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CRIMINAL LAW CASE NOTES AND COMMENTS

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DISORGANIZATION OF METROPOLITAN LAW ENFORCEMENT AND SOME PROPOSED SOLUTIONS

(The Illinois Cook County Situation)

Recent investigations by the Kefauver Committee revealed an alarming failure on the part of metropolitan law enforcement agencies to enforce the law. The Committee asserted that this failure was partially due to the organization of law enforcement in metropolitan regions where there usually are "large numbers of city, town, and village police forces which work together or refuse to cooperate as they please."¹

Defects in the law enforcement structure of a representative metropolitan area—Cook County, Illinois, which includes the City of Chicago—have been examined and an analysis has been made of the solutions which may be used in solving the existing problems of such metropolitan communities. The first section of this paper is devoted to setting forth some major defects present in the law enforcement structure of Cook County. The second section deals with a presentation and analysis of several solutions that have been proposed to improve law enforcement in metropolitan areas and the application of these solutions.

I

Within the boundaries of Cook County, there are 954 square miles, 4,508,792 people and over 90 incorporated cities or villages.² Approximately 8,100 law enforcement officers, employed by over 90 law enforcement agencies, operate in this county. The greatest number of policemen perform their functions in the city of Chicago where there is the highest population concentration. Two of the largest forces in Cook County, the Chicago police force with 6,244 men and the Chicago park police force with 782, operate solely within the city limits of Chicago.³ These two forces employ 86% of the policemen and protect 80% of the population. The remaining forces, with 14% of the policemen, are entrusted with protecting 20% of the population and the majority of the area of Cook County.

The ninety police forces of Cook County operate within fixed jurisdictions, differing greatly in area, and with few exceptions⁴ they do little or no en-

1. SEN. REP. NO. 307, 82d Cong., 1st Sess. 27 (1951).

2. Population figures for Chicago and Cook County were obtained from DEPARTMENT OF COMMERCE, 1950 CENSUS OF POPULATION, Series PC-8, No. 12 (1951).

3. These figures were obtained from CHICAGO POLICE DEPARTMENT ANN. REP. 12 (1950) and CHICAGO PARK DISTRICT ANN. REP. 71 (1950). The figure for the park police does not include 8 policewomen and 80 service guards.

4. Several police forces in the suburbs north of Chicago share the same police radio frequency and may pick up each other suburb's radio calls. An interview with a police chief in one of these suburbs on November 16, 1951, disclosed that police in one of these suburbs will enter an adjoining suburb either voluntarily or on request in answer to radio calls.

forcement work outside their own areas. The sheriff, as defined by Illinois statutes,⁵ is the chief law enforcement officer of the county and has power to enforce the law anywhere within the limits of the county. This jurisdiction, in geographical extent, is surpassed only by the State Highway Patrol, which has power to enforce the law anywhere within the State of Illinois.⁶ In practice the Sheriff of Cook County does not exercise this overriding jurisdiction but confines his work to the unincorporated areas.⁷ The ninety police forces in Cook County operate for the most part without coordination of efforts and equipment, and many times without knowledge of what other forces in the county are doing or attempting to do. The combined strength of law enforcement in Cook County is so weakened by the disorganized structure that the process of law enforcement is seriously impeded.

The major defects in the structure of the combined law enforcement agencies are treated under three main divisions: (1) the duplication of efforts and overlapping of jurisdiction, (2) the lack of coordination in the administration of police activities and its effect on law enforcement and (3) the inadequacies within individual forces which affect the total organization.

Duplications and Overappings: The presence of ninety police forces within one county in itself indicates the probability of duplication of efforts in law enforcement. The most obvious duplication exists within Chicago where two independent police forces are operating simultaneously to enforce the law. The Chicago police operate anywhere within the city limits except for the park district areas, while the Park Police operate primarily in the parks and on the boulevards.⁸ The Park Police are concerned mainly with traffic control as evidenced by the fact that four-fifths of the force is made up of traffic policemen. They exercise jurisdiction up to the property line on all park boulevards and within the boundaries of all parks in Chicago. There are over 136 parks and more than 60 streets and boulevards under this jurisdiction, some of the streets extending the full width of Chicago while others are spread over the entire length of the city.⁹ Although the combined area of all the parks and streets protected by the park police is only a fraction of that protected by the city police, the geographical locations of these areas requires the park police to spread their forces over the entire city. This is, in effect, one police force superimposed upon another.

5. ILL. REV. STAT. c. 125, §17 (1951).

6. ILL. REV. STAT. c. 121, §307.16 (1951). This statute appears to grant general law enforcement to the state police. The Illinois Supreme Court has not as yet passed on this statute, however, and some police officials have doubts as to whether the grant is as broad as assumed here.

7. Mr. Michael Walsh, Sheriff of Cook County 1946 to 1950, stated before the Kefauver committee, "My jurisdiction is Cook County. The sheriff here is still the highest law-enforcement officer in the county. However, the sheriff does not exercise jurisdiction in the municipalities, particularly in Chicago. . . . So the sheriff confines himself, so far as police work is concerned, to the unincorporated areas in Cook County." *Hearings before Special Committee to Investigate Organized Crime in Interstate Commerce on S.R. 202*, 81st Cong., 2d Sess., Part 5, 175 (1950). During an interview with personnel in the office of the Sheriff's Chief of Police on November 30, 1951, it was stated that this plan for supervision in unincorporated areas is still in effect.

8. Chicago city police power is provided for under MUNICIPAL CODE OF CHICAGO c. 11-24 (1950). Park police power is granted under ILL. REV. STAT. c. 105, §330a (1951). Although the statute conferring police powers on park policemen does not limit the use of these powers to park areas, an interview with a park police lieutenant on November 14, 1951, disclosed that the park police assume jurisdiction only in the parks and on boulevards under park authority.

9. Facts were obtained during an interview at park police headquarters on November 14, 1951. For an itemized list of parks and boulevards see CHICAGO PARK DISTRICT ANN. REP. 73 (1947).

The dual police system in Chicago gives rise to many types of efforts. A call for police aid from a motorist involved in an accident on a park boulevard will often result in the dispatch of two squad cars to the scene, one from the city police and one from the park police.¹⁰ Any major crime committed within park jurisdiction is investigated by both the park and the city police and park police traffic tickets must be given special handling by the clerk of the court in processing the fine paid by a motorist. Maintaining two separate and independent police forces within the city limits of Chicago requires two distinct organizations, with the necessary duplications of chiefs of police, administrative staffs, complaint rooms, radio broadcasting units, and independent clerical staffs and records sections.¹¹

The participation of two or more forces in a single function of police work which could be adequately handled by one force is also a problem present in the area of Cook County outside of Chicago. The routine process of patrolling a highway within the limits of the county often involves two and at times three agencies; these agencies being the state police, the Sheriff's highway police, and a local police department. The Sheriff and the state police have no specific method or plan of dividing the patrol work and not infrequently both operate a few miles apart.¹² This intensive patrolling of the highways would be commendable if enough men were available to provide such protection to motorists. However, the Sheriff is at the present time insisting that he is badly understaffed and the state police do not have adequate forces to handle all of their problems.¹³ An accident on a highway in Cook County could and has brought three different squad cars to the scene; one state police squad, a squad from the Sheriff's office, and one from a local police force.¹⁴ Thus, two police cars are not available to perform other duties while the accident is being investigated and reports are being filled out by all three squads.

