

CRIMINAL LAW ADMINISTRATION - ITS PROBLEMS AND IMPROVEMENT

AN ADDRESS

by

HONORABLE HOMER CUMMINGS

ATTORNEY GENERAL OF THE UNITED STATES

Before the

CONTINENTAL CONGRESS OF THE DAUGHTERS
OF THE AMERICAN REVOLUTION

Washington, D. C.

April 15, 1935.

8:30 P.M.

Madam President General, Ladies and Gentlemen:

A year ago, on the occasion of a similar gathering in this auditorium, I discussed the problem of crime and made some suggestions as to ways of dealing with it.

Tonight, with your permission, I recur to the same topic. What I shall have to say, in some respects at least, will be in the nature of a reconnaissance and a report of progress. The desire for peace, our heritage of faith and the traditional insistence upon justice, all of which are knit into the fabric of American character, are spiritual possessions which the Daughters of the American Revolution are proud to guard and cherish. It is because the Department of Justice is engaged in an intensive effort to protect these possessions from the menace of a widespread disregard for law and an organized attempt to undermine the structure of orderly government, that I am glad to be here to discuss this matter before a group of women dedicated to the preservation of American ideals.

I would be less than grateful and far less than just if I did not express the satisfaction I felt when your President General, Mrs. William Russell Magna, and other representatives of the D. A. R., consented to serve as delegates to the national Conference on Crime which I had the honor of summoning to meet in Washington last December. Since that time I have received continuing evidences of a firm public determination that the administration of criminal justice shall be modernized, coordinated and brought to a maximum degree of effectiveness. That Conference appears to have stirred very deep waters and brought to the surface a hidden undercurrent of dependable public sentiment upon which we have

every right to rely.

Much has been said about the importance of an informed public opinion. This aspect of the matter is not for a moment to be underrated; but all too often public officials are content merely to lecture the citizen for his alleged indifference to the duties which inhere in citizenship. This seems to me to be somewhat less than fair and an altogether too convenient escape from the responsibilities which rest upon the public officials themselves. Our people have placed such officials in key positions of power and trust, and have a right to expect that their high responsibilities will be faithfully and efficiently discharged.

Our experience has shown that what might have appeared to be public indifference was, largely, the apathy of the disillusioned, resulting from the frequent failure of public authorities to supply the service and the type of leadership to which the American people are entitled. Once a reasonable course of action has been projected, and representatives of Federal, State and local interests have been brought together for concerted action, public opinion is inspiringly spontaneous in its support of the common objective.

Nevertheless, I am not unmindful of the fact that public opinion is extraordinarily potent; and when it goes hand in hand with effective official action, it is irresistible. As one of our men of letters has said: "A single snow flake - who cares for that? But a whole day of snow flakes, drifting over everything, obliterating land marks, and gathering on the mountains to crash in avalanches - who does not care for that?"

Encouraging evidences of progress are available upon every hand. During the past several months a large number of Conferences on Crime have

been called under the auspices of Governors of States, of groups of States, of local authorities, of peace officers' associations, and of private groups. These Conferences have not dealt with mere generalities or with the devitalizing sentimentalities that so often make progress difficult. The aim has been, rather, to find out what can be done to correct and improve specific defects in Governmental structures; in court, police and prison administration; and in the inter-relationships of local, state and Federal units.

For example, in at least a dozen of the States, inter-State compacts for the control of crime are being drafted, or have already been introduced into the legislative bodies. A number of State commissions have been established to study the uses to which this new device may be put. These proposed compacts, covering such problems as the arrest of fugitives beyond State lines, and the return of non-resident witnesses to testify in criminal trials, emphasize the increasing insistence with which out State officials are demanding that State boundaries shall no longer hamper the administration of criminal justice. In accordance with the recommendations of the Attorney General's Conference on Crime, I have appointed an Advisory Committee, consisting of well known and experienced men and women, to submit recommendations for an educational and scientific training center in the field of criminal law administration to be established at Washington. That Committee is now conducting a thorough and careful examination of the possibilities that lie in this area. Other concrete reforms have been outlined and are being put into effect, and the future will be what we shall make it.

