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THE NEW DEAL'S RESPONSE TO CRIME: THE POLITICS
OF LAW AND ORDER

By

John A. Conley

A THESIS

Submitted to
Michigan State University
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ABSTRACT

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Crime has increasingly become one of the major national political issues as evidenced by the federal "crime commissions" of the past decade and the "law and order" presidential campaign of 1968. Yet historians and students of criminal justice have ignored the historical antecedents of the federal government's response to crime.

This study is an attempt to place crime in a historical perspective by investigating the social and political influences that shaped the New Deal's anti-crime program. This period was selected because the federal government's role in criminal justice was expanded significantly during the thirties in response to perceived and actual increases in the level of general crime and collective violence.

The major finding was that the New Deal's activity in response to general crime was substantially

different from its response to collective violence. The response to general crime was legal in nature and limited in objective which was reflected in the "crook catching" legislation of 1934. The response to collective violence was political rather than legal and much broader in scope. This was reflected in the emphasis on amelioration and compromise rather than force and suppression.

The distinguishing feature between the two responses was that identifiable strong political groups were involved in the collective violence and were able to raise the issue to a national level of political confrontation. The general crime problem, lacking this involvement of strong political groups, never reached the level of a national issue.

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INTRODUCTION

Historians in general and students of criminal justice in particular have left unexplored the historical antecedents of crime and criminal justice reform. Yet the crime problem is an integral part of our social and political development. One sociologist, criticizing the lack of research on the politics of crime, suggests that a better understanding of crime and its relationship to the politically organized state will equip us with the means to implement significant reforms.¹

This past neglect by researchers is slowly being rectified. Crime is being studied as a major factor in our development as a society; as an element in the rural/urban conflict of the nineteenth century;² as a social mobility phenomenon.³ Past criminal justice

¹Richard Quinney, The Social Reality of Crime (Boston: Little, Brown and Co., 1970.)

²Roger Lane, Policing the City: Boston 1822-1885. (Cambridge: Harvard Univ. Press, 1967); James F. Richardson, The New York Police: Colonial Times to 1901. (New York: Oxford Univ. Press, 1970.)

³Daniel Bell, The End of Ideology. (New York: The Free Press, 1960.)

reforms are being explored for insights into their direction, successes, and failures.⁴ The prohibition era is undergoing a revisionist scrutiny that is taking it out of the "noble experiment" category and placing it in a scheme of reform, both its initiation and its repeal.⁵

Except for prohibition the above studies are primarily concerned with cities and states. A systematic study of the federal government's role in criminal justice is another historical void. With the passage of the Omnibus Crime Control and Safe Streets Act in 1967 the research gap has become acutely noticeable. Was the scope of the Omnibus Crime Bill a radical departure from the government's activity in the past? Had the federal government previously attempted to deal with crime as a national problem? To what degree and how successful was it?

⁴ Mark H. Haller, "Urban Crime and Criminal Justice" in Journal of American History Vol. LVII, 1970, PP.619-35.

⁵ J.C. Burnham, "New Perspectives on the Prohibition Experiment of the 1920's" in Journal of Social History. Vol. II PP.51-68.

These questions and many more can be raised regarding the federal government's activity in this area but the fact remains that we know little about our past attempts at crime control or reform.

The New Deal period provides an excellent backdrop to a study of the federal government's activity in crime control. During this period the federal government's role in criminal justice changed significantly. Its area of jurisdiction was broadened and its law enforcement activity increased. These changes were to transform the Department of Justice, particularly its Bureau of Investigation, from a relatively minor law enforcement agency into an aggressive leader in the field.

Franklin D. Roosevelt had an impressive record of criminal justice reform during his reign as Governor of New York. His performance in the White House, however, did not quite match that record. Arriving in office on the heels of prohibition, his administration was called upon to deal with kidnapers, gangsters, racketeering, and collective violence. The New Deal's response was ambivalent. At times it showed strong signs of reactionary threads; at other times it was

visionary and progressive.

The purpose of this thesis is not to present a definitive study of crime during the thirties but to investigate the social and political influences that helped shape the New Deal's crime program. After presenting a brief historical survey of the development of the investigative activity of the Justice Department and a sketch of Roosevelt's actions as Governor in criminal justice reform, this study will focus on two aspects of the New Deal's response to crime. The first concentrates primarily ✓ on the process by which crime bills were developed, recommended, and subsequently signed into law. This activity occurred during the first year of the New Deal and peaked during the spring of 1934. The activity of various key figures will be studied to determine their impact on the crime legislation.