The Sheriff of Cook County has, in practice, assumed jurisdiction over the unincorporated sections of the county. A portion of his time is spent, however, in enforcing the law, particularly laws pertaining to gambling and vice, in incorporated areas where local officials have failed to do so. A former Sheriff of Cook County estimated that fifty percent of the gambling raids made during his tenure in office were conducted within municipalities that main-

10. A normal call for police assistance would be made to the city police number, which is conveniently listed inside the front cover of the Chicago telephone directory. The city police dispatch squad cars by radio. The park police monitor these radio calls and send a squad car when the call involves park territory. Thus, the dispatch of a Chicago squad car would be followed shortly by the dispatch of a park police car.

11. Stated in an interview at the park police administration building on November 14, 1951. The park police headquarters are in the administration building for the park district in Burnham Park while the city police maintain their headquarters at 1121 South State Street. The city police commissioner has his office in City Hall, 121 North LaSalle Street.

12. Interview with personnel at the office of the Sheriff's Chief of Police on November 30, 1951.

13. In 1950 before the Kefauver Committee Sheriff Michael Walsh stated, "Each year before the budget is passed upon, I have requested an additional 100 police officers which I can put on investigative work and help the general work. I have been turned down every year that I have gone in." *Hearings, supra* note 7, at 176. For current demands for more men see Chicago Daily News, November 15, 1951, p. 15, col. 1; November 19, 1951, p. 16, col. 1.

Governor Adlai E. Stevenson has stated that "The State Police of Illinois are undermanned as it is for their normal duties of highway patrol." See News Release from the Office of the Governor, Springfield, for Release in Morning Newspapers of Wednesday, October 24, 1951.

14. One such incident recently occurred on a highway running through the village of Skokie. Facts were stated during an interview at the Sheriff's highway police headquarters on November 30, 1951.

tained their own police forces.¹⁵ This failure by local officials to enforce gambling laws results in the Sheriff's police doing the work that the local police organization could and should do. Flagrant lack of cooperation of this type by local officials has been attacked by the State's Attorney for Cook County. On two separate occasions the State's Attorney secured indictments from grand juries charging nonfeasance in office by two chiefs of police in Cook County but in both cases the officials were found not guilty in the ensuing trials before local juries.¹⁶

Some communities in Cook County rely upon the Sheriff's police for protection during at least a part of the twenty-four hours each day. A number of the communities in this group are too small to support a full time police department while others in this class prefer to pass the burden of protection to the Sheriff. Some of the communities in the county employ policemen for traffic control only and are completely dependent upon the Sheriff for the apprehension of any criminal.¹⁷ The Sheriff's police are saddled with this extra burden and expense of providing protection for these communities and must either duplicate the work done by a small untrained department or handle the entire function of criminal investigation and apprehension alone.

The State's Attorney in Illinois has as a primary function the prosecution of all persons who have violated the laws of the state.¹⁸ In order to aid in the investigation of crime the Chicago Police Commissioner customarily assigns approximately seventy city policemen to the State's Attorney's office in Cook County as investigative agents.¹⁹ This force is generally used as an investigating agency. However, the State's Attorney has used this force to make gambling raids in the rural areas of the county not only to gather evidence but also to enforce gambling laws in those places where the State's Attorney claims that the Sheriff has failed to do so.²⁰ As a result two organizations

15. Interview with Mr. Elmer Michael Walsh, Sheriff of Cook County from 1946 to 1950, on November 2, 1951.

16. The Chiefs of Police of Calumet City and Melrose Park were indicted by a grand jury for nonfeasance in office. See *Hearings, supra*, note 7, at 259.

17. Ninety-two incorporated areas in Cook County not including Chicago maintained police departments in strengths as follows:

| No. of Men | No. of Communities | Range in Population of the Communities | |
|---------------|-----------------------|---|---------|
| | | Lowest | Highest |
| 0 | 9 | 232 | 2,129 |
| 1-2 | 23 | 788 | 8,138 |
| 3-5 | 22 | 854 | 10,531 |
| 6-10 | 13 | 361 | 8,899 |
| 11-20 | 17 | 4,839 | 20,683 |
| 21-30 | 4 | 10,823 | 27,473 |
| over 30 | 4 | 51,280 | 73,641 |

This table was computed from statistics made available by Chief Tuohy of the Sheriff's Police. The population data was secured from DEPARTMENT OF COMMERCE, 1950 CENSUS OF POPULATION, Series PC-8, No. 12 (1951).

18. ILL. REV. STAT. c. 14 §5 (1951).

19. State's Attorney William Boyle of Cook County stated before the Kefauver Committee, "We have assigned to our office about 76 police officers of the city of Chicago to do investigative work." *Hearings, supra* note 7, at 153. In an interview at the office of the Chicago police commissioner on November 7, 1951, it was stated that it is customary to assign officers as over 90% of the crimes prosecuted in Cook County originate in Chicago and Chicago should bear the cost of investigating these crimes.

20. State's Attorney Boyle, *Hearings, supra* note 7, at 154, "In addition to the duties of trying these criminal cases which come into our office, we started November 1, 1949, on

are being expended on a single effort, that of enforcing gambling laws, when one organization, the Sheriff's police, should be sufficient.

The Coroner under the Illinois statutes serves not only in his normal capacity but he also serves as an auxiliary sheriff, retaining all the powers the Sheriff possesses.²¹ This duplication is to guarantee that there will be some officer in the county to act as Sheriff in the event the incumbent Sheriff becomes incapacitated.

The decentralized organization of law enforcement in Cook County is the primary cause for many costly duplications and overlappings. Honest and sincere efforts to eliminate duplications in order to guarantee adequate law enforcement are often frustrated because of the wide diversification of control and responsibility and the superimposing of one force upon another.

Lack of Administrative Coordination: Duplication of functions results not only from the overlapping jurisdictions of numerous police organizations but also from the lack of adequate coordination of the activities of the various police agencies. Unfortunately, efforts made toward attaining coordination are often negated by the wide diversification of control and responsibility that exists in the overall law enforcement structure of the county.

One important element in obtaining adequate coordination of the many forces is complete integration of information. Unless information pertinent to a particular problem reaches the force or forces that can act upon the problem, it will remain unsolved or uncorrected. Progress has been made in developing radio communication between forces in the event of emergencies²² but this progress has not been carried over to the exchange of routine information. Cordial relations between police departments are relied upon heavily in receiving or transmitting routine information rather than a set procedure of free exchange in all matters that may be of value, such as data on organized crime.