Since the adjournment of the Attorney General's Conference on Crime, the Department of Justice has distributed more than 60,000 copies of the admirable addresses there delivered. Not one single address has been sent

out except in response to a specific request from a responsible organization or an interested individual. The American people are beginning to visualize the problem of crime in its wider aspects and to see it as a sweeping challenge to our social and economic life, to our national pride and to the prestige of Government itself. How shall this challenge be met?

The immediate and obvious action requires the employment of emergency techniques, and intensified efforts along accredited lines: the meeting, as it were, of force with force. And let no one imagine for a moment that militant methods are not necessary to curb the criminal depredations that threaten our common life. But I should like to stress a different, but equally important line of procedure. I refer to the calm, dispassionate, thoughtful efforts which must be employed if the plague of crime is to be brought under permanent control. It will take much the same sort of patience and sacrifice which characterized the fight on yellow fever and malaria. It is not apt to be dramatic. Results will not soon be evident. It will be unspectacular, but it is worth doing and it can be done.

The summons to enlistment in this movement is, then, more than a call to arms. It is a call to patience, intelligence, consecration and ceaseless labor, continued over a long period of time, indeed, as long as the need exists.

One year ago, when I had the honor of appearing before you, I described certain important legislation in the field of crime which the Department of Justice was then urging the Seventy-Third Congress to enact. Thanks to your support, and the assistance of other patriotic groups, these

acts received the approval of the Congress and are now part of the law of the land. It cannot be too often re-iterated that these statutes were designed to supplement, not to supplant, the law enforcement machinery of the various States. This purpose and this relationship have been kept constantly in mind in the enforcement of these recent laws, and, tonight, I come to report that the results are exceedingly gratifying.

The cases that have come to the attention of the Department since the enactment of the statute punishing the robbery of national and Federal Reserve Banks may be regarded as typical. In one case two defendants were indicted in the State courts. The defense attorneys, unjustly, but successfully, attempted to turn the case into a trial of the State police officers and an acquittal resulted. The judge reprimanded the jurors. Later the State authorities appealed to the Federal Government for cooperation. The records of the State investigators were turned over to the Federal authorities. The two defendants were brought to trial in the Federal courts and were sentenced to fifteen years each.

In another case, involving four defendants, the local police department suggested that the Federal Government take charge of the prosecution - a suggestion due, in part at least, to a fear of the abuse of the parole system in that State. Three months later a verdict of guilty was secured as to three of the defendants and the fourth pleaded guilty. Each defendant was sentenced to twenty-five years on each of two counts in the indictment. This group constituted one of the most notorious bank robbery gangs in that region. Since these convictions there have been virtually no bank robberies in that section of the country. In many other cases, while

assisting in the detection and apprehension of the criminals, the Federal Government has cooperated with the State authorities in the prosecution of bank robberies in the State Courts. In short, the two systems of law enforcement have worked hand in hand; and have worked successfully.

Another striking example of cooperation between Federal Government and the States is found in the Fugitive Felon Law. This law makes it a Federal crime for a person to flee across State lines to avoid prosecution for certain major felonies. It is, also, a criminal offense for a person to flee across State lines to avoid giving evidence in a felony case. One object of this statute is to give to the States the benefit of Federal removal machinery in instances where the ordinary inter-State extradition procedure is unduly time-consuming or inadequate. The statute has been invoked in a number of cases to detain fugitives in distant States by Federal process until the interested State could put in motion its own extradition procedure.

The enactment of the National Firearms Act, which provides for the registration of machine guns, sub-machine guns, shot-guns and certain classes of rifles and silencers, has produced some surprising results. We have a complete record, at the present time, of the ownership of about 9,500 sub-machine guns, as well as of a large number of other weapons covered by this Act. I do not expect, of course, that criminals will come to the Federal authorities to obtain authority to transfer a weapon of this type, to submit their fingerprints or to pay a tax; but each time a raid is conducted and a defendant is found in possession of one of the prohibited firearms, the Federal Government has a counter-weapon at its disposal in the form of penalties of five years in prison and a \$5,000 fine. In the various Federal

