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THE NEED FOR UNIFORM RECIPROCAL CRIMINAL LAWS¹

EDWIN M. ABBOTT

Never in the history of American jurisprudence has there been such need for uniform reciprocal criminal laws. This is not only true as between the various States, but it is just as necessary between the States and the Federal Government.

The increase in serious crimes and the failure to adequately meet conditions brings us to a stand where something drastic must be done.

The appointment of the Federal Commission under the leadership of former Attorney General Wickersham, is the contribution of President Hoover to meet this situation. The Conference of Governors, the Conference of Commissioners on Uniform State Laws, the various Crimes Commissions are agencies through which improvement can be secured.

The Judges of our Courts are sensitive to conditions and criticisms by our trial Judges emphasize day by day the seriousness of modern conflicts and loop-holes by which criminals escape speedy trial and immediate punishment for their offenses. If America is to stamp out crime or reduce it to a minimum, uniform reciprocal laws are necessary as quickly as the legislatures and Congress can enact them.

The ease with which anyone can purchase firearms is a menace to the country. In New York the Sullivan Act requires registration. But this has not solved their problem. It is serious to be found in New York with a weapon in your possession, but it is more precarious to be apprehended committing some heinous offense, which requires firearms for defense and escape. And while purchasing a gun has been made difficult in New York City for the private citizen who desires to protect himself or his home, the desperado easily procures his

¹Read at the meeting of the Section of Criminal Law of the American Bar Association at the Evening Session on Tuesday, October 22, 1929, in the Peabody Hotel, Memphis, Tenn.

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artillery elsewhere. Or, if that is too much trouble, he orders it to be mailed from a jurisdiction which has no regulations or restrictions. In this manner the law is circumscribed by use of postal conveniences.

Every State should have a drastic law regulating the possession and use of firearms and deadly weapons. These laws should be uniform. Each State should co-operate with every other State in enforcing such legislation and in prosecuting criminals of known turpitude who offend these statutes. Then Congress should control the transportation of firearms through the mail and confiscate every weapon not properly registered and declared.

Congress could also help the crime situation in another important way. Statistics show that many grave offenses are committed by unnaturalized foreigners. If this occurs before the immigrant is here five years he can be deported. But this restriction should be removed at once. Any alien who has been here more than five years and has not indicated his intention to become a citizen is an undesirable. Should he transgress our laws, though a resident here twenty years or longer, he should be shipped back to the land of his birth. We have no place for such misfits and should not be called upon to support them at the expense of our taxpayers.

A comity of states should be established in the pursuit of criminals. Where the trail of an offender leads across State lines, the pursuing agent of the law should not be deterred from his chase but should be afforded every privilege of continuing pursuit until the malfactor is apprehended.

Local authorities should co-operate in detaining the prisoner until extradited to the jurisdiction where the crime was committed. The mutual recognition of police authority is a subject of most necessary and immediate legislation.

And the prompt return of criminals to the State demanding them is another important problem requiring reciprocity and co-operation. A uniform extradition law is a recognized need of the hour. Pennsylvania, Utah and a few other States have such a law. All should fall in line. Of course an arrest in a foreign community can be abused and used for blackmail, but each State should recognize the request of the Governor of a sister State for the return of a person wanted for criminal offense, and should every Governor be empowered with the authority to send such a prisoner back, the hope of the felon to escape the consequences of his act by way of legal technicalities and red tape would find little encouragement and speedy punishment for crime would soon follow.

Another subject of immense importance is the establishment of a system of keeping criminal records and statistics in every State. The larger cities today have bureaus where such information is found. But there should be records kept in each Commonwealth that are interchanged regularly with the other States, so that any criminal's record can promptly be ascertained at every point of the compass. This applies to photographs, finger-prints and all other material of identification as well.

The enactment of a law prescribing a life sentence for recidivists is vital. The Baumes Law of New York has not proved to be the solution. The 1929 Act of Pennsylvania is more efficient.

Only just recently Governor Roosevelt pardoned a life termer in New York where his fourth offense was not of the kind, nor were the facts such as required the offender to be permanently segregated from society.

The modified law of Pennsylvania covers modern conditions. It applies to specified offenses of grave moral turpitude and danger to the community, with special application to such crimes as where firearms are used or attempted to be used. This law also specifies that not more than five years shall have elapsed between the third and fourth convictions.

And the inflictions of the life penalty is left to the discretion of the trial judge, who has the opportunity to view the prisoner, consider the facts of the fourth offense and examine his past record.

Such an act as the Pennsylvania Statute is needed in every part of this land and every legislator owes it as his duty to society to see that confirmed criminals are soon secluded behind prison walls and removed permanently from decent society.