The second aspect to be studied is the response ✓ to collective violence. There were a number of labor and farm strikes during the thirties that peaked in 1937. The dominant consideration that guided the response to these situations was political rather than legal in nature. In most cases the objective was to

ameliorate the conflict rather than correct the underlying conditions. The approach was not to pass legislation banning the activity or use force to suppress it but to conduct an official investigation using the FBI or a congressional committee.

Primary sources such as writings and memoirs of the major personalities, the Congressional Record, agency annual reports, and budget requests will be used to trace the legislative process. Other primary sources such as newspapers and magazines will be used to determine the public's reaction to the crime measures as well as documenting criminal activity that influenced both the public and the legislature. Secondary works covering the New Deal will be consulted to place the crime issue in perspective. The political and economic histories of the period can assist in explaining the methods used by New Deal personalities as well as the results.

CHAPTER I

TRADITION AND REFORM

During the New Deal period the central government reversed its traditional role with respect to crime control. The Seventy-third Congress added more to the provisions of the Federal Criminal Code than all previous congresses combined. In accomplishing this record the federal government encroached upon areas traditionally held to be sacrosanct to local and state jurisdictions. The Division of Investigation in the Justice Department absorbed an ever-increasing amount of investigative responsibilities as a result of crime legislation that in fact duplicated the crimes of the state and local jurisdictions. This expansion of powers represents a shift, indeed a reversal, of the traditional role of the central government.

The Justice Department was formed in its present structure as a means of supplying legal services to the central government. It was, in effect, the law office of the federal government. It provided legal services to other departments and the chief executive and thus allowed for continuity and eliminated the need for

hired counsel. It also served as one of the law enforcement arms of the government and was involved in various investigative activities. The law enforcement function was primarily a prosecutorial process of detection, apprehension and conviction, however, that emphasized a court process rather than the more traditional police functions found at the local levels of government.¹ This explains the large and important role of the district attorney who was responsible for the investigation as well as the prosecution of a case in the courts. His area of responsibility was limited to crimes against the federal government and he received little central direction from Washington. Most of the investigations prior to 1900 were sporadic and limited in scope. Very little criminal investigation can be

¹Police functions from the colonial period to the late nineteenth century were community-service oriented such as the feeding and caring of wanderers and returning drunks to their homes. The investigative function, born during the 1870's, did not become a major element of the local police organization until the 1920's. See Roger Lane Policing the City: Boston 1822-1885. (Cambridge: Harvard University Press, 1967); James Richardson The New York Police: Colonial Times to 1901; (New York: Oxford University Press, 1970.)

found in the area of robbery, rape, burglary, extortion, or assault.²

Investigation as a prime function of the department of justice was not fully recognized until the beginning of the twentieth century. The first large scale investigative effort was related to the post-civil war voting rights legislation in the South. The primary investigators were lawyers with federal marshalls playing only a minor role. The 1880's and 1890's are significant for the activity in anti-trust and land fraud investigations.³ It was not until the early 1900's, however, that a formally organized investigative unit within the department appeared on the scene. Attorney General George W. Wickersham organized such a unit to assist him in his attempt to suppress white slave traffic under the authority of the Mann Act. Later this investigative unit was used as an important element in the "Red Raids"

² Homer Cummings and Carl McFarland, Federal Justice: Chapters in the History of Justice and the Federal Executive (New York: The MacMillan Co., 1937), PP.218-229, 367; Homer Cummings We can Prevent Crime: The American Program (New York: McFadden Publications, 1937), P.2.

³ Cummings, Federal Justice, PP.230-249, 366-383.

of 1919-1920.⁴

The first major step in the direction of federal crime control was the passage of the National Motor Vehicle Theft Act (Dyer Act, 1919) that outlawed the interstate transportation of stolen automobiles. Except for the voting rights area, each of these developments have similar characteristics in that the interstate nature of the crime is a key element and a specific activity is being outlawed. A historical foundation for federal crime control was present but the trend had been slow to develop and was by no means continuous. That situation quickly changed with the passage of the Eighteenth Amendment and the Volstead Act.