The Chicago city police have no permanent arrangement for exchange of reports and material with the state police but rely upon the continued cordial relations with the head of the state police in Chicago.²³ The absence of friendly relations between organizations under such a system could result in a breakdown in the exchange of material necessary to the adequate functioning of the two offices. This is illustrated by the recent relationships between the Sheriff and State's Attorney. Both were working on one case at the same time and each was obtaining information which could have been of use to the other. Until public pressure was brought to bear on both officials they declined to compare and consolidate their respective findings.²⁴

our own, to go out and make raids on places that had slot machines. Since November of 1949 we have confiscated and destroyed 564 slot machines."

Query: "Would that be a duty that you would take on because other law enforcement agencies failed to do it?"

Boyle: "Yes."

Query: "What agencies have the final responsibility?"

Boyle: "The sheriff of Cook County is supposed to do that. It wasn't being done and we knew there were slot machines out in the county."

21. ILL. REV. STAT. c. 31, §§6, 9 and 10 (1951).

22. Interview with the Sheriff's Chief of Police and a suburban Chief of Police.

23. Stated during an interview at the office of the Police Commissioner of the Chicago police department on November 7, 1951.

24. In an interview at the Chicago Crime Commission on November 12, 1951, it was pointed out that the State's Attorney and the Sheriff of Cook County were conducting separate investigations of a beating given a prominent anti-gambling crusader but were not consolidating their respective findings. Pressure from newspapers demanding appre-

The absence of adequate reporting procedure in processing the recovery of stolen automobiles is another example of a failure in communications between the suburban police forces and the Chicago city police. Until recently the recovery by some suburban police of automobiles stolen in Chicago would not be reported to the Chicago police and the automobiles would remain listed as stolen in the Chicago records.²⁵ The possibility of delay and inconvenience to the rightful owner, who might be apprehended and questioned by the Chicago police when driving his own car, is self evident.

Under an Illinois statute the police in any one municipality are empowered to enter an adjoining municipality in the same county to preserve the peace in certain situations.²⁶ This statute is not utilized by many police forces in Cook County and was not used when the possibility for such use arose in a recent incident, the Cicero riot.²⁷ During this riot it became necessary for the Sheriff of Cook County to request assistance from the Illinois National Guard. If the Sheriff could have used the police manpower available in the county during the initial stages of the riot, it possibly could have been avoided. The Police Commissioner of Chicago stated that the Chicago policemen are not protected by their annuity and disability benefits if injured or killed outside the city limits.²⁸ This interpretation of the Police Annuity and Pension Fund Act—which, incidentally, is susceptible to a different interpretation—prevented the Chicago city police from being available for service during the riot and deprived the Sheriff of the largest potential source of manpower.²⁹ This provision also tends to deter any plan for the integration of policemen from the various organizations for use throughout the county.

Any effective coordination of efforts must arise from the voluntary cooperation of all the forces involved and must be planned in advance. As will be discussed subsequently, there are plans for such coordination and these plans have proved to be highly effective. As in other areas of coordination in the county, however, these plans are the exception rather than the rule. There are no regular meetings of the heads of the various agencies so that further plans may be worked out and the various problems of the forces discussed.

hension of the assailants resulted in a pooling of information and efforts by both agencies. An example of this later pooling is the joint squad of State's Attorney's and Sheriff's police that made a trip to the resort section of Wisconsin in search of the assailants' hideout. See Chicago Sun-Times, November 15, 1951, p. 10, col. 1.

25. From an interview at the office of the Sheriff's Chief of Police on November 30, 1951.

26. ILL. REV. STAT. c. 24, §§8-9, 8-10 (1951).

27. During the week ending July 14, 1951, riots on three successive nights in Cicero, Illinois became so violent that Sheriff John Babb of Cook County requested assistance from the Illinois National Guard. Previous to the arrival of the Guard the only police present were the Cicero police force of 82 men and the Sheriff's police.

28. Interview with Police Commissioner O'Connor on November 7, 1951.

29. ILL. REV. STAT. c. 24, §§956, 977, 989 (1951). These sections cover the meaning of "act of duty," provide for relief in the form of an annuity to the widow of a policeman killed while performing an act of duty, and provide disability benefits to policemen injured while performing an act of duty. An "act of duty" is defined under the statute as "... those acts involving special risks as imposed by Illinois statutes or ordinances or police regulations of the city under this statute." The Illinois Supreme Court, in *People v. Retirement Board Policemen's A. and B. Fund*, 326 Ill. 579, 158 N.E. 220 (1927), defined the act of duty as "... an injury occurring in the course of and arising out of the work of a policeman."

There may be doubt as to whether a policeman may perform an act of duty outside of the area in which he is empowered to act. However, under Illinois statutes a policeman may be ordered to enter adjoining municipalities to suppress riots and perform other certain duties. ILL. REV. STAT. c. 24, §§8-9, 8-10 (1951). It would seem that a policeman would be covered by his benefit and annuity rights when acting under orders in compliance with this statute.

The decentralized structure of law enforcement in the county, with its wide diversification of control and responsibility, is the basic reason for many of the failures in proper coordination of efforts. The emphasis on local autonomy that exists in the present structure is secured at the cost of effective county wide coordination of police efforts.

Inadequacies within the Individual Forces: Certain inadequacies present within individual forces inherently weaken the effectiveness of the county wide police structure.

One of the most pressing deficiencies is that of manpower. The Police Commissioner of the Chicago police stated that in his opinion Chicago needs another one thousand men in order to obtain optimum law enforcement.³⁰ The Sheriff of Cook County has requested another one hundred law enforcement officers, nearly enough to double his present force.³¹ The smaller police departments are not so pressed for available manpower, but if the forces which do not employ enough men for twenty-four hour protection were expanded, it would relieve the Sheriff of the burden of supplying at least part-time protection in such communities.

The Sheriff has available for actual law enforcement work about twenty-four men for each of three shifts during a twenty-four hour period.³² These men must be divided among the three districts in the county so that there are only eight men available for police duty in any one district at any one time. The Sheriff has few reserves and must utilize his men as best he can. On rare occasions the Sheriff has deputized process servers and others on his staff in order to muster a strong force for a particular raid³³ but this source of manpower cannot be relied upon for sustained law enforcement activities. The deputies secured under this method are untrained and unfamiliar with the work of a police officer and are available only after they have finished a day's work in the position for which they were employed. The Sheriff, under Illinois statutes, has the power of deputizing any citizen in the county.³⁴ However, in practice this power is limited to the policemen in other forces who are trained in law enforcement work. The Sheriff is further limited in deputizing police in other forces as these officers are needed by the communities that employ them and are available as deputy sheriffs only in cases of emergency.

