

The Shadows of Whipping Post and Gallows

AS the war between society and professional crime gathers volume and intensity, a vastly important question is being debated by public men, newspapers, and citizens:

Would America be wise in trying to cure its crime epidemic by returning to the severities of a less humane age?

In the year 1800 there were 200 offenses for which people were hanged in England, and public floggings were a commonplace. In sixty-one years the number of capital crimes was reduced to four—murder, treason, piracy with violence, and setting fire to the royal dockyards or arsenals. Yet the smaller offenses from which the death penalty had been lifted were greatly reduced under milder punishments.

But America is facing a crisis, and to many excellent citizens it seems that a quick "yes" is the only sensible answer to the question outlined above. Exasperated and alarmed by the growing plague of rapacity and violence, with all its cold cruelty in the destruction of life and property, the bereavement of families and the bleeding of honest business, they say something like this:

"By all means let there be hanging or electrocution for all convicted kidnapers, and a whipping for every rascal who has wilfully adopted crime as a gainful career."

An Outcry for Flogging

The country has grown accustomed to the thought that one kidnaper, who did not injure his victim, is under sentence of death in Missouri, and since that sentence was pronounced, the flogging of habitual criminals has been urged by a veteran police official before the Senate sub-committee on racketeering.

It's all very human. More laws, harder penalties, death or suffering for the malefactor—these are the obvious, simple remedies that spring to the mind of the average, emotional man.

Even intellectuals like Mr. Mencken are calling for the gallows and pouring scorn on the milder measures that have grown up in the last few generations, due to what he, in the *Baltimore Evening Sun*, calls "organized sentimentality."

But there is another side of the matter, not linked with sentimentality, and that side is likely to receive more and more attention as the Federal Government gets deeper into the crime problem.

Professor Moley, who is hard at work on the academic side of the crime situation for President Roosevelt, has done a vast amount of criminal research work, and his surveys in different parts of the country have proved that the trouble is not due to the mildness of penalties under the existing laws, but to a tangled web of chicanery by which American justice is cheated of its legitimate victims.

Intimidation of witnesses and juries, bribery and corruption, archaic red tape, and

a multiplication of technical tricks by which crafty lawyers, sometimes aided by dishonest officials, can bring about the escape of criminals from the lawful penalties of their crimes—these are some of the conditions which have helped to bring about the present crime plague and which remain the obstacles to its cure.

Will the Federal Government succeed in cutting through this tangled web, which



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IT'S HIGH TIME SOMEBODY GOT AFTER IT!

—Darling in the New York Herald Tribune

paralyzes the machinery of justice in most of the States? Many well-informed students of the subject believe that it will, possibly through the organization of the much discussed "American Scotland Yard," and possibly through some modified form of martial law, with reference to crime, which is being advocated more widely as the situation ripens daily.

If the armed bandits, kidnapers, racketeers and other blackguards now molesting American life can be caught quickly, tried quickly, sent to jail quickly, and kept there, will there be any real need for the spread of the gallows and the whipping post?

If, on the other hand, the gallows and whipping post have their day, will timid witnesses be more likely, or less likely, to face the music and tell the truth and will timid or corrupt jurors be more likely, or less likely, to convict?

Certainty Versus Severity

"Certainty and swiftness of punishment outweigh extreme severities of punishment as deterrents of crime," comments the New York *World-Telegram*, adding: "That is far from saying punishment should be mild. But every crime wave encourages a tendency to think weakness in detection and prosecu-

tion of criminals can be ignored if only we manage to pile up heavy enough penalties.

"Former Police Commissioner Mulrooney presented the familiar police point of view at the Senate committee hearing when he suggested public lashings for kidnapers every six months during a maximum twenty-year prison term. Police are bound to feel that way where they see hardened criminals they have caught either slip through the hands of incompetent prosecutors or given inadequate sentences by easy-going judges.

"Do we have to admit that State law enforcement has broken down beyond all hope of repair, that politics has bedeviled and must continue to bedevil it?"

"Police departments are efficient," declares Warden Lawes, "but they are handicapped by politics—all of them."

Politics and Crime

Speaking of politics in relation to crime, the subject popped up before Senator Cope-land's sub-committee the other day, and United States Attorney George Z. Medalie made a stir by saying that he knew at least four political leaders who worked hand in hand with gangsters and racketeers, and that these rascals played an important part in political machines.

"There is no reflection on any one political party," he explained, according to the New York *Herald Tribune*, "but so long as there is politics in municipal affairs, where it doesn't belong, you will have racketeers." A parallel observation was made by Fred-eric Kernochan, Chief Justice of Special Sessions and a friend of President Roosevelt.

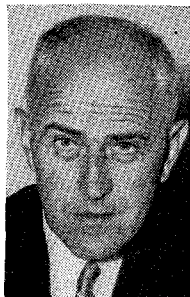
It was at another session that the suggestion for the "cat" came from Warden Lawes, of Sing Sing. He thought about forty lashes, plus twenty years in prison might end the worst forms of crime by "hurting the prisoner's ego," and one can easily imagine that some of the cowardly ruffians whose deeds are romanticized in Hollywood's gangster films might feel a little embarrassed by such a ceremony.

Apropos of which *The Herald Tribune* refers to the use of the "cat" in English prisons, remarking that "no other form of punishment is so dreaded or respected and presumably, therefore, none has as great a deterrent influence. However, it is an old truth that what the criminal fears most is not severity of punishment of whatever sort but its certainty. If he knows that the police are incompetent or corrupt or that the courts are slow to convict he will take a chance with the electric chair where under the reverse circumstances he would not risk a year's imprisonment. So it seems to us that the first and principal problem to be considered by the Senate racket inquiry is that of catching the criminal. When it has hit upon a formula which will insure the speedy apprehension and equally speedy conviction of the gangsters who are now defying American society, the time will be ripe to take up the question of their punishment.

