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Law Enforcement

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LAW ENFORCEMENT

"Law enforcement means that after an offense has been committed that the criminal shall be apprehended; that he shall be brought into court; that evidence shall be produced against him at the trial and that he shall be convicted by the jury if found guilty. Many are of the opinion that law enforcement lies entirely with the courts, but such is not the case. The first link in law enforcement is the apprehension and arrest of the offender, and this, by the way, is the weakest link.

"Recently in North Dakota there have been a number of bank robberies, some in the night-time and others in broad daylight, and in nearly all cases the robbers made their escape due to our inefficient system of criminal apprehension. This, however, is not in criticism of or reflection on our sheriffs, police, constables or other law enforcing officers, but it is a condition which exists and one which has to be met and faced and an element to consider in placing the blame where it belongs. Without doubt had the bank robbers been apprehended and arrested shortly after the commission of the offense and speedily brought to trial in the courts, their conviction would have been almost certain for the reason that few if any jurors have ever indulged in the crime of bank robbery and are not in sympathy with those who do.

"Under our present system of operation when a major criminal offense has been committed, the only way a sheriff has of securing aid is by telephone or telegraph, and such means have proved to be inadequate; and I believe that it would be of great assistance to our sheriffs and other law enforcing officers were they permitted to go beyond the boundaries of their own state into neighboring states when necessary to search for and apprehend criminals. Ways and means should be provided to make such a system workable and legal and if by the aid of wireless or other means a net or ring could be thrown around the vicinity where an offense was committed the probability of the criminal escaping would be lessened. Offenders very often escape by getting across the state line, and having done so they are at liberty to go anywhere in the United States, but the arresting officer in pursuit of the offender is barred from following him beyond the state line. This should not be, and the state officer, whether he be sheriff, constable or policeman, should be allowed to follow the criminal wherever he may go; in other words, it should be made a law that where a person commits an offense that he thereby submits himself to the jurisdiction of the county and state in which such offense was committed and that such jurisdiction would cling to the defendant as though he carried jurisdiction in his pocket, regardless of whether he crossed states lines or not.

"There is another phase of law enforcement, and that is the enforcement of the prohibition law both state and federal. While our present system of apprehending criminals is a contributory factor in the lack of enforcement of this law, yet the weakest link is not so much the method of apprehension of the offender as it is public sentiment. If the people as a whole throughout the United States really wanted the law enforced they could easily bring it about, much more so at least than at present. (Public sentiment, however, in some communities is not in favor of its enforcement.) If a man knows that his neighbor is distilling hootch or making home brew and would lay the facts before the state's attorney of his county and swear out a complaint and offer to back it up with his testimony in court, the apprehension, arrest and conviction of the offender would be assured, but the people are rather inclined as a rule not to offend a neighbor for personal reasons; in other words, the individual places his own welfare above that of the nation, consequently

he fails to do that which he could do to aid in the enforcement of the prohibition law. On the other hand, I doubt if there is anyone who if he had become aware of the fact that his neighbor had robbed a bank but what would immediately divulge the facts to the proper authorities, but when it comes to a violation of the prohibition law their whole attitude is changed.

"Another weak link in law enforcement is the fact that when one's friends are in office one is inclined to take things for granted and believe that everything is all right, but when one's enemies are in office they are prone to blame the lack of law enforcement upon them, much more readily than if their friends had been in power. Another bar to the enforcement of the prohibition law is the fact that juries very often, in part at least, are composed of men who themselves are not in favor of the law and as a result frequent acquittals are had. Attorneys also in making their pleas to the jury will sometimes resort to unpatriotic and un-American utterances, which if made in time of war would sound seditious and frequently an attorney in his plea to the jury will ask how long they are going to stand for this infringement of their personal rights or their rights to make private contracts, and very often the jury is led to believe that the defendant has been wrongfully accused.

"Another reason for the lack of enforcement of the prohibition law is the fact that it is a new law upon our statute books and will and has changed the mode of living of a large number of our people, and to have all the people do that within a short space of time is almost impossible. I have no doubt, however, that within the next ten or twenty years, with proper education of the people, that a great improvement in the enforcement of this law will be made; and I am convinced, from my nine years experience on the bench in this state, that by continuing, if only as we have been doing, within the next ten or twenty years a large majority of the people who are at this time opposed to the prohibition law will have by that time become reconciled and adapted to it and that they and their families will obey the law and be favorable toward its enforcement. The fact that the American people are in favor of continuing the prohibition law upon the statute books was, I believe, proven beyond a doubt from the result of our last election."—JUDGE F. T. LEMBKE.

REVIEW OF NORTH DAKOTA DECISIONS

State vs. Keller: Defendant appealed from denial of new trial, alleging his trial counsel was so intoxicated that he failed to put on any witnesses or argue the cause to the jury. Trial court acknowledged that facts stated by defendant were correct, but held it province of Supreme Court to pass on attorney's qualification. HELD: Defendants are ordinarily bound by the course of action of their attorneys; here, however, defendant was ignorant of his rights and unacquainted with procedure, so that he did not know trial was concluded until jury left the court room. He had no counsel, and was prejudiced without apparent fault. "It is inconceivable why the trial of the cause was permitted to continue when his attorney was in such a condition of intoxication as the showing of the defendant established. It is clear that under such a state of facts it was at least the duty of the trial court to advise the defendant as to his right to select other counsel and to afford him reasonable opportunity to do so if he wished. Certainly it was the duty of the court to see that he had a fair trial. Every defendant is entitled to such a trial and the requirement is not satisfied with one which is a farce and a travesty on justice."