The Chicago Police Force, in certain districts, does not have sufficient policemen available to provide optimum protection.³⁵ The Fifth Police District, for six years, had the highest rate of all Chicago police districts in the crimes of homicide, rape and robbery and was first or second in total of all major offenses.³⁶ In 1946 the Chicago Crime Commission pointed out that "Law

30. Interview with Police Commissioner O'Connor on November 7, 1951.

31. See note 20 *supra*.

32. This figure is based on information secured during an interview at the office of the Sheriff's Chief of Police. At this interview it was stated that from 6 to 8 men are available for each shift in each of the three districts. It is interesting to compare this figure with that given before the Kefauver Committee by the then Sheriff, Michael Walsh, who stated that he had 129 law enforcement officials available. *Hearings, supra*, note 7, at 175.

33. Such a force was mustered during the tenure of Elmer Michael Walsh, 1946 to 1950, in order to make a large raid on Calumet City. The raid was successful, but Mr. Walsh stated during an interview on November 2, 1951, that the source of manpower is not satisfactory.

34. ILL. REV. STAT. c. 38, §525 (1951).

35. The Chicago police department provides one policeman for every 580 persons in Chicago. This computation is based upon the 1950 census figures. DEPARTMENT OF COMMERCE, 1950 CENSUS OF POPULATION, Series PC-8, No. 12 (1951).

36. CRIMINAL JUSTICE No. 77, VIEWING THE CRIME STATISTICS IN CHICAGO AND COOK COUNTY—1948 10 (1950).

enforcement conditions in the Fifth Police District are totally unsatisfactory . . . police protection is inadequate."³⁷ In 1949, after two murders that aroused public opinion, additional men were assigned to the district.³⁸ Thus, with the city police force at its present strength, Chicago does not have policemen that could be made available to other forces in the county even if the benefit and insurance provisions were amended so that these policemen could be sent outside the city.

The Sheriff is customarily a person inexperienced in law enforcement work and not primarily interested in making such work his career. The Illinois Constitution provides that the Sheriff may not succeed himself in office.³⁹ Every four years a new man, customarily unfamiliar with police work, must replace a man who has just acquired enough experience and knowledge to become a potentially strong force against crime. The provision that the Sheriff may not succeed himself discourages any career policemen from running for the office and thus eliminates the type of person most desirable as Sheriff. The Sheriff's police do not come within the civil service laws and each new Sheriff appoints new deputies on taking office. Every four years Cook County has a new, inexperienced Sheriff and a nearly complete turnover in the Sheriff's police force.

The Sheriff's police force is reasonably well equipped for its present staff but the Chicago police force is in need of some essential items of equipment, such as squad cars and two-way radios. The park police and smaller forces throughout the county have adequate equipment and appear to be able to function effectively with what they have.⁴⁰

Some of the inadequacies in the various police departments could be eliminated if Cook County had a county law enforcement structure that would permit and encourage pooling of manpower and equipment. In order to make this pooling most effective the Chicago police must be made available for use throughout the county. The present county wide structure of police forces has the opposite effect of making each force dependent upon itself without recourse normally to other police agencies.

II

ANALYSIS OF POSSIBLE SOLUTIONS

Numerous solutions have been proposed to help solve the problems inherent in the structural organization of law enforcement in metropolitan areas similar to Cook County. These reforms fall roughly into three categories: (1) supervision and centralization of responsibility at the state level, (2) voluntary coordination at the local level without change in the existing organization of law enforcement and (3) reorganization through consolidation and centralization of authority on the local level. In analysing each reform, care must be taken to determine whether the reorganization or change advocated would fit the actual conditions of Cook County. In making this determination the underlying social and political factors involved must be considered, as well as the problems peculiar to law enforcement.

37. CRIMINAL JUSTICE NO. 73, CRIME CONDITIONS IN FIFTH POLICE DISTRICT 19 (1946).

38. CRIMINAL JUSTICE NO. 77, AN EXAMINATION OF CHICAGO'S LAW ENFORCEMENT AGENCIES 5 (1950).

39. ILL. CONST. ART. X, §8.

40. As estimated in interviews at the Chicago Crime Commission, office of the Police Commissioner of Chicago and office of the Sheriff's Chief of Police. These interviews were made during the month of November, 1951.

Control on a State Level: In order to obtain central responsibility and coordination in the field of law enforcement, some states have assumed varying degrees of direct or indirect supervision over municipal and county law enforcement officials. Such state control is not widely utilized today, but there was a period several generations ago when direct state control was generally accepted and applied to the police of the larger metropolitan cities of the United States.⁴¹ At the present time there are three states which provide for the direct appointment of county law enforcement officers;⁴² in five other states the principal police officials of the cities are appointed by the state.⁴³ Justification for state intervention is based on the premise that the laws enforced by local police have their primary source in the state's police powers; therefore, the state owes a direct duty to its citizens to provide adequate and equal enforcement of its laws. In practice, state supervision of local police has met with little success.⁴⁴ A principal reason for the failure of the scheme lies partly in the fact that the cities singled out for control have generally been of a different political inclination than the state governments supervising them.⁴⁵ This in turn has resulted in friction between the state appointed police officials and the city governments. This same fault might well exist in the case of Chicago,⁴⁶ and such a system would solve few if any of the problems caused by the multiplicity of law enforcement units operating within Cook County.

A number of states have provided a procedure through which the governor of the state can remove county law enforcement officers for nonfeasance or malfeasance in office. Provision for this authority has been made by twelve states⁴⁷ and has served as an effective instrument for improving the caliber of county law enforcement.⁴⁸ In Illinois the state's attorney and the sheriff are county officials entrusted respectively with the duty of prosecuting and enforcing state laws.⁴⁹ In practice, no state officer in Illinois exercises any coordinating supervision over either of the two officials and if they do not wish to coordinate their activities there is no higher authority in the state

41. SMITH, THE BALTIMORE POLICE SURVEY, 4 (1941); FISHER AND BISHOP, MUNICIPAL AND OTHER LOCAL GOVERNMENTS, 327 (1950).

42. The County Sheriff in the State of Rhode Island is appointed by the Governor and holds office at the Governor's pleasure. R. I. GEN. LAWS c. 5, §16 (1938). In Florida and New Jersey the county prosecutor is appointed by the Governor with the advice and consent of the state senate. FLA. CONST. Art. V, §15, 27; N. J. CONST. Art. VII, §2, par. 3.

43. Maine, Maryland, Massachusetts, Missouri and New Hampshire. In St. Louis and Kansas City, Missouri, police boards are appointed by a state authority. In Boston, Massachusetts and Baltimore, Maryland, a single administrative chief of police is designated by the governor of the state. SMITH, POLICE SYSTEMS IN THE UNITED STATES, 209 (1949).