Another subject for reciprocal action by the several States is in regulation of moving pictures depicting crime. If the laws governing Boards of Censors for these pictures were made uniform and prohibited the portrayal of the details of crimes which incite and excite the youthful imagination, a step forward would be taken in preventive measures. Where pictures are forbidden in one State on the ground of indecency or criminal degeneracy, the Boards of Censors of all the States should co-operate in eliminating such pictures from the screens in their jurisdiction.

Too much consideration cannot be given to this subject when our legislators meet. Powerful interests will combat such regulations. While we all like mystery stories to regale an idle hour, we do not desire the ways and means of crime revealed to our children so clearly

and minutely as to lead them to imitate the crook in the picture and try to overcome his errors when they reproduce his act in real life.

A uniform act requiring the registration of automobiles would help greatly in reducing crime. Many States now have this system whereby the theft of motor cars has been curtailed. But each State should require every owner of a motor vehicle to register his property. These records should be published and exchanged with other bureaus established for that purpose. Then when crimes are committed with the use of a motor vehicle, the concerted efforts of all legal power can be used to quickly apprehend the culprit. Delays will be minimized and quicker arrests secured.

Uniform laws on pardon and parole are essential. Absolute pardon, except for error and mistake in the conviction of the applicant, should be abolished. Conditional pardons, with proper restrictions governing the future life and habits of the prisoner, would greatly help the situation. But all the States should join in establishing such a system and reciprocate in applying the penalty for broken faith. Parole laws should also be uniform both in form and application. And prisoners granted these privileges in one State should be so registered in every other State in records kept for police purposes.

Today each State has its own criminal code with definitions of crimes so different that it is hard to recognize the status of a prisoner according to his misdeeds.

The grading of crimes into degrees and classes is as numerous as the States. A felony is but a misdemeanor in a sister State, while another specifies similar acts with neither appellation. Grand larceny is but petty larceny across the line and a third State calls every such theft but larceny.

How simplified the practice of law would become both to layman and lawyer if a uniform code were to be formulated. Then he who runs could read and understand readily that robbery in Maine is robbery in California, and that the penalty for murder in South Carolina would be similar to that in Michigan.

So a felony in New York would be the same in the other forty-seven States and upon a fourth offense anywhere, with competent review of the prisoner's record, the sentence of a trial judge would meet the approbation of every good citizen, when such an offender were put behind the bars for life.

The support of the dependents of prisoners is another grave problem requiring reciprocal legislation. Ofttimes a prisoner leaves a family in another State from that in which he is incarcerated. The

support of these dependents is a vital issue. If every State had laws requiring the employment and compensation of prisoners and from such income required a certain amount to be forwarded to the dependents of the convict, and the States had a uniform system of laws covering this entire subject, then a real factor in solving some of these criminal problems would be found.

Uniform reciprocal laws on desertion and non-support could also be placed in the same category. Today a husband and father can abscond in safety into many jurisdictions leaving his family to be supported by the home community. No arm of the law can bring him back to duty and his responsibility must be borne by others. Every State should speedily rectify a condition such as this and provide the proper remedy with adequate laws.

Need I refer here to uniform reciprocal legislation as to the enforcement of the 18th Amendment. Many States have augmented their approval of the 18th Amendment with enforcing legislation. Others have failed to do so. But if enforcement is to be fairly tried the Federal authorities must have concerted support in every quarter.

The attitude of several States is hard to comprehend. New York repealed its State enforcement law and has thrown the entire burden on the Federal authorities. New Jersey has never ratified the 18th Amendment and refuses to assist in enforcing it. And many other States are resisting or nullifying the efforts of law enforcement.

So long as the 18th Amendment remains it is a part of the basic law of the Nation. Each State is a component part of the nation. Every amendment is as much a part of the Constitution as every original article.

The Supreme Court of the United States has said, "By the Constitution a nation was brought into being and that instrument was not merely operative to establish a closer union or league of States" *Kansas v. Colorado*, 206 U. S. 46.

The 13 Colonies ratified the Constitution and created a nation. Forty-six of the forty-eight States adopted the 18th Amendment and assisted to perpetuate the Nation. All are bound by this act. All are expected to honor it.

President Hoover should be supported by every patriotic citizen in upholding the law, and when Federal officers are compelled in the performance of their duty to destroy a few bootleggers we should maintain the same attitude of allegiance as when any other malefactor is removed when opposing law and order.

Whether one believes in prohibition or not is a personal question to be settled by the individual.

The enforcement of law is a public question of serious moment, and should be upheld by all.

With uniform laws and honesty of effort, the test should be made. But until we have unity the truth will not be known. And the truth shall keep us free.