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## Editorials

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## EDITORIALS

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### THE GAMBLER'S CHANCE

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The kidnaping of the Lindbergh baby for ransom offers the occasion and justification for some observations relating to police protection against criminals. The maximum of protection is certainly not to be found necessarily in numbers. One thousand men and one thousand night sticks do not make a police force any more than does the same number of men, each with a rifle, make a regiment of soldiers.

At a time when we are talking, even in our sleep, about the needs of the times let us not put the soft pedal on the need for quick detection and apprehension of criminals. *Query*: If it were generally known that 95% of those who drive an automobile today would have their lives snuffed out upon the highway within the next thirty days, how many would drive today? *Answer*: NONE! But if it were known that only one per cent should make the sacrifice, many would take the chance involved in a spin.

The situation is no different when the police and prospective criminals are concerned. The smaller the chance of escape, the fewer will dare to take it. If that is giving a large place to the generation of fear in the struggle against crime, make the most of it. It is fashionable in some quarters to draw aside the skirt and to pass by on the other side of *fear* as if it were unclean and unworthy of a place in any system of social control or education. But it ought to be more fashionable to regard no natural human impulse or motive as outside the pale. Everything that can be done to attach the emotion of *fear-of-being-caught* to a contemplated criminal act is so much gained. As this attachment becomes sure, attitudes finally develop by reason of which it becomes no longer necessary to appeal to fear.

For these reasons common sense applauds the efforts of Crime Detection Laboratories and Police Schools to develop the arts of detection and to train the police in their application. We have more confidence in what such institutions may do in the long run to combat kidnaping than we have in proposed increases in the weight of penalties, desirable as the latter may be. However, lacking detection, penalties are scraps of paper.

But even the highest order of detection, applying the best that science and scientific method can afford, requires the legislator's cooperation. It is a *federal* offense for a thief to take a stolen car across a state line and the law on this point has already, in its brief

history, been of inestimable value. It should be a crime against federal law also to take a kidnaped person from one state to another. Moreover, kidnaping is such a detestable offense that in our judgment it should be against both federal and state law whether states lines are involved or not. U. S. Senate bill 1525, lately enacted, will take care of the state line situation, and so far it is good. It is no small matter that thus federal marshals are added to the hazard that the kidnaper must face. We repeat that whatever increases the *fear of apprehension* is a measure that we should heartily embrace. In the situation as it now is hardly one-fourth of 285 cases of kidnaping in 502 cities have been finished off by conviction. That leaves good room for the gambler's chance.

ROBERT H. GAULT.

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### THE PRESIDENT'S MESSAGE

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On the last day in February, 1932, President Hoover in a special message, communicated to the Senate and House of Representatives, recommended the strengthening of procedure in the Federal judicial system. He declared that reform in judicial procedure is a "slow process" which cannot be brought about by any single measure but can best be accomplished by dealing with the subject step by step, "the sum of which, in the course of time, will result in definite improvement." His recommendations offer an opportunity for some improvement in the administration of justice and, while they may be expected to reduce crime, they entail no burden upon either the public treasury or litigants. It is to be hoped that the "message" will be given serious consideration by Congress.

The statement is made that in 1931 the number of criminal cases pending in the Federal Courts was materially reduced. In that year 4,000 more criminal cases were disposed of than were commenced. Moreover there has been a steady improvement in the quality of the work of the prosecuting agencies illustrated by the greater percentage of convictions and a lower ratio of acquittals or dismissals. In fact, last year 84.2 per cent of the criminal cases terminated were by verdict and plea of guilty. Along with effective work of the Federal agencies for enforcement of criminal laws there has been an extension of the parole and probation principle. The number of Federal convicts on parole increased from 19,110 at the end of 1928 to 27,871 on June 1, 1931. And during the same period probationers increased from 3,500 to around 12,000. This has relieved an otherwise impossible prison congestion. But President Hoover points out that the

improvements mentioned above have been the *result mainly of improvement in personnel, of administrative effort and reorganization, and not of reforms in judicial procedure.*

Specific reforms are suggested to prevent delays. He advocates the authorization of the Supreme Court of the United States to prescribe uniform rules of practice and procedure in criminal cases for *all proceedings after verdicts* in district courts and for the circuit courts of appeal. His reason for this is that a statutory code of procedure on this subject would not be sufficiently flexible. In addition, the President points out that legislation should be enacted to permit an accused person to waive the requirement of indictment by grand jury where he admits his guilt. Certainly preliminary hearings and grand jury proceedings in such cases cause unnecessary expense and delay. He also states that by law it should be provided that if not less than twelve eligible grand jurors vote for an indictment it should not be invalidated because of the presence of ineligible jurors. Moreover, he suggests the complete overhauling of statutes in force, particularly in the District of Columbia, respecting the qualifications of grand and petit jurymen. Finally, he declares that there should be legislation permitting the Attorney General to forego prosecution of children in the Federal courts and to return them to the State authorities to be dealt with by juvenile courts or other agencies equipped to handle cases involving juvenile delinquents.

These matters require attention and it is certain that legislation embodying the President's suggestions will be welcome. But if the laws are passed the improvement will not be great and there remains a vast number of changes to be secured before the confidence of criminals in their ability to misuse the "provisions of the law intended to assure fair trial" is lessened. But, perhaps, the tactics employed are for the best. Too rapid reform defeats its own ends. And, again, there may be considerable political wisdom in the constant asking for small improvements. Legislative bodies naturally shy at sweeping changes. In view of the statement that the success met by the Federal Government, as compared with the States, in the field of criminal law administration is due to improved personnel and administrative effort, the conclusion of the message is significant. It reads as follows:

"In concluding, may I not say that important as these recommendations are we must all keep before us the thought that effective administration of the law in a republic requires not only adequate and proper machinery, honest and capable officials, but above all a citizenry imbued with a spirit of respect for law."

NEWMAN F. BAKER.