44. SMITH, THE BALTIMORE POLICE SURVEY, 4 (1941).

45. SMITH, POLICE SYSTEMS IN THE UNITED STATES, 209 (1949).

46. The administration of the City of Chicago has for many years been controlled by the Democratic party, but the Legislature and the office of Governor of the State of Illinois quite often are controlled by the Republican party.

47. ARK. CONST. Art. XV, §3; FLA. CONST. Art. IV, §15; KY. CONST. §227; KY. REV. STAT. c. 63, §63.100-130 (1948); ME. CONST. Art. IX, §5; MICH. CONST. Art. IX, §7; MICH. STAT. ANNO, c. 58, §6.696 (1936); MINN. STAT. c. 351, §351.03-.04 (1949); N. Y. CONST. Art. IX, §6; N. D. REV. CODE c. 44, §1101 (1943); ORE. CONST. Art. VII, §20; PA. CONST. Art. VI, §4; WASH. CONST. Art. IV, §10; WIS. CONST. Art. VI, §4, WIS. STAT. c. 17, §17.09 (1949).

48. The power to remove local law enforcement officers has as a general rule been used sparingly. Both Alfred E. Smith and Franklin D. Roosevelt, while Governor of the State of New York, removed county sheriffs and district attorneys. In the past, county law enforcement officers have been removed by Governors in the states of Wisconsin, Minnesota, North Dakota, and Florida. Satterfield, *State Appointment and Removal of Law Enforcement Officers*, 12 SOUTHWESTERN SOCIAL SCIENCE QUARTERLY, 6-8, 14-15 (1932).

49. ILL. REV. STAT. c. 14, §5 (1951). Duties of state's attorney. ILL. REV. STAT. c. 125, §17 (1951). Sheriff as conservator of the peace.

requiring them to do so.⁵⁰ Vesting in the Governor of Illinois the power to remove for cause state's attorneys or sheriffs might aid in solving possible problems created by corrupt county law enforcement officials. But the mere possibility of removal for malfeasance or nonfeasance would not induce states' attorneys and sheriffs who are antagonistic to each other to coordinate their respective activities. In a large number of states, the Attorney General of the state has been given the power and responsibility of coordinating the law enforcement activities of county officers. In theory this type of arrangement should produce coordinated law enforcement activities at both the county and state levels. In practice, however, supervision by the Attorney General has been limited to emergency situations and in some states limited by statute to specified conditions or circumstances.⁵¹

The Commission on Organized Crime of the American Bar Association⁵² has given serious study to the problems created by a lack of coordination and those due to duplication produced by the American system of decentralized law enforcement. The Commission states that "the assumption of authority on the part of the state over criminal law enforcement is one of the basic means of improving efficiency in dealing with organized crime . . ."⁵³ and "local government must be made accountable to the state, either directly or indirectly, for the enforcement of state laws."⁵⁴ To obtain this objective, the Commission has proposed that local prosecutors be appointed by the governor, and that in each state a department of justice be organized, to which local prosecuting attorneys should be held responsible.⁵⁵ This department would have general supervision of law enforcement throughout each state, and would be directed by an official appointed by, and directly responsible to the governor of the state. The Commission also advocates that the state department of justice be given authority to establish appropriate standards, procedures and practices for the police forces of the cities and villages within a state.⁵⁶ However, they do not advocate changing the existing structure of local law enforcement. Compliance by local police forces with the standards formulated by the state department of justice would be induced by giving grants-in-aid to those agencies which met the minimum standards in all respects.

Under the American Bar Association plan responsibility for local law enforcement would be concentrated in the Governor of Illinois, thus placing

50. Stevenson, *A Problem of Law Enforcement: The Alliance of Crime and Politics*, 36 A. B. A. J. 996 (1950). *Hearings, supra* note 7, at 153. But see, ILL. REV. STAT. c 14, §4 (1951).

51. COUNCIL OF STATE GOVERNMENTS, *THE POWERS, DUTIES, AND OPERATIONS OF THE ATTORNEYS' GENERAL OFFICES*, 8 (1951). In sixteen states, the Attorney General has the responsibility of coordinating law enforcement activities within the state. The states in which the Attorney General possesses this power are Arizona, Florida, Idaho, Iowa, Kansas, Louisiana, Massachusetts, Nebraska, New Hampshire, North Carolina, Oklahoma, Oregon, South Carolina, South Dakota, Vermont, and Wyoming. In the States of Arizona, Florida, Louisiana, Oregon and Wyoming, the power of the Attorney General to coordinate law enforcement activities within a state is limited.

52. American Bar Association Commission on Organized Crime, Robert P. Patterson, Chairman. The Commission was appointed September, 1950 to cooperate with the Senate Committee to Investigate Organized Crime in Interstate Commerce.

53. AMERICAN BAR ASSOCIATION, *REPORT OF THE AMERICAN BAR ASSOCIATION COMMISSION ON ORGANIZED CRIME*, 34 (1951).

54. *Id.* at 33.

55. *Id.* at 29. The state department of justice is not a novel idea. For the history and ramifications of the proposal, see Stark, *Politics and the State Department of Justice*, 30 J. CRIM. L. 182 (1939); Hicks, *Proposal for a Department of Justice*, 14 OREG. L. REV. 428 (1935). Medalie, *A State Department of Justice*, 69 U. S. L. REV. 545 (1935).

56. *Id.* at 34.

ultimate responsibility on one official, rather than the diverse responsibility present today. A high degree of integration of the police forces in Cook County could be obtained through the standardization of police methods and procedures by the state. The state could increase the efficiency of the present police forces by providing for (1) a single county-wide police training school, (2) centralization of information and communication systems, (3) expansion of scientific crime detection services, and (4) compulsory reporting of the law enforcement activities of each police unit to a centralized authority for dissemination among the ninety police forces. A further benefit to be obtained from state grants-in-aid could be the enlargement and improvement of the smaller police forces in Cook County. However, there are some factors inherent in such a centralized police organization, as that proposed by the Commission, which tend to make it undesirable.⁵⁷

Local law enforcement may have state and nationwide effects, but fundamentally it involves problems that must be solved locally.⁵⁸ From an organizational viewpoint the root of the problem in a metropolitan area such as Cook County is essentially the presence of many independent and disunited police organizations within a relatively small area. Instead of effecting any consolidation of the ninety police forces, the Bar Association Commission proposes to establish a remote system of state control, superimposed on the present archaic organization of Cook County law enforcement. The financial grants-in-aid recommended would encourage the local communities to cling all the more tightly to their independent police forces, since a police force would be a source of revenue. This in itself would discourage the consolidation of local police units. In effect this reform passes the possibilities of abuse on to a higher level. The proposed state control with its legions of state appointed prosecutors and extensive grants-in-aid program presents many possibilities for patronage and pork-barrel politics.⁵⁹

There are also present within such a centralized system of state police power well-founded dangers to civil liberties which the American Bar Association itself recognizes.⁶⁰ In interviews with persons familiar with the organization and functioning of the European centralized police systems, the point was stressed that though the European state-controlled police were intensely efficient, they were also extremely effective instruments for the destruction of civil liberties.⁶¹

Limited aspects of state control and supervision are not subject to these various objections. The state could establish and operate standardized police schools for the training of local police or aid in the expansion of scientific crime detection facilities without directly or indirectly controlling the local police function. However, it is questionable whether such limited supervision would materially aid in solving the problems created in metropolitan areas due to decentralization of authority.