Prohibition probably did more damage to the relationship between federal and local government than any previous piece of crime legislation. An army of prohibition agents swept over the country smashing bootlegging operations and prosecuting violators. Local reactions ran the gamut from complete support to

⁴Cummings, Federal Justice, PP.380-382; William Preston Jr. Aliens and Dissenters: Federal Suppression of Radicals, 1903-1933; (New York: Harper Torchbooks, Harper & Row, 1963), particularly PP.210-214.

outright indignation of the federal activity. To compound the problem the prohibition unit was staffed with political appointees and was teeming with corruption. The country was soon to have its fill and repeal was on its way but the attempt to suppress a specific activity on a national scale was to produce dire consequences.

Political corruption was enhanced and facilitated during prohibition. Local police and other criminal justice agencies were not spared these effects. Prohibition on top of the Mann, Dyer, and Narcotics Acts simply placed an excessive burden on an already strained system of justice. One student of the period found that the impact was pervasive with the courts resorting to plea-bargaining, the police utilizing selective enforcement to a greater degree, and prisons were bursting at the seams as a result of a tripling of inmates over a ten-year period.

⁵ Andrew Sinclair, Prohibition: The Era of Excess (Boston: Little, Brown and Co., 1962), PP.211-212; from 1920 to 1933 the federal government spent 128 million dollars enforcing prohibition resulting in one-half million convictions and 200,000 sentences, see government report quoted in NYT Dec. 7, 1933, 1:2.

With respect to law enforcement, prohibition was the basis of the states alienation from cooperation with the central government on the one hand, yet glorified the federal agent on the other. Political machines, graft, and diverse local reactions all joined forces to leave the states unwilling to cooperate. Where liquor was considered evil, however, the federal agent was glorified. Where liquor was accepted he was an unwanted intruder. In each situation enforcement fostered corruption and bootleg gangsterism. In turn, the excessive murders, coercive tactics, and political corruption of local officials associated with the gangsters placed the federal investigator into the role of saviour.⁶

The success of this attempt at federal crime control was not impressive. The extension of federal police powers into areas of local jurisdiction violated the principle of federalism, had a detrimental effect on the criminal justice process, and in idolizing the federal agent, distorted the efficacy of the agent's as well as the central government's ability to control crime.

⁶Sinclair, Prohibition, PP.193-197, 220-230, 313-314.

It is with this legacy that the New Deal entered office in 1933.

The New Deal had no packaged plan for dealing with crime or criminal justice reform.⁷ Except for the dwindling question of prohibition crime was not a campaign issue in 1932. Yet crime was to demand the attention of the New Deal within months of its accession to office. The lack of a plan, however, did not mean that President Franklin D. Roosevelt was ill-equipped to deal with the problem of crime and its larger aspect of criminal justice reform. He had an impressive record of speeches and actions as Governor of New York that would seem to indicate the approach that the New Deal would take regarding criminal justice.

Roosevelt had been a strong advocate of governmental reform for a long time. Wishing to see governmental machinery run as smoothly and efficiently as a business, he advocated as early as 1928 the need for improvement in the administration of justice. His

⁷This lack of a formal plan was a general characteristic of most of FDR's programs. See William E. Leuchtenburg. Franklin D. Roosevelt and the New Deal, 1932-1940 (New York: Harper Torchbooks, Harper & Row, 1963), PP.9-12.

emphasis was on quick, efficient and inexpensive justice but not at the cost of losing or weakening civil rights safeguards. His arguments for improvement were largely economic in nature because widespread economic distress had a detrimental impact on the court process. Because debts were increasing and court action was used to secure relief, the court dockets were clogged. He claimed that this situation was unnecessary and that alternatives to court actions should be sought. Depending on the traditional court process resulted in the administration of justice being a slow and costly operation.

As the chief executive of a large industrial state he was concerned and influenced by cost considerations relating to government operations. His solutions to the problems of justice administration were couched largely within court reform measures although he also saw the need for improvement in other areas such as increased police education, overhauling the prison system, and the formation of a centralized state investigative unit. The latter need was justified on an economic basis as well because of his belief that crime control was no longer within the financial capabilities

of local governments.⁸

His activity in the area of crime control also indicates a reform approach with a slight penchant for state centralization. Governor Roosevelt vetoed two measures that would have weakened a fire-arms control law. He indicated that the best remedy would be federal legislation to cut the flow of fire-arms from state to state. In another area of criminal justice he supported and signed into law a bill that eased prison terms by increasing the amount of sentence reduction earnable for good behavior. More significantly, with respect to convicted prisoners, he accepted a reform argument that the rigid Baumes Law was in large measure responsible for recent prison riots because of the convicts' lack of incentive for rehabilitation. Under Baumes a fourth conviction automatically required a mandatory life sentence with no parole eligibility. Roosevelt signed into law a bill that decreased the maximum sentence to fifteen years and allowed for parole. That in itself is reform but Roosevelt went

