
Franklin D. Roosevelt — “The Great Communicator”

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*Suppression of Crime—Enforcement of Justice—Reform of Criminal
Procedure*

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No constitutional sovereign right vested in the forty-eight states which make up our great nation has been more zealously defended or clearly established than the right of each state to control the police powers and the administration of justice within its borders. What constitutes a crime is a matter which each state determines for itself. What machinery or justice shall be employed to enforce its laws is also a matter for state determination. Only those matters which are violations of such congressional laws as are based on specific grants of authority by the Constitution to the Federal Government are recognized, not as usurping the state's individual authority, but as necessary measures which the agreement of federation between the different states requires us to acquiesce in, if we are to keep faith one with another.

Our nation has been a successful experiment in democratic government, because the individual states have waived in only a few instances their sovereign rights and have permitted the national government, through its own machinery and its own courts, to enforce within their borders certain particular laws which the states themselves, as represented in congress assembled, have agreed upon as being proper national legislation.

But there is a tendency, and to my mind a dangerous tendency, on the part of our National Government, to encroach, on one excuse or another, more and more upon state supremacy. The elastic theory of interstate commerce, for instance, has been stretched almost to the breaking point to cover certain regulatory powers desired by Washington. But in many cases this has been due to a failure of the states, themselves, by common agreement, to pass legislation necessary to meet certain conditions.

We are now faced with new and alarming problems in criminal activity. I am very certain that the public is aroused to the necessity of suppressing the outrageous and open lawlessness shown by the murders committed daily in the public streets of our great cities, of private feuds between gunmen which flourish with less punishment than in the darkest days of Sicily. At this constantly growing disregard of the life and safety of others and crimes against property, the public has grown alarmed and demands action. And let me here voice to the governors of my sister states my conviction that if our states do not themselves, by cooperation and earnest, intelligent legislation, remedy the existing condition of affairs, we will find the heavy hand of Washington laid on us by federal legislation, and the people of our own commonwealths will raise no voice in protest, because their own state governments have been inefficient, stupid or negligent.

If we wish to retain our control over the criminal laws and police powers, we must accept the responsibility for their enforcement; we must clean out the antiquated machinery of justice, we must meet new kinds of crime with new kinds of laws; and we must do this, not in this State or that state, but in every state, if anything is to be really done about this crime problem.

We who have assembled for this conference have no small moral share in this responsibility. It is the governor of each state who has the duty, and the right as well, of calling to the attention of his State Legislature the need for legislative action, not merely by a few perfunctory words in an annual

bring about. And unless the Federal Government assumes mandatory authority over our officials, these statistics cannot be collected by Washington. That has been proved by the praiseworthy attempt of the census bureau to collect and publish statistics obtained from our state prisons. They are probably the best national statistics relating to crime in existence, but the director of the census will tell you, as he told our commission, that too often the wardens of our great penitentiaries have replied to his request for information so negligently as to make the figures matters of deep suspicion or, indeed, in some instances, in spite of repeated correspondence, made no reply at all.

Of all the statistics needed perhaps the most urgent and the simplest to procure is the record of the numbers and kinds of crimes of violence that have been actually committed, not punished, committed. Our large cities furnish more or less accurate statistics of arrests and of trials, of convictions, and of imprisonments, but of the crimes committed, where no one is arrested, where no grand jury brings in an indictment, where no court has a record of any kind (we are speaking of the country as a whole), we are profoundly ignorant.

I have spoken at length on this matter of statistics, because as a whole statistics are a dry subject, and it is difficult to interest the public in the necessity of their collection, but I wish to assure this conference that no intelligent body of citizens in these United States, from the President's commission down, has attempted to study and understand this matter of crime and of this new entrance of the young criminal into the problem, but has found itself baffled and disheartened by the lack of obtainable information.

Now as to remedies themselves. There are many causes of crime. Each section of the country, each state within that section, and each city within that state, have peculiar conditions and problems in this connection. Should we, evading our responsibility, cowardly ask the National Government to pass laws which should be enforced throughout the entire country? To provide a system of justice and a criminal code for the entire United States, and if the National Government should accept that responsibility, they would find it impossible to draft any national laws which would be equally effective in Maine and California, in Texas and Ohio. Each state must study its own crime conditions, must gather its own statistics and work out its own salvation. By that I do not mean that there should not be the closest possible uniformity in our crime legislation and our criminal codes. All legislation, for instance, against the gun toter has been seriously impaired, because it is not uniform in every state. There are certain fundamental principles, certain uniform treatment of certain crimes which are absolutely necessary, if we do not want to see our criminals traveling from one state to another in order to take advantage of varying statutes.

I wish this conference would establish a permanent committee on coordination in the enforcing of justice and the reform of criminal procedure which would consider the various suggestions made by our State and national crime commissions, by our various bodies devoted to penal reform and by the bar associations throughout the country, and that such a committee of governors should recommend for the consideration of all the governors such proposed legislation as they deemed worthy, with the request that it be laid before the legislatures of the different states. And I wish even more devoutly that it would prove practical to effect some kind of coordination between the chairmen of the respective state legislative committees to whom such legislation would be referred, so that they might know what other states were doing and might agree amongst themselves as to what was to be reported out, with their favorable recommendation, at the next session of their legislative bodies.

The National Crime Commission has found a spirit of conservatism, speaking in general terms, among many of the bar associations, which should be the first to act. This spirit has been noticed to an even greater extent in the average legislative body. I think I am not exaggerating when I say that, if all the recommendations of properly qualified bodies for legislation simplifying and expediting justice, had been passed by the legislatures of the different states assembled in session last year, we would have made a tremendous stride toward reducing crime in this country.