Consolidation of organizations and centralization of authority can be accomplished through a reorganization of law enforcement on the local level

57. The American Bar Association proposal, or similar plan, was not favored by any of ten persons interviewed who are either familiar with, or directly connected with law enforcement in Cook County.

58. Stevenson, *supra* note 50, at 994. *But see*, MacNamara, *American Police Administration at Mid Century*, 10 PUBL. ADMIN. REV. 185 (1950).

59. Stark, *supra* note 55, at 182.

60. AMERICAN BAR ASSOCIATION, *op. cit. supra* note 53, at 32.

61. The above was the opinion of Mr. Fred E. Inbau, Professor of Law, Northwestern University School of Law, and Mr. Rex R. Andrews, Chief of Police of the Village of Winnetka. Both men served in Germany as Public Safety Consultants in the United States State Department Exchange of Persons Program.

without resort to state control and the objections that accompany it. Partial integration of law enforcement can be brought about at the present time in Cook County through voluntary cooperation and a minimum of statutory revision.

Voluntary Cooperation at the Local Level: In practice many of the police forces in Cook County are now coordinating limited aspects of their police work. The Chicago Police and the Park Police have established policies for coordinating certain of their activities within the City of Chicago.⁶² There is also a high degree of coordination of police activity among certain of the suburbs of Chicago. Sections 8-5 and 8-6 of the Illinois Cities and Villages Act⁶³ directly encourage the integration of police forces within a county. This statute, which enables the police of adjoining municipalities to preserve the peace in either community, is being used in the suburbs north of Chicago. There is close communication among the north shore cities and villages and in emergencies the different police of this area answer each other's calls and pool their men and facilities irrespective of boundary lines.⁶⁴

On the county level there are specific plans for coordination in certain emergencies, such as jail breaks or the commitment of a major crime within the county. One plan is a system of road blocks that can be thrown up on all highways about the city of Chicago within a few minutes after the Sheriff has given a radio signal asking for assistance. This plan involves the cooperation of all suburban police and all have performed well when the occasion demanded.⁶⁵

Another indication that the ninety police agencies of Cook County can collaborate in their efforts is illustrated by the Chicago Police Crime Detection Laboratory. This Laboratory offers many facilities which the smaller police forces of Cook County cannot afford to duplicate, and for this reason the entire metropolitan region of Chicago must rely on its services and facilities. In practice, the services of the Crime Laboratory have been provided to all police forces and the result has been a centralization and coordination of scientific crime detection.⁶⁶

Unfortunately, in the field of police training the situation is not so satisfactory. The Chicago Police Department has a training system completely separate from that of the Chicago Park Police. The Sheriff's police are trained as

62. On election days, the Chicago Park Police assign approximately six hundred men to help guard the voting polls of Chicago. In cases of serious emergency, such as a fire in the loop area, the Park Police make available their manpower and equipment. The Park Police collect their traffic fines through the Chicago Municipal Courts and use the Chicago jails. Prior to 1949, both the Chicago Police and the Park Police required a separate report of vehicle accidents that occurred on boulevards or parkways within the jurisdiction of the Chicago Park Police. The result was that often a distressed and confused motorist was questioned twice by separate policemen as to the circumstances of an accident. This obvious duplication has been corrected and now one report serves the files of both organizations. The information in this footnote was obtained in interviews at the office of the Chicago Police Commissioner on November 7, 1951, and at the headquarters of the Chicago Park Police on November 14, 1951.

63. ILL. REV. STAT. c. 24 §8-5, §8-6 (1951).

64. The information in the above paragraph was obtained in an interview with a police chief of a North Shore village on November 16, 1951.

65. This information concerning coordination at the County level was obtained in an interview at the office of the Sheriff's Chief of Police on November 30, 1951, and from an interview at the Chicago Crime Commission on November 23, 1951.

66. Information relevant to the Chicago Police Crime Detection Laboratory was acquired in the interview at the office of the Chicago Police Commissioner. It was the opinion of all persons connected with law enforcement who were interviewed by the authors that the Chicago Crime Laboratory was an example of excellent cooperation and coordination of law enforcement in Cook County.

an independent organization, and the rest of the police forces in the county are left to look after their own training needs. In the opinion of one police chief in Cook County, integration of police training activities could produce a great improvement in the quality of law enforcement. In other states there have been established systems of zone training schools for police, instigated in different cases by state governments, leagues of municipalities, or state association of police chiefs.⁶⁷ Such an experiment is long overdue in the Chicago metropolitan area.

Recently an additional step was taken in the right direction when the Sheriff and State's Attorney of Cook County agreed to have regular weekly meetings in order to discuss their mutual problems.⁶⁸ This, in itself, is an improvement, but should only be considered as a start toward closer coordination of all the police organizations of the county. In a certain part of the County, local police chiefs already are holding regular weekly meetings. The opinion is expressed that these meetings have led to closer integration of police work in that area.⁶⁹ The State's Attorney and Sheriff have on occasion held county-wide meetings of police chiefs to discuss particular problems, but these meetings have not assumed a regular aspect. In the State of California, an attempt to secure uniformity in law enforcement through voluntary meetings of sheriffs, prosecutors and local police chiefs is presently being made.⁷⁰ Similar meetings led by the Sheriff and State's Attorney of Cook County⁷¹ would constitute a step toward reorganizing the law enforcement structure of the county on a more efficient basis. Such meetings could provide a forum in which solutions to some of the law enforcement problems of Cook County could be presented and discussed. Initial progress toward a centralized training program, information service and communication system might be commenced. Some of the duplications of effort present in the control of highway traffic could be eliminated by mutual agreements. Information from the ninety police forces as to the movement of organized crime throughout the County could be correlated and attempts made to secure consistency and uniformity of law enforcement on the part of all police agencies.

Regular meetings of the ninety law enforcement agencies of Cook County, however, is an expediency which is subject to the further limitation that there is no authority to compel continued whole-hearted cooperation from those not already inclined to give it. However, such meetings would tend to create metropolitan consciousness in Cook County law enforcement which would encourage movement toward the basic reform, which is the creation of a metropolitan police system.

67. SMITH, POLICE SYSTEMS IN THE UNITED STATES, 298-9 (1949). "Los Angeles Police Department has opened its excellent recruit training program to police officers of surrounding communities." MacNamara, *supra* note 58, at 187.