districts cases of this character are now pending; and a large number of weapons have been forfeited, either through voluntary surrender or by seizure. I have submitted to the Seventy-Fourth Congress a bill to extend the present Firearms Act so as to require the registration of pistols and revolvers, as a prerequisite to their transportation in inter-state commerce. Such a measure would be a potent weapon in the enforcement of the criminal law, especially in the suppression and eradication of roving criminals of the dangerous type. It will not place any undue burden on law abiding citizens who possess pistols and revolvers for legitimate purposes. It is no greater hardship to register a revolver or a pistol than it is to register an automobile. Indeed, the average citizen is apt to buy more automobiles over a period of years, than pistols or revolvers. There is no legitimate argument against this measure. I hope that it will have your support and that it will be enacted. The drive to disarm the underworld is an essential part of our program and it must go forward unremittingly.

There is another field in which I should like to see complete and effective cooperation between the State and Federal authorities. During its somewhat brief experience in fighting gangsters and racketeers, the Federal Government has become aware that a certain number of the more outrageous criminal enterprises have been planned with the connivance or the knowledge of men admitted to practice at the bar of justice. If you could see the letters that come to my desk complaining of illegal or unethical conduct on the part of members of the bar, you would realize that our people are insistent that the ranks of the legal profession be purged of those unfit or unwilling to sustain the standards and to uphold the traditions of which that

profession is so justly proud. The American Bar Association and other interested groups are devoting major attention to this problem and encouraging results are already apparent. Nevertheless much remains to be done. In this field the Federal Government labors under well recognized limitations, but it is prepared to co-operate, to the utmost of its ability, with the various state and local bar associations that are attempting to deal with this crucial matter.

One of the pathetic fallacies which misleads so many ardent friends of the movement to deal with crime is that permanent results can be achieved through some kind of tour de force. We know, of course, that it cannot be done in that fashion. This may seem discouraging to some people, but our surest guarantee of success is to know, first, what the problem is, and, second, how it must be met. This attitude, I feel certain, will be well appreciated by your great organization, comprising within its membership persons active in hundreds of different fields and participants in enterprises of the most varied and far-reaching character. The help that is needed to sustain this movement is not the sporadic efforts of zealous enthusiasts; but, rather, the assistance of earnest workers of practical experience, familiar with the obstacles that are certain to arise and everlastingly determined to overcome them.

I invite your co-operation and your counsel; and I shall be glad to confer with such representatives as you may care to designate relative to a program of specific action.

No Government official, who has an intelligent appreciation of his role, desires to operate in a vacuum. There is no monopolization of wisdom or of discretion, or of sound judgment residing in those who happen, for

a time, to be placed in positions of power. The more our citizens express themselves, the more their wishes and views are made known, the more insistent their demand for sustained and intelligent treatment of the social corruptions of crime, the more certain it is that the government will adequately respond.

Let us insistently remind those who are concerned with the actual administration of criminal justice that, in whatever part of the vast machine their functions lie, they occupy positions of the highest trust, and that men and women in these posts are not mere holders of a job, but engaged in a professional undertaking, involving the highest ethical standards and the most imperative moral compulsions.

The Daughters of the American Revolution can exert a profound influence in this vital matter. There can be no higher form of patriotism, no greater contribution to the public good, than for your membership, with its vast ramifications, reaching into tens of thousands of communities, ranging from great metropolitan centers to the smallest villages and hamlets, to demand that the administration of criminal justice shall be modernized and placed upon a basis of maximum effectiveness throughout the United States, that the operations of courts, of prosecutors, of police departments, of prison officials and of parole boards shall be lifted above the swirling currents of politics; and that the detection, apprehension, trial and punishment of criminals shall be confided to trained professional groups free to reach unhampered decisions and not forced to balance conclusions against the devitalizing and distorting considerations of political or personal interest.

The people of the United States want this job to be done. The

law enforcing agencies of the country whatever their jurisdictions, are in a more cooperative mood than at any time within my memory. Moreover, there has been an acceptance of a measure of Federal leadership that would have been deemed impossible only a short while ago. The signs are propitious and the time is ripe for a sweeping advance all along the line.

- - - - -