⁸ Samuel I. Rosenman, Comp. The Public Papers and Addresses of Franklin D. Roosevelt (New York: Random House; 1938-1950, 13 vols.) Vol. I, PP.15, 64-66, 77, 271, 274, 275, 300. Hereinafter cited as FDR: Public Papers. New York Times, Jan. 7, 1932, 20:6. Hereinafter cited as NYT.

even further when he stated that the harshness of the Baumes Law resulted in juries and courts failing to convict and thereby defeated the system of justice.⁹

The change in the Baumes Law was the result of a study commission recommendation following a series of prison riots and illustrates another aspect of Roosevelt's approach to crime problems--the public commission. Roosevelt's perception of the problems related to criminal justice administration centered around the idea that solutions could not be accomplished by one agency alone. Public commissions composed of laymen as well as technical and professional people could achieve more results than any single agency or group of professionals. The inclusion of laymen would safeguard against concentrating only on the technical and legal aspects and would insure the study of more fundamental issues relating to broader questions of policy. When the state legislature authorized a study commission without laymen in 1929, Roosevelt vetoed the measure, resubmitted the original

⁹NYT, 1932, Mar 25, 4:2; Apr 4, 4:4; Apr 6, 4:2. For an analysis of the prison rebellions and the subsequent passage of various reform measures see Bernard Bellush, Franklin D. Roosevelt as Governor of New York (Columbia Studies in Social Science #585, New York: Columbia University Press, 1955), PP.58-75.

request, and subsequently received the composition he wanted.¹⁰ His activity in this area suggests that he saw the commission as a vehicle for reform. It also strengthens the idea that Roosevelt perceived crime as a social problem, not solely a legal one. ✓

Roosevelt's overall approach to criminal justice was best stated in his speech on crime to the 1929 Governors' Conference. He cautioned against the alarming trend of the national government's encroachment upon state supremacy and claimed that the interstate commerce theory was being stretched to the breaking point to satisfy Washington's desire to regulate certain activities. Part of the blame rightfully belongs to the states, he said, for they had failed to pass necessary legislation to prevent this encroachment. For the states to remain in control of the administration of justice they must 1) accept responsibility for enforcement, 2) clean out the antiquated machinery of justice, 3) meet new kinds of crime with new kinds of laws, 4) initiate these reforms in all states not simply a few.

¹⁰FDR: Public Papers vol. I, PP.64-66, 88, 121, 267, 269, vol. III, P.217.

Admittedly the chief topic of the speech was prohibition but in his recommendations Roosevelt dealt with more substantial questions brought to light as a result of prohibition and the futility of federal enforcement.¹¹

As a state governor it was natural for Roosevelt to be concerned with federal encroachment. As a reformer it was also natural for him to be concerned with the lack of efficiency of government. His emphasis on reorganization and centralization of governmental services fits the reform mold of the time. When viewed in a larger social context Roosevelt's approach to reform gains strength for during the previous decades business elements had undergone a centralization trend that subsequently improved their efficiency and their economic condition.¹² Roosevelt's emphasis on managerial

¹¹FDR: Public Papers, vol. I, PP.367-368.

¹²See Robert H. Wiebe, The Search for Order, 1877-1920 (New York: Hill and Wang, 1967) and James Weinstein, The Corporate Ideal in the Liberal State, 1900-1918 (Boston: Beacon Press, 1968).

efficiency also was supported by the impact of Frederick Taylor. Centralized management along functional lines (eg. the state investigative unit) was a dominant theme of the times.¹³

The absence of a plan, then, did not mean that President Roosevelt was ill-equipped to deal with the problem of crime. His record was one of marked activity and embodied the principle of state responsibility for crime control. While there are indications of a centralized theme or approach it seemed to be limited to the state level. More importantly to such an emotion-laden issue as crime, is the fact that Roosevelt perceived the crime problem and the administration of justice from a perspective of social reform rather than a piece-meal reaction to specific incidents. This perspective did not reflect the New Deal's response to crime, however, for the concepts of state responsibility, state centralization, and social reform began to lose

¹³Frederick W. Taylor, Scientific Management (New York: Harper & Bros., Pub., 1911). For a study of the evolving impact of efficiency and scientific management on the federal executive branch see Barry Dean Karl, Executive Reorganization and Reform in the New Deal: The Genesis of Administrative Management, 1900-1939 (Cambridge: Harvard University Press, 1963).

their distinctive nature. The outcome was an expansion of federal law enforcement functions through a process of reactions to specific crimes for the sole purpose of catching the perpetrators. Long-range social reform gave way to the pressures for immediate results.