68. See Chicago Daily News, Oct. 15, 1951, p. 1, col. 4; Oct. 17, 1951, p. 1, col. 8; Oct. 29, 1951, p. 3, col. 6; Nov. 15, p. 10, col. 3.

69. This opinion was expressed on November 16, 1951, by Mr. Rex R. Andrews, who as Chief of Police of the Village of Winnetka has taken part in the regular weekly meetings held by police chiefs of the Chicago North Shore suburban area.

70. PENAL CODE OF CALIF. pt. 1, tit. 13, c. 4, §480 (1949). See also, AMERICAN BAR ASSOCIATION, *op. cit. supra* note 53, at 33.

71. One of the problems involved in regular county-wide law enforcement meetings concerns who should conduct the meetings. The Sheriff is the chief law enforcement officer of Cook County but in actual practice has little contact with many of the Police Chiefs of the larger incorporated communities. The State's Attorney of Cook County is not technically a county law enforcement officer. However, due to his position as county prosecutor, he has close working relations with all the law enforcement agencies in Cook County. A solution to this problem might be obtained through joint leadership by the Cook County Sheriff and State's Attorney.

Consolidation and Centralization on the Local Level: The concept of a metropolitan police administration is not a new idea. Rather, it has been the subject of a great deal of interest in metropolitan areas.⁷² A consolidation of police forces in the metropolitan areas of Philadelphia, New York, New Orleans and Boston was obtained in the mid Nineteenth Century by the incorporation of surrounding communities, culminating in complete incorporation of the county by the city.⁷³ It is stated that these consolidations had "a salutary effect on the police systems of the enlarged areas as a whole."⁷⁴ However, today where large incorporated suburbs exist as they do in Cook County, this type of annexation with the consequent consolidation of governmental functions has been found to be very difficult to accomplish.⁷⁵

An expedient method of obtaining a metropolitan police administration is through the creation of a special metropolitan district. The creation of special districts or authorities has been a favorite device for solving particular metropolitan problems, and it is interesting to note that Illinois has led in the creation of metropolitan districts.⁷⁶ Previous to city-county consolidation in Philadelphia and New York City, the respective state legislatures found it necessary to create special metropolitan police districts, since the suburban police were incapable of handling the police problems of the rapidly developing metropolitan areas.⁷⁷

In 1932, a detailed study of the Chicago and Cook County area was conducted and a metropolitan police administration was proposed by the Illinois Commission on Taxation and Expenditures.⁷⁸ The Commission recommended the establishment of a metropolitan police administration for a police district coterminous with the boundaries of Cook County. The administration was to be supported by taxes levied on the whole county, and directed by a single director chosen by and responsible to some elected county governing board. The metropolitan police administration was to be empowered to take over all the functions of the police departments and forces of the various cities, villages and park districts of Cook County. Any city or village could, however, authorize the establishment of a supplementary police force so long as that police force respected the authority of the metropolitan police director.⁷⁹

This reform has never been adopted by the Illinois Legislature. Nevertheless, numerous persons connected with law enforcement in Cook County believe that some form of metropolitan police system is the solution to the problems created by ninety independent law enforcement agencies operating in the County.

Cook County, under a metropolitan police system, would be policed entirely by one law enforcement agency and direct responsibility would be

72. MacNamara, *supra* note 58, at 184.

73. NATIONAL MUNICIPAL LEAGUE, *THE GOVERNMENT OF METROPOLITAN AREAS IN THE UNITED STATES*, 126, 171 (1930).

74. *Id.* at 126.

75. TABLEMAN, *GOVERNMENTAL ORGANIZATION IN METROPOLITAN AREAS*, 13-14 (1951). A recent consolidation, that of Baton Rouge with East Baton Rouge Parish, was voted to the amazement of political scientists in 1948. For a discussion of the consolidation, see Reed, *Progress in Metropolitan Integration*, 9 PUB. ADMIN. REV. 1 (1949).

76. TABLEMAN, *op. cit. supra* note 75, at 61' (1951).

77. These apparently were the only two metropolitan police districts established in the United States and they were eliminated in the later consolidations in Philadelphia and New York City. NATIONAL MUNICIPAL LEAGUE, *op. cit. supra* note 73, at 257-9.

78. Created by an Act of the Illinois General Assembly approved June 29, 1931.

79. THE ILLINOIS COMMISSION ON TAXATION AND EXPENDITURES, *PROPOSALS FOR THE REORGANIZATION OF LOCAL GOVERNMENT IN ILLINOIS—THE CHICAGO-COOK COUNTY METROPOLITAN AREA*, 21 (1932).

placed on one person. The establishment of one police force for the entire county area would solve most of the present problems of duplication, incoordination and inadequacies. For example, duplication of efforts in traffic control between the Chicago Park Police and the Chicago Police would disappear. The same would hold true in traffic outside Chicago, since the work presently performed by the state highway police, sheriff's police and local police would be accomplished by one metropolitan police department. The sheriff would cease to be a law enforcement officer and the metropolitan police would be the primary law enforcement agency in Cook County.⁸⁰ This would eliminate any frictions or duplications created today when the sheriff makes raids in incorporated areas.

A centralized county communication system could be established which would result in unity of action and free flow of information in every detail of police work. A county-wide police training school and criminal laboratory could also be created. Furthermore, the small police units in Cook County would be consolidated with one over-all administration. A more mobile and equal protection could be obtained from a metropolitan police system, since the metropolitan police could operate anywhere in the county and not be subject to technical restraints created by municipal boundary lines.

The disadvantages present in state control of local law enforcement are not present in a consolidation and centralization of authority on a local level. There is no element of remote state control, nor does it seem that a metropolitan police organization is as effective an instrument for the deprivation of democratic liberties.

There are several factors operating against the adoption of a metropolitan police district at the present time. One is the fact that a major legislative program and a constitutional amendment would be necessary to create a metropolitan police administration for Cook County.⁸¹ Moreover, any form of metropolitan police is a definite step away from local autonomy, a concept very much a part of the American system of local government. A partial consolidation of governmental functions may also have the undesirable effect of setting up a metropolitan police district and the city of Chicago as two powerful and competitive governments in Cook County. Such a situation could result in rivalry instead of cooperation in governmental operations. The influence of the one large central core of government, Chicago, would be deemphasized by the creation of a county-wide metropolitan police district. The argument has been advanced that Chicago should instead be emphasized as a rallying point for the creation of a politically unified metropolitan area.⁸² The difficulties involved in overcoming local autonomy and also securing the major legislative and constitutional reform needed to set up a special district

80. In Illinois, to divest a sheriff of any of his common law functions, such as law enforcement, would require a constitutional amendment. *Dahnke v. People*, 168 Ill. 102, 48 N.E. 137 (1897); *People ex. rel. Walsh v. Board of Com'rs of Cook County*, 397 Ill. 293, 74 N.E. 2d 503 (1947). *People v. Clappitt*, 362 Ill. 534, 200 N.E. 332 (1936), holds that "the legislature may add to, but cannot take away from, the powers and duties of the sheriff."

