

J. Mitchell Brown

J. Mitchell Brown; 38 years of age; married with four children; admitted to the D. C. Bar in 1955 and Virginia Bar in 1960. Received J.D. from George Washington University Law School in 1955 and received BBA from the University of Georgia. Been practicing with Hudson and Creyke since 1955. Member of Government Contracts Committee and Chairman, 1966-67; Admissions Committee for three years; Committee on Unauthorized Practice of Law, 1965 to date; Associate Editor of "The Young Lawyer". Secretary Public Contracts Section, Region III of American Bar Association; and Past President of District of Columbia Junior Chamber of Commerce, 1961-63.



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A Trial Judge's View of Crime

by Judge Edward M. Curran *

In the Nation's Capital, on the walls of the magnificent stone edifice that houses the Department of Justice, is carved the following inscription: "Justice is the great interest of man on earth—wherever her temple stands there is a foundation for social security, general happiness and the improvement and progress of our race."



Judge Curran

One of the great problems facing this country today is the crime problem. We cannot conquer crime by any simple formula. We cannot eliminate crime, but we can reduce it. We must apply against it the same painstaking research, the same willingness to sacrifice preconceived notions, the same high-minded dispassionate spirit that we would gladly apply to the control of an even less destructive plague. One of the aims of democratic governments is to achieve justice in a true sense. That no man should be condemned without being given his day in court and without being proved guilty beyond a reasonable doubt are the basic principles of criminal justice. We try to achieve speedy justice, but the safeguards that are placed

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around the accused bring irritating delays in securing their conviction. This crime problem has become so acute that President Lyndon B. Johnson, in signing the Law Enforcement Assistance Act in 1968, declared, "The control of crime is a major target of this Administration."

President Richard M. Nixon has recognized the seriousness of the crime problem in the District of Columbia and has made plans to combat crime. He said, "A meaningful assault on crime requires action on a broad array of fronts; but in the midst of a crime crisis, immediate steps are needed to increase the effectiveness of the police and to make justice swifter and more certain." He has advocated the erection of a new courthouse, an increase in the number of judges, an increase in the number of Assistant United States Attorneys, an increase in the number of police, and amendments to the Bail Reform Act whereby dangerous criminals could be held in temporary pre-trial detention. He has also urged the establishment of the Office of Public Defender.

Organized crime in its present form, in my opinion, is the result of an increasing intelligence on the part of the criminal classes. Crime is as ancient as civilization and begins at a time older than recorded history. A contemporary history of organized crime, carried through to the development of the movement under present-day conditions, with its underlying sources and philosophy, would require a treatise dealing with human relationships over the centuries. It would concern the feudal system, the feats of the old buccaneers, the slave traders, the caravan highwaymen of the Far East, the smugglers, and many others of their ilk. It would concern not only the material but the spiritual, with considerations of religion, environment and geographical mobility; and the passions and the greed of men; it would lead logically to those operations of criminal groups which we face today. I believe that widespread lawlessness is a symptom of widespread paganism, and a growing paganism could prostrate the soul of America.

There is no more sinister force in the United States than that of the millions who are engaged, by day and night, in the commission of felonies which occur every few seconds. Nearly 3 million serious offenses are committed every year. These offenses continue, with five serious offenses being recorded every minute. There is a crime of violence every two and one-half minutes; a robbery every five minutes; a burglary every twenty-eight seconds; and fifty-two automobiles are stolen every hour. The annual crime bill of the nation is estimated

to be in excess of 20 billion dollars. As the Honorable J. Edgar Hoover, Director of the Federal Bureau of Investigation, once said, "There is not a family in America which is not, in one form or another, paying this continuing taxation, levied by the assessors of the underworld."

There are many causes of crime. Poverty is one; unemployment is one; slum areas are one; lax parents are one; and lenient courts are another. The trend of leniency keeps growing. Constitutional rights are all right, but in these days there often are criminal cases in which it appears that the main concern of some courts is for the rights of the perpetrator of the crime and not the rights of the victim or society.

In thousands of cases the parents are at fault. There is a breakdown of the family unit. It is in the home that respect and authority must first take shape. I feel that the solution of the crime problem to a great extent lies with the family, the schools, the churches, and the community.

Why is it that some parents do not try to understand their children? Why is it that they are not interested in the difficulties and problems which their children may run across?

I think it is very necessary that parents perform their duty in attempting to raise their children with the idea of obedience and respect for them, for, as they grow older, such obedience and respect will develop into respect and obedience for the law. In this day and age, parents cannot afford to be lax in dealing with their children, for disrespect for parents results in disrespect for authority and sometimes that disrespect turns into actual enmity. Parents should be interested in where their children are and what kind of company they keep.

There lingers in the memory of many the sight of a grief-stricken mother's face and the sound of her soul-shaking sobs as a jail door clanks between her and a son or daughter for whom she once held happy hopes.

The school is an important factor in our civilization, for today our teachers are more qualified and better fitted than ever before in the nation's history. It is not necessary, however, that a curriculum should be laid down to apply to all children alike, because if this is done, the handicapped boy or girl would not receive the proper training and his education would go for naught. In the New York City schools there have been shocking cases—assaults on teachers, vandalism and displays of vicious attacks. Facing such a situation, the teachers are helpless. I believe that teachers should have the

authority to punish pupils who disobey them.

