



When Justice Was Blind In One Eye - George Aiken

For generations, Vermont courts have had a reputation of meting out justice fairly. However, nothing is perfect - not even Vermont court procedure.

When I was Governor of Vermont, from January 1937 until January 1941, I had the authority to grant pardons or paroles to persons convicted of violating Vermont law and who were serving time in our penal institutions, primarily Windsor State Prison.

Since it may be of interest to present day students at the Vermont Law School, I have selected a few cases from the many that came before me for consideration and where some might say there had been a miscarriage of justice

Although an account of the cases I refer to will be found in State and prison records, I will not use the correct names of the people involved. Many persons, including some of our prominent lawyers, will recognize these cases. In fact, there are those in active practice today who called my attention to questionable court decisions which resulted in what some folks thought was a too sympathetic consideration by the Governor a generation ago.

CASE NO. 1

John Doe lived with his family in one of the back towns of Caledonia County. John was a pretty good worker but periodically suffered from bad luck. On such occasions, he would, from necessity, call on the town for assistance. When his

bad luck spell had passed on and he would be at work again, he would repay the town for the help it had given him.

The climax was reached when John broke a leg. Now this was in a period when selectmen were finding it difficult to handle the town's business themselves and the hiring of town managers was becoming a more common practice.

When John broke his leg, he again called on his town for aid. He received the aid and again got orders from the town so that he could get food for his family from a local store. Like everyone else, however, he had a weakness. He liked to smoke. In those days, a person was not supposed to smoke at public expense. John, however, yielded to temptation and, according to the evidence, changed the word "sugar" on his town order to "cigarettes".

The town manager was a tough guy and had John brought into court on a charge of forgery. Although it was generally known that John would reimburse the town for either sugar or cigarettes when he was able to work again, the evidence was plain and he got a stiff sentence in the Windsor State Prison, as provided for by the law.

His friends and neighbors lost little time in appealing to me to let him out since they (and I agreed with them) felt that the punishment was all out of proportion to the

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crime. I let him out of Windsor so he could go home, get work as soon as he was able and repay his town for its assistance.

Who was at fault?

The Legislature that prescribed the penalty?

The Judge who didn't believe in suspended sentences?

The town manager whom many thought had a heart of steel?

Or the Governor?

Anyway, the town manager soon moved on to another job in another locality.

CASE NO. 2

John Doe's brother, Jerry, lived in the Northeast Kingdom of Vermont. It was said that he wandered around the woods and countryside a great deal.

One day, a camp owner discovered his stove was missing. Indications pointed to Jerry as the probable borrower. The evidence was so strong that he was arrested, brought into court and given a good stiff term at Windsor.

The sentence appeared to be all out of proportion to the purloining of a camp stove. Rumors were prevalent to the effect that other items of value had been taken from other homes and camps in the vicinity. Also, that in some cases people had found their gas tanks drawn down. Jerry Doe was a suspect but evidence was lacking for all charges except the camp stove.

Now, it so happened that Jerry had an attractive young family to leave behind, his wife, Cleo, young and goodlooking, and two or three young children.

The case was called to my attention and, upon visiting the home, I found the family as it had been described to me. They needed support. Thereupon, I told Jerry to go home from Windsor Prison and take care of his family. But, when he got home, he also got reports that Cleo had already been well cared for by a fellow named Alfred Lancelot. So well cared for, indeed, that the State's Attorney had both Cleo and Alfred brought into court on a charge of adultery.

Alfred pleaded guilty and was sentenced to a rather long stretch at Windsor. Cleo, however, was made of sterner stuff, pleaded not guilty, and was bound over for trial in county court. Being indigent, a budding young lawyer named Waterman was assigned to defend her.

The irony of it all was that while Alfred was serving his sentence Cleo was found innocent by a jury of men and women, although she had been charged with the same crime, adultery, that Alfred had pleaded guilty to having committed with her.

