trials regularly included journalists' transcriptions of trial testimony. Clarence Darrow's presentations to the jury lasted hours in packed courtrooms and were transcribed and reprinted as news. Clarence Darrow's plea for the lives of Leopold and Loeb has been reprinted many times and is available in ARTHUR WEINBERG, ATTORNEY FOR THE DAMNED (1957). The case and its impact is described in GILBERT GEIS & LEIGH B. BIENEN, CRIMES OF THE CENTURY (1998).

[68] Clarence Darrow's dramatic style of courtroom presentation in the Boise, Idaho trial is described as follows:

> His eyes raised incredulously toward the ceiling, he confided: "Gentlemen, I sometimes think I am dreaming in this case. I sometimes wonder whether . . . here in Idaho or anywhere in the country, a man can be placed on trial and lawyers seriously ask to take away the life of a human being upon the testimony of Harry Orchard [the cooperating State witness] . . . . Need I come here from Chicago to defend the honor of your state?" . . . .

LUKAS, *supra* note 14, at 708.

[69] Lukas further explains,

> No admirer of Darrow, Crane of the *Statesman* was impressed at how "physical" his performance was. The attorney, he said, "brings into action every muscle of his body in emphasizing his sentences. He waves his hands. He shrugs his shoulders; he wags and nods and tosses his head about. He bends his knees and he twists his body. And his contortions, if he were not so serious about them, would be almost as interesting as what he says." Oscar King Davis [a well known reporter for *The New York Times* covering the trial in Idaho] admired Darrow's oratorical skills, the "complete submission of a great part of his audience to his mood," so that when he "moved himself to tears . . . half the courtroom wept with him." He was "a master of invective, vituperation, denunciative, humor, pathos and all the other arts of the orator, except argument."

Id.

much a part of popular culture, as they are today.[70]

Political speeches and public oratory on issues such as the single tax, or the gold standard, or various aspects of socialism or unionization, the eight hour day, were both entertainment and public education for civic minded adults, many of whom had no other formal education. Politicians, advocates, reformers, religious figures, temperance leaders, and all sorts of advocates and political activists hired halls and large audiences attended debates.[71]

Without electronic communications, phones or cell phones, faxes, the Internet, e–mail, television or movies, for most of the period, newspapers, public appearances and the physical presence and transportation of individuals had a different meaning and greater importance. The arrivals and departures of politicians, labor leaders,

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[70] The musical *Chicago* seems to have accurately characterized the disposition of homicides involving spouses. Discrepancies between the acquittal rate for white and black women who killed their husbands reported in the research of Jeffrey Adler support the theme of the musical: that "good looking" white women "get off" when they kill their husbands or lovers. *See* Jeffrey S. Adler, *"I Loved Joe, but I Had to Shoot Him": Homicide by Women in Turn–of–the–Century Chicago*, 92 J. CRIM. L. & CRIMINOLOGY 867 (2002) (forthcoming in this volume). The play *Chicago* premiered in New York City in 1926 and was turned into a successful movie in 1928, and into another movie starring Ginger Rogers, THE ROXIE HART, (Trimark 1942). The play and the musical both present Chicago as a place where judges and juries can be manipulated by the press or bought by defense attorneys. Pretty women who present a sob story which is reported sympathetically in the press can be acquitted. The author of the original play, Maurine Watkins, was a newspaper reporter in the 1920's who wrote popular, ironic accounts of murder cases for the *Chicago Tribune*. She became known for writing sensationalized newspaper accounts of homicides by attractive white middle class women who killed their husbands and lovers, women who were acquitted after their crimes were recharacterized by Watkins in popular newspaper stories. Watkins subsequently wrote feature stories for the *Chicago Tribune* about the Leopold and Loeb case, before moving to New York and entering George Pierce Baker's playwrighting class at the newly formed Yale School of Drama. Background about the play and its author, the text of the play and the performance history of the musical *Chicago* can be found in MAURINE WATKINS, Chicago: WITH THE CHICAGO TRIBUNE ARTICLES THAT INSPIRED IT (S. Ill. Univ. Press 1997)(1927). The musical was recently revived in New York and as a road production.

[71] In 1913 after Clarence Darrow's legal reputation was tarnished by a prosecution for jury tampering in California which went on for two years, the lawyer returned to Chicago and went to make a living as a lecturer:

> There was only one way he could earn his living now, from lecturing. If his troubles would keep away audiences as they had law clients he would indeed be in a bad way. Determined to make a quick test of his standing, he arranged with one of the Chicago lecture managers to engage the Garrick Theater for a lecture on Nietzsche. The Chautauqua managers of the Midwest had always liked him and found him a good drawing card . . . ['Several thousand' people attended the lecture at the Garrick theater.] as a result of which the Chautauqua managers drew up a schedule for forty appearances....

IRVING STONE, CLARENCE DARROW FOR THE DEFENSE 345–46 (1941).

famous criminals, lawyers, celebrities, Presidents and Senators, family members and ordinary people were eagerly anticipated and reported as news.