You cannot ignore the church as an important part of our every day life. Today is the age of irreverence and criticism. This is a world of greed, lust, and power; a world besmirched and bedraggled by the most brazen carnival of materialism that ever blackened the reputation of self-respecting people; a world which knows not God's commandments; a world which needs a panacea in the recount of moral values. The churches of all denominations should awaken the spiritual appreciation of living. Years ago parents attended church, and children attended Sunday School, where they were taught the underlying principles of morality and character. Today parents are less prone to attend, and the children attend Sunday School intermittently or not at all. If this pace keeps up, the church is bound to lose the influential place it held, in days gone by, as an effective weapon in crime prevention.

The community, being a part and parcel of American life, is most important in this ever increasing problem. Neighborhoods of various kinds and characteristics bob up through this country of ours with all types of families, foreign and domestic, rich and poor, educated and illiterate—neighborhoods where one is not content; regions where one is dissatisfied; residences where there exists ill influence. In the slum areas, there are too many broken homes, too many working mothers, too many children running loose in the streets, learning about liquor, narcotics and crimes, such as mugging, yoking, purse snatching, gang assaults, and violence just for the sake of violence. Conditions existing such as these do not offer much encouragement to the boy or girl who may desire to live an exemplary life.

There are four important elements to be considered in the crime situation. They are the public, the police, the prosecuting agencies and the judiciary. These, functioning together become an effective instrument in the suppression of crime. Operating independently, they hearten the criminal element to the detriment of the law-abiding citizen. Sometimes they may work at cross purposes; sometimes they may criticize each other; and sometimes they may not be interested in harmonizing their differences to the end that the commonwealth might be best served. I believe that there should be a better understanding among them, in order that we may have a closer cooperation as a bulwark of defense in this war on crime. And the time has come when we must recognize that society has

certain rights, as well as the accused. You have the right to life, liberty and the pursuit of happiness. As a distinguished Judge of the United States Court of Appeals for the District of Columbia Circuit, the Honorable Wilbur K. Miller, once said, "Nice people have rights, too." Since 1960, the yearly total of crimes has increased by 47%, and crime is growing six times as fast as our population. Your wife has the right to walk down the street without fear of being raped or molested. Your family has the right to feel secure in your home. Putting it bluntly, the law-abiding citizens of this country have the right to be left alone, and when some of the judges in this country realize that the rights of society should be balanced against the rights of the individual, then law enforcement will be more effective.

As the distinguished Bishop of Rochester, the Most Reverend Fulton J. Sheen, has said, crime is increasing because of a "false compassion" for criminals. He defines false compassion in these words, "A pity that is shown not to the mugged, but to the mugger; not to the family of the murdered, but to the murderer; not to the woman who is raped, but to the rapist." The Bishop deplored "social slobberers" as those who insist on compassion being shown to the junkies, the dope fiends, the throat slashers, the beatniks, the prostitutes, the homosexuals, and the punks. Today the decent man is practically off the reservation."

I think a study should be made to determine whether or not court decisions are causative factors in the commission of crime. I say this because it is clear to me that some appellate court decisions have unduly tipped the scale in favor of the criminal and against society's rights to be protected.

There is no substitute for swift, certain and impartial justice, with less attention paid to the technicalities which appear aimed at the protection of the criminal and not society.

Respect for law and the maintenance of order are among the bulwarks of our republic.

Morality, law and order, and other great principles of our heritage, are fighting for their very existence. They are under attack from certain influences which, if not stopped, will wreck every trace of decency and orderliness in our society.

It is even argued by some groups that profane verbal abuse directed at the police is a Constitutional right.

The best interests of this country lie in a law-abiding and orderly society. The citizens of America cannot live with

lawlessness, vulgarity, obscenity, and blasphemy.

The time has come for us to cease being led toward the hole of self-destruction by certain do-gooders and to get on with the perpetuation of those self-evident truths which have served our country so well.

The only way to fight these organized crusaders of filth, immorality and crime is to get tough.

Liberty cannot exist without law, for the law protects liberty. We should remember, however, that liberty is not absolute but relative, for no person may infringe or transgress on the liberty of another.

The most effective deterrent to crime is the apprehension and punishment of criminals. If the factor of punishment is ignored, then there can be no deterrent.

The courts of this country are courts of justice—not courts of mercy. A trial should truly represent an enlightened search for truth, so that deception, surprise, technicalities, and delays will be obliterated. The atmosphere of some courtrooms is still polluted by some jurors, who close their minds to the evidence before them, and some of our judges seek out technicalities rather than guilt or innocence.

Forty odd years ago an experienced attorney and jurist in New York issued this strong warning, "It is not the criminals, actual or potential, that need a neuropathic hospital. It is the people who slobber over them in an effort to find excuses for their crime." What we need today, in attempting to minimize crime, are jurors with conscience and vision, judges with courage and fortitude, and penitentiaries which are neither country clubs nor health resorts.

In this war on crime, we stand as men and women in the ranks of humanity, who are under the law of duty that allows us no stopping place short of our utmost capabilities. Whatever in the human nature is hopeful, generous, aspiring—the love of God and trust in man—is arraigned on one side, and on that side, let us stand.

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