What the NRA Controversy Means to the Consumer

HOW will the consumer fare as prices rise under the NRA? Will it be an unbearable hardship for him to pay increasing costs out of an income that doesn't go up? Or will it be possible for the NRA to keep buying power and prices in proper balance?

These questions focus editorial attention as a result of a flare-up in the Recovery Administration in which Prof. William F. Ogburn, University of Chicago economist, resigned from the Consumers' Advisory Board after a controversy, according to the correspondents, with Mrs. Charles C. Rumsey, chairman of the board.



Acme
Prof. W. F. Ogburn

"Chicago sociologist loses in tilt with Newport society woman over public policies," said a head-line in the *Washington News*. In his resignation, submitted to Gen. Hugh S. Johnson, Recovery Administrator, Professor Ogburn drew what the *New York Herald Tribune* correspondent called "a sharp indictment of NRA methods intended to protect consumers," insisting that "unless vigorous and far-reaching steps are taken by the NRA to safeguard consumers against rising prices a grave situation will develop."

Denial of a Personal Feud

"Professor Ogburn's resignation," we read further, "resulted directly from his inability to agree with Mrs. Rumsey, daughter of the late E. H. Harriman. Mrs. Rumsey sought to have him ousted from the board, and while he was in Chicago Professor Ogburn was advised by Daniel C. Roper, Secretary of Commerce, that he had been transferred to the Central Statistical Board."

"Professor Ogburn declined to accept the transfer, came to Washington, saw General Johnson, and was asked to remain on the Consumers' Advisory Board. He declined to do so, but in leaving it presented a summary of his views on what should be done to maintain the consumers' interests."

In his resignation Professor Ogburn denied any "personal feud" with the chairman of the Consumers' Advisory Board. As for his warnings, he said that—

"Price determination is of particular significance in the basic industries such as oil, steel, and coal. The full answer on price adjustments will probably not be written for many years to come, but the issue is fundamental. No dogmatic position should be taken, but enough understanding may be reached at this time to provide the basic safety for the consumer."

"The consumers will lose unless indexes of prices and purchasing power are developed."

Criticizing a committee of the board of

which General Johnson's wife was recently made chairman by Mrs. Rumsey, Professor Ogburn said that during his absence complaints of consumers were "assigned to a group inadequately equipped to learn the facts of costs and prices, which are the topics of most complaints."

"A Challenge to the NRA"

Editors are divided over the Ogburn resignation.

"Under Mrs. Rumsey's leadership," says the *Chicago Daily News*, "the board's actions have shown little realization of its responsibilities." Furthermore:

"If the NRA experiment is to succeed, the relationship between buying-power and prices must be kept in proper balance. The consumers' advisory board is the agency designated for that purpose. Its personnel should include only aggressive representatives of the ultimate consumer and trained economists who know about price relationships and living costs. Thus far, many members of the board have fallen short of those requirements."

"Unquestionably," says the *Hartford Courant*, "Mr. Ogburn has challenged the NRA in a manner that it can not ignore. Not only the welfare of the consumer, who, as Mr. Ogburn points out, is without leadership, demands that some attention be given to prices, but the success of the entire undertaking of the Administration."

Professor Ogburn "uncovered faulty or-

ganization that will doubtless be remedied, largely in accordance with his temperate and judicious recommendations," remarks the *Springfield Republican*.

"Considered broadly, a general rise in prices is considered essential to the return of a fair degree of prosperity, and this is not inconsistent with consumer interests rightly viewed."



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Mrs. C. C. Rumsey

"The unemployed are consumers, yet it is most important that they be put back to work. If they are to find permanent jobs, there must be a revival of business such as is necessarily attended with a larger demand for goods and a higher price-level."

"Nowhere is there dissent from the basic assumption that the price-level should still go up, not down."

The "curt withdrawal" of Professor Ogburn "is not a development to disturb General Johnson or anyone else practically involved in the essentials of the NRA," asserts the *Springfield Union*.

"Prices in general have a considerable distance to travel before they gain levels to correspond with the higher levels specified as objectives for wages and production. Meantime price increases may be as essential to the success of NRA as increases in employment and pay-rolls."

The March of Men Back to Work

New signs of business improvement, reported last week in terms of reemployment sent another ripple of optimism across the country.

Scores of thousands of additional workers have found jobs, at a time when business usually is dull. And this upturn, it is pointed out, took place before the NRA had really swung into action.

A rise of 7.2 per cent. in employment in

manufacturing industries during July is shown by the Department of Labor's report. Another report shows that the automobile industry has passed a production mark equaling the entire output for 1932.

Pay-rolls in July jumped \$29,000,000 above the figure for March, according to Secretary of Labor Perkins, and employment was back to the level of October, 1931. Four hundred thousand factory employees returned to work last month, and the gain in employment for four months was one million one hundred thousand.

"The recent broad expansion in manufacturing industries," said the department report, "which began in April, and which was reflected by increases in employment in seventy-two of the manufacturing industries surveyed in May and seventy-nine industries in June continue in July, seventy-seven industries reporting increases in number of wage earners over the month interval, and seventy-one industries reporting increases in weekly pay-roll totals."

"The increases in employment and pay-rolls shown in July, are of especial significance, as decreases have occurred invariably in this month during the preceding ten years."



THE RACE

—Chase in the *New Orleans Item*