Newspapers could be highly profitable and were often at the forefront of civic efforts for political and legal reform.[72] Then as now, political corruption was almost as popular with newspaper readers as sensational murders. Newspapers published extensive exposes of both police and political corruption and regularly criticized the mayor, the aldermen, prominent public figures and the city government. Newspapers played an important role in publicizing conditions leading to strikes and other civilian demonstration.[73] Yet the control of the city remained firmly in the hands of the aldermen, the mayor, and the ward bosses who controlled the elections.[74] The influence of those who benefitted from profitable illegal enterprises continued.[75]

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[72] For example, the expose of graft and corruption in the Chicago courts by Judge M. L. McKinley, a former Chief Justice of the Criminal Court of Court County in 1922–23, *Crime and the Civic Cancer—Graft* was originally published in the *Chicago Daily News* in 1923. Judge M. L. McKinley, *Crime and the Civic Cancer—Graft*, CHI. DAILY NEWS (1923). The Judge himself commented: "Usually the lid lifting [on civil corruption] is done by a newspaper big enough and brave enough to risk public indifference and official connivance with vice, graft and crime." *Id.* at 4. The role of newspaper in civic reform continues today. And see the role played by journalists and journalism students in the release from prison of Anthony Porter, who spent sixteen years on death row in Illinois for a crime of which he was innocent, due in part to the intervention of Northwestern University journalism students and their teacher, Professor David Protess of the Medill School of Journalism. Pam Belluck, *Convict Freed After 16 Years on Death Row*, N.Y. TIMES, Feb. 6, 1999, at A6. And of course the Medill School of Journalism is named after Joseph Medill, who became Mayor of Chicago after the Chicago fire.

[73] See, *e.g.*, the role played by the *Chicago Times* in the reporting of conditions and discontent prior to and surrounding the Pullman strike: "'Great destitution and suffering prevails in Pullman,' the *Chicago Times* declared in early December of 1893, contending that the 'sullen gloom,' that 'envelope[d] the whole town' was born not much of poverty but 'of bitterness and a feeling of resentment at what is openly called the slavery imposed by the conditions of employment by the Pullman company.'" CARL SMITH, URBAN DISORDER AND THE SHAPE OF BELIEF 234 (1995). See *id.* at 232–46 for a surrounding description of the events leading up to the Pullman strike.

[74] Milton Rakove writes

> As early as the 1890's Irish dominance in the city council manifested itself. Of the 28 most influential aldermen during that decade, 24 were Irish. Of the 104 aldermen in the council from 1908 to 1910, nearly one-third were Irish. In 1926 although they were outnumbered by all the other major ethnic groups in the city, 33 of the Democratic city ward committeemen on the party's governing central committee were Irish, and the Irish held a similarly disproportionate share of the patronage jobs.

RAKOVE, *supra* note 16, at 33–34 (1975).

[75] Mark Haller explains,

> Crime has had enduring ties with urban political factions, played a crucial part in the

Political power was not easily wrested from these groups.[76] And the money continued to pass through the hands of the politicians.[77]

Labor Issues, Civil and Political Unrest, and the Role of the Courts

The rights of laborers, the movement for the eight hour day, the threats and the perception of threat from immigration, from domestic and foreign anarchists and communists, syndicalism, socialism and other such topics replaced slavery as the burning public issues of the day. The job of the police was to contain civil unrest.[78] In the Hay-

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social life of ethnic groups struggling upward in the urban slums, been linked to labor and business activities, and made urban life dangerous. . . . Criminal justice involved a working relationship among three groups: officials, such as the police, prosecutors, judges, bailiffs, and probation officers; mediators between the legal system and criminals, such as bail bondsmen, criminal lawyers, fixers, and politicians; and finally, criminals, whose behavior was influenced by contact with enforcement officials. . . . In Chicago criminal activity and the criminal justice system were rooted in the city's ethnic neighborhoods and were means of social mobility for persons of marginal social and economic position in society. As a result, criminals, politicians and enforcement officials often shared experiences and values . . . .

Mark H. Haller, *Urban Crime and Criminal Justice: The Chicago Case*, 57 J. OF AM. HIST. 619, 619–20 (1970).

[76] As Dick Simpson writes,

Even as reform groups organized, machine politics was changing. Roger Sullivan, who led one of the major factions of the Democratic Party at the turn of the century, became Chicago's major political boss after Mike McDonald retired. Sullivan made political corruption into a big business. He personally became a millionaire with a fake gas company, which obtained a city council franchise . . . .

DICK SIMPSON, ROGUES, REBELS, AND RUBBER STAMPS: THE POLITICS OF THE CHICAGO CITY COUNCIL FROM 1863 TO THE PRESENT 52 (2001).

[77] Simpson continues,

The Sullivan machine followed new principles: "The old politician, an independent operator, was content to knock down a little graft to allow businesses to make monopolies and fortunes. The new Machine politician, using the disciplined approach to government, became both politician and businessman. He was the city he did business with the city." Sullivan and his associates, George Brennan and Adolph Sabath, provided bonding for enterprises doing business with the city and gained ownership stakes in construction companies, which were then richly rewarded with city contracts. Despite the success of the Sullivan machine, as the twentieth century began, there remained many, small ward–based political organizations rather than one grand machine with total control . . . .

Id.

[78] Historians are still arguing about the responsibility of the police and the role of the courts in the Anarchist trial which grew out of the Haymarket events. The opinion of the Illinois Supreme Court in the case is 129 pages long, indicating how the court regarded the seriousness of its task of review. Governor John Peter Altgeld, Clarence Darrow's one time law partner, never recovered his political position after pardoning three of the defendants in 1893. When Governor Altgeld pardoned the three convicted anarchists, the announcement of the controversial pardons was accompanied by an 18,000 word document explaining the de-