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Abstracts of Current Articles of Particular Interest to Prosecuting Attorneys and Defense Counsel

ble in evidence to support the claim of self-defense, and second, whether a new trial should be granted in the event that the first question was answered in the affirmative. In deciding that evidence of such threats should be admissible in the District of Columbia, the Court laid down the following rule: "When a defendant claims self-defense and there is substantial evidence, though it be only his own testimony, that the deceased attacked him, evidence of uncommunicated threats of the deceased against the defendant is admissible." Concluding that the jury might well have given considerable weight to the evidence of such threat, the court decided that a new trial was in order. It should also be noted that the opinion of the majority stated that "the case emphasizes the necessity of disclosure by the prosecution of evidence that may reasonably be considered admissible and useful to the defense. When there is substantial room for doubt, the prosecution is not to decide for the court what is admissible or for the defense what is useful." In an exceptionally vigorous dissenting opinion Circuit Judge Clark disagreed with the majority as to its interpretation of the mandate of the Supreme Court, its conception of the doctrine of uncommunicated threats, and the wisdom of remanding this case to the District Court for a new trial.

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[With this issue the *Journal* introduces a new feature—a section designed to call to the attention of criminal law practitioners and to students of criminal law generally articles of significance in other legal publications. Abstracts of the articles will be published and information given as to the source of the article and the cost of the publication in which the article appears in full.]

The New Uniform Support of Dependents Act—In what appears to be the only extensive analysis of this significant new legislation to be found in the literature, the May-June issue of the *Illinois Law Review* carries a Comment upon the New Uniform Support of Dependents Act. While the new Act is nominally a civil remedy, its execution will fall largely upon the state's attorney representing deserted state charges. Indeed, the entire relationship of civil and criminal remedies is so interwoven in the interstate desertion problem that every state's attorney and criminal lawyer, as well as the family lawyer, will want to familiarize himself with this latest development.

Carl S. Hawkins, the author of the Comment and presently the Editor-in-Chief of the *Illinois Law Review*, introduces the Act with a discussion of the unprecedented levels to which the family desertion problem has risen with resulting staggering costs to the community. He interprets this as a failure of existing legal methods to meet the problems of multiple state sovereignties in a highly mobilized society. The prohibitive expense of extradition has minimized the practical effectiveness of treating the interstate deserter as a criminal. Doctrines of personal jurisdiction, full faith and credit, and comity have not been broad enough to give the deserted dependent a workable private remedy.

Faced with this problem, twelve state legislatures have approved the new Uniform Support of Dependents Act. The Act employs a novel reciprocal two-state procedure whereby the dependent may institute effective action in her home jurisdiction and never have to leave thereafter. Her complaint will be forwarded to the court in the state where the deserter is found if that state has the reciprocal law. This court, having personal jurisdiction over the deserter, will summon him to appear. Each party submits evidence in his

respective court, subject to deposition rights and written cross-interrogatories, all of the evidence eventually coming before the judge of the second state who will enter the final decree or order. This judgment is enforceable with all of the supervisory power of the second court over the deserter.

The novelty of the procedure may excite some constitutional problems, but the author finds none of them to be insuperable. It is here that the Comment makes its most valuable contribution. Since the procedure is so new and different the lawyer seeking to uphold its constitutionality will be faced at once with a suspicious, if not hostile, attitude from the bench on the one hand and a distressing lack of bibliography and analogy to support his cause on the other hand. The Comment writer has met this difficulty with a good deal more intensive research than the busy practitioner could afford. The resulting argument and conclusions in favor of the Act are impressive and should be acceptable to a receptive court. Three major problems—the use of *ex parte* evidence, whether the courts are performing a judicial function, and whether the Act constitutes an attempted delegation of judicial power outside the state —are raised and considered at length.

The Comment also undertakes passing evaluation of alternative approaches to the problem of family desertion across state lines. A growing minority of states are giving equitable enforcement to foreign support and alimony decrees for reasons of comity. There is considerable agitation for Federal legislation, but proposed bills have been blocked by unfavorable reports from the Justice Department. In the meantime, the new Act is a realistic and imaginative attempt to give practical effect to legal rights of social consequence despite the intervention of multiple state sovereignties. (Copies of the *Illinois Law Review* containing the complete article—Vol. 45, No. 2— may be obtained at a cost of $1.25 by writing to The Illinois Law Review of Northwestern University School of Law, 357 E. Chicago Avenue, Chicago 11, Ill.)

The Parole System in Illinois—In a companion Comment in the May-June issue of the *Illinois Law Review*, Roland Whitman, associate editor of the Review, points out that prior to 1943 most criminals in Illinois were sentenced under an indeterminate sentence law which established only the minimum time before which they could not be paroled and the maximum time beyond which they could not be imprisoned. In 1943 legislation was enacted permitting the trial court to set its own minimum and maximum within those provided by statute for the offense. This power has been widely exercised so as to reduce the spread between minimum and maximum to an extent where the granting of paroles has been sharply curtailed. Moreover, since it is chiefly by lowering the maximum that the reduction has been achieved, prisoners are released earlier than was formerly the case.

Although the actual success of parole, as measured by a lower rate of recidivism among parolees than among other releasees, has not been proven, the alternative of judicially fixed sentences to which this legislation tends is in principle less likely to yield success. The indeterminate sentence is based upon the principle that treatment of the offender is designed to reform, and therefore that the length of imprisonment should vary according to the individual's amenability to treatment. Such amenability is best judged, not in advance of imprisonment, but in terms of the prisoner's actual response. This granted, the conditional release of parole follows both as a means of verifying the prognosis and as an integral part of the entire reformative process.

The above argument suggests that restoration of the pre-1943 system may be insufficient, since the parole board would still be left subject to the statutory minimum and maximum. A completely indeterminate sentence, while not unconstitutional in Illinois, nevertheless may be criticized as increasing the risk to individual rights from an incompetent or unfair parole board. A similar risk has been run in the case of the insane and the sexually psychopathic, however, and with suitable safeguards a wholly indeterminate sentence might well be provided for at least the graver felonies. An important part of these safeguards consists in a broad revision of the administrative structure of parole toward higher standards of parole selection and supervision, as recommended by the numerous investigators of the Illinois system. Such revision is called for even if no more is contemplated than the restoration of the former law. (Copies of the *Illinois Law Review* containing the complete article—Vol. 45, No. 2—may be obtained at a cost of $1.25 by writing to The Illinois Law Review of Northwestern University School of Law, Chicago 11, Ill.)