A few months later, I attended a party for Governor Murphy of New Hampshire in Winchester. Winchester is about 25 miles from my hometown of Putney. It was nearly two a.m. when I ran out of gas about two miles below Putney. The situation was bleak until I saw a truck coming down the hill towards me. I hailed the driver and told him my trouble. He took one look at me, recognized me and said "I would do anything for you." Thereupon, he took a hose out of his tool box and prepared to draw gas out of his own tank. Sure enough, it was Jerry 120 miles from the scene of his disaster the year before.

Question - Who was guilty for this apparent miscarriage of justice?

Jerry who needed a stove?

Cleo who had to look after the kids while Jerry was away?

Alfred who was convicted of being too neighborly?

Or the young attorney who later became a famous Federal Judge?

CASE NO. 3

The hero of this case we will call Peter for he came nearest to being

a Saint while an inmate of Windsor Prison.

It was in the 1920's when illegal liquor transactions were at their height that two eighteen year old boys deserted from the Army. One of the boys was from Massachusetts while Peter came from a Southern State.

After bumming around the country, the two young deserters made connections with a man with a rather questionable reputation in Northern Windham County. This man's reputation may have been shady, but his income was apparently good. So good, in fact, that the boys decided to rob him and go on from there.

Peter was to go to the barn and get the horse and wagon ready for their escape while his partner would go into the house and rob the man. Evidently, a struggle occurred in the house during which the man being robbed was struck and killed.

Both boys were apprehended and brought to trial in Windham County. Things were going badly for the Massachusetts boy and it looked as if he would be found guilty and receive the death penalty. It was then that Peter came forward and told the court that he had struck the blow that killed the victim. According to my recollection, the case was then so confused that it was transferred to Windsor County where both boys received a life sentence.

They had been in Windsor some fifteen years when I became Governor. It came to my attention that Peter was not an ordinary prisoner. Instances were reported to me where he had talked with young prisoners trying to convince them that crime does not pay and they should remember that when released.

Throughout nearly seventeen years Peter would never admit that he did not kill the man. However, the prison doctors solved the situation. They told me that the other man had been operated on twice for stomach ulcers (probably cancer), a third operation was necessary and that the patient could probably not survive. It was then that I paroled them both. The man from Massachusetts went home to die. It was only then that Peter confessed his innocence of the murder charge brought seventeen years earlier.

For the next few years, I heard from Peter frequently telling me what he was doing and where. The last time he wrote from Detroit where he was employed. That was over 25 years ago. The real St. Peter may have called him on.

CASE NO. 4

This case is an example of the part Peter played during his long stay in Windsor.

Charlie Pierce was my right hand aide in the Governor's office. He made periodic visits to the prison where he would talk with the warden and some of the inmates.

One day he reported to me a talk which he had with Peter. It seemed that a 17 year old high school boy, whom we will call John, had been brought into court for stealing some cigarettes and chocolates from a Vermont roadside stand. Since he was 17 years old, the local judge could and did send him to Windsor Prison.

Peter reported to Charlie Pierce that the boy was a good boy - it was not right to keep him in Windsor and couldn't something be done to get him out. I lost no time in telling Charlie to call the Warden and tell him to give this boy a ticket to Montpelier and send him up alone.

John came as directed. Charlie and I took him to lunch with us at the Tavern where we had a good visit with him. He certainly was not the criminal type. I asked him what he wanted to do after being released. He said he wanted to finish high school but not in Vermont. He would go to Connecticut and live with relatives while he was finishing high school. John was naturally

nervous, but made a good impression on us.

Charlie bought him a ticket back to Windsor and we told him to report to the prison - alone. He followed instructions and I directed the Warden to take him home almost the very next day. The Warden told us it was one of the best jobs he ever had to do.

John never did finish high school for within a few days after his release he was struck by a car and killed. The quality of mercy was severely strained.

I have cited only four of the many cases with which I, as Governor, had to deal but I learned there are times when justice seems to see more clearly than at others. □

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