It is our duty as governors, as I have already said, continually to remind our legislatures of the seriousness of this problem, and if necessary, to ask the people of our commonwealths to support us in our demand for action.

Speaking for my own State, we have found the establishment of a State Crime Commission an invaluable help in meeting this question, and I think the same experience has followed the establishment of such commissions in California and other states. The creation of a proper bureau of identification, such as has been done in Indiana, is another wise step. I have recommended in my own State an investigation as to the possibility of bringing our police methods on a par with those in England, France and Germany, by applying modern science to police protection. In such states as still retain the county jail I hope the system of state-supervised penal institutions will be substituted in the interests of permanent reform of our criminal classes. One of the helpful recommendations of the crime commission in my own State, which has been enacted into law this year, was the establishment in one of our great penitentiaries of a psychiatric clinic to study our prisoners by modern methods, to find out why they became criminals and what course would seem best adapted to bring about their reform.

I do not wish to take up, in opening this discussion, particular things or particular remedies. My own commission has made a number of suggestions, the state commissions of many states have added and improved upon them, and many of those present have doubtless carefully thought out valuable suggestions of their own, but I want again to urge some kind of closer cooperation between the states and the necessity of ceaseless presentation of the matter to our state legislatures, as being two fundamental things that rest on us as governors to carry on.

When I started to prepare this opening address I asked the chairman of the President's commission if he had any requests to make to the governors here assembled for their aid in the tremendous task which they have undertaken. He wrote me in reply a letter so clearly setting out their views that I am going to read it without comment or amplification of any kind of my own in closing. This is what Mr. Wickersham has written.

Letter of George Wickersham

Dear Governor Roosevelt:

President Hoover in his inaugural address emphasized the need of an urgent respect for law and the improved treatment of crime and criminals. In his address to the commission on its organization, he said: "A nation does not fail from its growth and wealth or power, but no nation can for long survive failure of its citizens to respect and obey the laws which they, themselves, make, nor can it survive decadence of the moral and spiritual contracts that are the basis of respect for law, nor from neglect to organize itself. To defeat crime and the corruption that flows from it, he expressed the hope that his commission shall secure an accurate determination of effect and cause, following them with constructive, courageous, conclusions which will bring public understanding and command public support of its conclusions. In a previous statement to the press the President stated that the purpose of the commission was to examine and critically consider the entire federal machinery of justice, a reconstruction of its function, simplification of its procedure, the provision of additional special tribunals, and better selection of juries, the moral, effective organization of our agency of investigation and prosecutions. It will also naturally include consideration of the enforcement of the Eighteenth Amendment."

From these statements you will understand what a broad scope we have and what a heavy duty is laid upon us. Every intelligent must be aware that the general attitude of the American people toward the law has fallen far short of what it should be. It is not only shown in the open disrespect for the Volstead Law, but in the general attitude of "beating the law," so long as one can get by with it.

The first thing our commission did was to endeavor to secure actual, reliable statistics of the existing amount of crime, the increase or decrease

of crime during the past decade, the actual delays of the enforcement of justice, and the amount of congestion of the criminal courts. *There are no reliable statistics furnishing this information.*

The New York Crime Commission, whose admirable reports have been most helpful to us, came upon the same lack, and upon their recommendations, the Legislature last year passed an Act (L. 1928, 3875), to supply this want so far as our State is concerned.

I think if the Governors' Conference would recommend like action by all the states it would be helpful.

Our Commission is studying the subject, and will, I think, recommend a uniform state law on the subject, with voluntary Administration Act in the meantime.

Another subject we are inquiring into is the cost of extra legal protection against crime by the police, armored cars, burglary, robbery, and theft insurance, etc., and a survey of conditions in Boston, nearly completed, indicated that crime in that city actually has diminished during the past decade. The fact that that city has a larger police force in proportion to its population than any other city may have much to do with the favorable condition mentioned, but the challenging fact is in the great number of criminal prosecutions which never come to trial, the number of cases settled by pleas of guilty to a lesser offense than that charged, the great delay in bringing cases to trial, the greater delays in hearing appeals and the abuse of excessive bail on appeal. Justice to be effective should be speedy. It is freely charged that much of the delay is the result of political influence with the police, the prosecutors and even the courts. These are difficult matters to investigate. But if every arrest had to be immediately reported from a central registration office and every step thereafter taken concerning the defendant recorded in the same way, it would be much more difficult for an improper influence to thwart the due administration of justice.

Of course, one of the most serious subjects we must deal with is the enforcement of the Eighteenth Amendment. That measure has written into the Constitution of the United States a prohibition of the importation, manufacture, transportation and sale of intoxicating liquors for beverage purposes. The Amendment confers upon the states concurrent jurisdiction with the National Government for the enforcement of this measure. Thus far the Federal Government alone has borne the brunt of enforcement.

It seems to me that the Governors' Conference might well consider approaching the Federal Government on some feasible proposal to share this burden. If the National Government were to attend to preventing importation, manufacture and shipment in interstate commerce of intoxicants, the state undertaking the internal police regulations to prevent sale, saloons, speakeasies, and so forth, national and state laws might be modified so as to become reasonably enforceable and one great source of demoralizing and pecuniarily profitable crime removed. Every state executive has sworn to support and defend the Constitution of the United States. The Eighteenth Amendment is a part of the Constitution, just as much as any other part of it. Surely, it is pertinent to their Conference to suggest and consider how they may best carry out their solemn undertaking.

My dear Governor, I beg you to excuse this long letter in my own hand. I have no stenographer with me, but I feel that your letter calls for the most helpful reply I can give, and I hope that what I have written may suggest to you something of value in the preparation of your address.

Faithfully yours,

G. W. WICKERSHAM