81. To create a metropolitan police administration for the Chicago-Cook County area, a constitutional amendment would be necessary to eliminate the law enforcement powers of the Cook County Sheriff and the substitute law enforcement powers of the Cook County Coroner. The police prerogatives of the cities and villages of Cook County would have to be curtailed due to the fact that the local communities would be required to recognize the metropolitan police as the principal police force of each community. Also, a great deal of enabling legislation would be necessary so that the metropolitan police district and administration could function as an independent unit of government.

82. MERRIAM, PARRETT AND LEPAWSKY, *THE GOVERNMENT OF THE METROPOLITAN REGION OF CHICAGO*, 152 (1933).

for a metropolitan police force may be too great to surmount at the present time. Possibly the creation of a metropolitan police system can only be achieved in the future through the slow territorial expansion of Chicago with eventual city-county governmental consolidation.⁸³

The creation of a metropolitan police force, nevertheless, is the only permanent solution to the organizational problems of law enforcement in Cook County. Present efforts toward voluntary cooperation and coordination are commendable, but no permanent solution to the problems inherent in the structure of law enforcement can be obtained without a consolidation of control and responsibility. This consolidation should be obtained through a reorganization of the law enforcement structure at the local level rather than through a usurpation of local police power by the state.

Abstract of Recent Cases

State Constitutionally Brings Prosecution After Acquiring Jurisdiction by Force—In *Frisbie v. Collins*, 72 S. Ct. 509 (1952), defendant, acting as his own counsel, brought habeas corpus proceeding seeking release from a Michigan state prison where he was serving a life sentence for murder. He alleged that while he was living in Chicago, he was forcibly seized, handcuffed, blackjacked and carried into Michigan. He claimed violations of the Due Process Clause of the Fourteenth Amendment and the Federal Kidnapping Act, 18 U.S.C.A. §1201 (1952). Mr. Justice Black, writing the opinion for a unanimous court, held that forcible abduction from one state to another in violation of the Federal Kidnapping Act would not invalidate a subsequent conviction and sentence in the latter state on the ground of denial of due process. The Court thus reaffirmed the rule announced in *Ker v. Illinois*, 119 U.S. 436, 444 (1886), that the power of a court to try a person for a crime is not impaired by the fact that the court acquired jurisdiction by force.

Prior Conviction of Drunkenness Not Admissible to Refute Claim of Unavoidable Accident—In *State v. Crawford*, 105 N.E. 2d 443 (Ohio 1951), the defendant appealed a conviction of unlawfully killing another person in an automobile collision while operating a motor vehicle "without due regard for safety." The defendant purchased the car the day before the accident, had it completely checked, and had driven the car through city traffic with the brakes operating effectively. He saw the other car at "an assured clear distance," applied the foot brakes and discovered he had no such brakes. The collision followed. The lower court permitted the jury to consider a former municipal court conviction of the defendant of a charge of drunkenness for the purpose of refuting the claim of "unavoidable accident" on the theory that the prior act may be material in considering the defendant's absence of "mistake or accident." OHIO GEN. CODE §13444-19 (1951). The appellate court held this instruction to be prejudicial error.

Limitations on Impeachment of Witnesses—In a prior criminal case, witnesses for the prosecution gave surprise testimony which was contrary to written statements made previously. A mistrial was declared. Subsequently the

83. In 1899 there was a strong movement led by Judge Tuley for a constitutional amendment to extend the boundaries of Chicago to the limits of Cook County, and thus unite the two governments. This plan failed although it obtained 45 out of a total of 111 votes. *Id.* at 147.

counsel retained by the witnesses was charged with having suborned these witnesses to testify falsely. *Culwell v. United States*, 194 F.2d 808 (5th Cir. 1952). In Culwell's trial the government relied upon the same witnesses who had previously given false statements. In the course of direct examination of one of these witnesses, the government's attorney accused the witness of giving false testimony, then produced a written statement previously made by the witness, and over strenuous and repeated objections of appellant's counsel was permitted to read the lengthy statement before the jury with a query to the witness at the end of each sentence as to whether her previous statement was true or false. Held, that hearsay testimony over appellants' objection was prejudicial error. The court pointed out: 1) that impeaching testimony must be limited to the point of surprise; 2) it cannot be permitted to go beyond the purpose of removing the damage caused thereby; and 3) the rules of evidence against hearsay and ex parte statements cannot be disregarded.

Constitutionality of Gamblers' Occupational Tax Not Settled—The Federal District Courts are arriving at various conclusions concerning the legality of Section 471 of the Internal Revenue Act of 1951, 26 U.S.C.A. 3285 (1951), depending upon the avenue of approach. In *Combs v. Snyder*, 101 F. Supp. 531 (D. C. 1951), the court denied an injunction to restrain the enforcement of the 10 per cent excise tax on wagers on the theory that the plaintiff came into court with "unclean hands." The court dismissed the constitutional questions as "unnecessary to discuss."

The question of self-incrimination was considered and decided in the government's favor by the court in *United States v. Forrester*, 20 U.S.L. WEEK 2415 (U.S. March 18, 1952). Here the court pointed out that the Fifth Amendment is not violated when disclosure may lead to a state prosecution only.

In *United States v. Kahriger*, 20 U.S.L. WEEK 2536 (U.S. May 13, 1952), the court considered the statute as an invasion of the "sanctuary of state control" under the guise of the taxing power. The court maintained the position that the federal government may not impose penalties above and beyond those specified by state law for infractions of a state's criminal code.

These decisions are not to be considered final but are interesting in terms of the varying approaches taken by the District Courts.

Scope of Statute Making Highway Accident Reports Inadmissible as Evidence—In *Rockwood v. Pierce*, 51 N.W. 2d 670 (Minn. 1952) the defendant Pierce, a party to an automobile accident, made an admission against his interest while giving evidence to a Highway patrolman for the purposes of a police report. While in the hospital the day following the accident, Pierce told the police he did not know just what happened. A Minnesota statute (similar to the statutes in California, Illinois and Michigan) renders all police accident reports inadmissible as evidence in civil or criminal cases. MINN. STAT. §169.09 subd. 13 (1947). The Supreme Court of Minnesota held that where statements are made to a highway patrolman relating to the manner in which an automobile collision occurred, such statements are not privileged but are admissible within the statute as "proof of the facts to which the police report relates." The court cited like holdings in California, Illinois and Michigan. *Carpenter v. Gibson*, 80 Cal. App. 2d 269, 181 P. 2d 953 (1947); *Ritter v. Nieman*, 329 Ill. App. 163, 67 N.E. 2d 417 (1946); *Heiman v. Kollé*, 317 Mich. 548, 27 N.W. 2d 92 (1947).