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The Enforceability of Criminal Statutes

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powered when in need of aid to call in District Judges. Appeals from the Minneapolis Court are direct to the Supreme Court.

Parole System Used

The parole system is usually a part of a Municipal Court. In Minneapolis, paroles and suspensions of sentences are granted by a majority of the judges, who also have the power to revoke a parole and send the offender back to jail. The work of the political "fixer" is thereby eliminated.

Much serious food for thought is furnished lawyers, members of the Chamber of Commerce and citizens generally who are interested in doing something for Denver in improving lower court conditions. Why do lower court judges in Atlanta, a city smaller than Denver, receive three times the salary of our Justices of the Peace?

It may seem strange also to some that the Minneapolis Bar Association, through the Municipal Court Act receives \$2500.00 yearly from forfeited recognizances with which to provide a law library, accessible to judges of all courts, while The Denver Bar Association provides out of its own funds a similar library.

However, "it is a condition, not a theory" that confronts the Committee. A few moments would suffice to draw a charter amendment providing for additional judges. Weeks of careful work are needed to prepare a suitable municipal court code. The Committee is ready to do what is required but is anxious to hear from lawyers and

laymen who have any suggestions. Communications will be thankfully received whether written, oral or by telephone.

Outside Lawyers Help

Invaluable aid has already been furnished by Thomas J. L. Kennedy, Corporation Counsel of Seattle, through Deputy R. B. McClinton; Clarence M. Platt, Corporation Counsel of Rochester; Neil M. Cronin, City Attorney of Minneapolis, by Assistant Attorney Thomas B. Kilbride; Charles A. Leach, City Attorney of Columbus; Elmer S. Chase, City Solicitor of Providence, Frank S. Grant, City Attorney of Portland and Henry B. Curtis, Assistant City Attorney of New Orleans.

Thanks are also due George A. Trout for his recent illuminating article on Municipal Courts in the Bar Record and to Hudson Moore, through whom the Committee obtained from Chief Judge L. Z. Rosser, the Atlanta Code.

Further acknowledgment will be made members of the Denver Bar as assistance is received.

Meanwhile, as this is a matter affecting the people as a whole, it is desired that people generally contribute their ideas to the end that whatever change may be recommended shall be for the common good.

LUKE J. KAVANAUGH,

Chairman,
Police Court Committee.

The Enforceability of Criminal Statutes

Joseph C. Sampson

There is much ado at the moment over the question of law-enforcement and there is no denying the fact that the situation in America today is, in this respect, extremely grave.

Not only is the Bar of the nation aroused to its seriousness, and doing what it can to solve the problem, but a host of others, ranging all the way from chauvinistic "leagues" of various kinds to serious-minded psychologists, sociologists, and public officers, are striving with all their might and main to correct the condition.

It is obvious that if we are to con-

tinue as a great nation, respect for law must somehow or other be maintained, but it is also obvious that it can only be had when the laws for which we demand respect are themselves inherently respectable and worthy of respect.

That there are myriads of penal laws on the statute books of every one of the forty-eight states which are utterly impossible to enforce because of their intrinsic folly, is a matter of common knowledge. A good-sized and highly entertaining book could be written on the stupid and impractical pen-

al laws of our own state which have not been repealed but which nevertheless no one observes.

Many of these silly laws are perfectly constitutional but, unfortunately, constitutionality is not always a measure of enforceability and so this great monument to legislative wastefulness stands, a wholly dead and useless memorial to our mania for regulating the unimportant details of other people's lives.

This being true—that constitutional penal laws are not always either wise or enforceable laws—where then can we find a criterion for the writing of penal statutes that will command general respect and to which we can hope to enforce obedience?

As one approach to this question, we might consult, for first principles, the great law-givers of history. Among these, whatever our individual theology or philosophy of life happens to be, it will be admitted that Moses was one of the greatest and wisest of them all. He brought order out of chaos for a comparatively uncivilized and disorganized race and the basis of his entire legal system was the Ten Commandments, which, when they are analyzed, seem to contain the sum of all the natural law and to clearly indicate the limits beyond which human laws cannot successfully go in restricting human liberty.

For the purpose of this discussion, it makes no difference whether Moses got these ten rules of conduct from God or evolved them out of his own consciousness, for, whatever their origin, as a compendium of natural law, they stand supreme.

Passing over the first five, which have to do chiefly with religious matters, we come to the sixth commandment, "Thou shalt not kill." This includes by implication not only homicide but mayhem, assault and battery, and all of the other offenses against the person which are likely to lead to homicide, and which we have succeeded in punishing and in a large measure preventing by the enactment of criminal laws.

The seventh commandment, "Thou shalt not commit adultery," also clearly includes by implication all of the various sexual offenses concerning which we have enacted penal statutes.

The eighth commandment, "Thou shalt not steal," likewise clearly includes burglary, highway robbery, lar-

eny, embezzlement, destruction of property by arson or otherwise, and every other offense against property which we have defined and punished successfully.

And the ninth commandment, "Thou shalt not bear false witness," would also seem to clearly cover frauds and cheats of various kinds as well as perjury, libel, slander, and all other offenses based upon misrepresentation, which are recognized in our criminal laws.

The Ten Commandments, propounded by Moses and approved by the conscience of all mankind, have been the moral guide of civilized men in the western world throughout all the ages since.

It is seriously suggested that they imply every restraint which can successfully be put upon man's natural liberty, and that they afford a criterion for the writing of criminal laws into either constitutions or statute books.

It is also seriously suggested that when we find a penal law that has become a dead letter or one that is openly defied and disregarded by large numbers of people, despite severe penalties and ardent and expensive efforts to enforce it, we should examine it in the light of the decalogue and if it falls clearly outside these simple rules, repeal it promptly.

The Law of Nature, after all, controls us in spite of ourselves, and man-made laws which fly in the face of natural law are doomed to failure.

Our professional inclination is to look no further than the Constitutions of state and nation in considering the enforceability of penal statutes. But in the present law enforcement problem perhaps we might all profitably spend some time in brushing up on the philosophy underlying all of our laws in order that we may eliminate the causes instead of trying vainly to enforce the unenforceable.

EVEN AS YOU AND I

"A fool there was, and he saved some rocks,

Even as you and I;

But he took them out of the old strong box

When a salesman called with some wildcat stocks,

And the fool was stripped right down to his socks,

Even as you and I."

—Tacoma Better Business Bureau