CHAPTER II

THE "CRIME WAVE" AND OVERREACTION

The New Deal's response to crime can be summarized in two simple words, crook catching. The public study commissions, the long-range reform measures, and the social perspective on crime, so characteristic of Roosevelt's activity as Governor, were not part of the New Deal's approach. Failing to clearly analyze the scope of the crime problem, the New Deal became mired in the issue of spectacular crimes which set the tone for its crime legislation. Indeed, burdened by the responsibility to raise the country from its depression, the New Deal did not generate much activity in crime control until after a rash of unusual crimes during the Summer of 1933.

The first official activity of the Roosevelt administration with respect to crime was the President's beer-bill message to Congress. Using an economic argument, Roosevelt said that passage of the bill with its tax of thirty-five dollars a barrel would bring over \$100 million yearly in revenue. When signing the bill into law he advocated the pardon of all small operators

of illegal distilleries both as a common-sense measure and because it would alleviate the excessive burden on the court system. The beer measure was also a shrewd political move in that it represented an argument for state control thereby giving "home rule" to both wets and dries. The beer bill, a reiteration of the Democratic plank statement, forced Congress to act on the economy bill that was stalled. Most congressmen were ready for the beer vote but would have to clear the administration's economy bill before they could act on beer, a feat which they accomplished within nine days.¹

¹Cong. Record, 73 cong., 1 sess., PP.243,284, 693, 704, 875; NYT, 1932, Feb 2, 1:4 and 2:5; 1933, Mar 14, 1:8; Mar 23, 1:8; later the Supreme Court unanimously decided to allow the termination of prohibition prosecutions, Washington Post Feb 8, 1934, 8:1. This beer legislation was probably the only significant result of the Wickersham Commission on Law Observance. It forced the political parties to take a stand on prohibition. There is no evidence to suggest that the 15 volumn study had any direct impact on federal law enforcement agencies. For a discussion of the problems of the Commission see Gardner Jackson, "Wickersham and His Commission" Nation 132:63-64, compare with R.L. Strout, "Mr. Wickersham in Retrospect" North American Review 232:413-423.

The crucial point for criminal justice, however, is the fact that a law was passed making a previously illegal act legal because of the futility of enforcement and recognition of the excessive burdens it placed on the administration of justice that fostered a disrespect for law and order. The federal government was on its way out of prohibition.

By the Summer of 1933 another type of crime was to force itself upon the imagination of the nation and subsequently determine the federal government's role in crime control. After a decade of prohibition, gangsterism, and corruption the public was treated to a rash of kidnappings. In early July the nephew of a prominent leader of the Democratic Party was kidnapped in Albany which was followed by a number of other kidnappings in various sections of the country. The New Deal responded quickly. Cummings said that new federal legislation would be forthcoming. Roosevelt suggested the need for a super-police force to deal with kidnappers. Later he declared war on the kidnappers and suggested that crack-federal investigators be made available to local police for assistance and that the Division of Investi-

gation be used as the nucleus of an anti-racketeering drive.²

The racketeering question entered the picture as a result of the pending congressional hearings on racketeering chaired by Senator Royal S. Copeland (D. New York). Roosevelt had promised Copeland the use of federal facilities to ferret out racketeers and the Division of Investigation was to be the committee's prime supplier of information and witnesses. Copeland was very sure of his evaluation of the kidnapping phenomenon. He stated clearly and dogmatically that he had "...no doubt that when prohibition is repealed there will be a lot of easy-money men who will attempt to make money out of kidnapping." He further stated that racketeers cost the government \$100 billion yearly in lost revenue. Three weeks later he pared down that figure to \$15 billion. It is interesting to note that

² NYT, 1933, July 11, 1:7; July 14, 3:1; July 26, 2:2; July 27, 1:3; July 28, 2:1; The Washington Post cautioned against the creation of a federal police in reaction to the kidnappings, "Editorial", July 15, 1933, 8:3.

these statements were made a month before he held hearings.³

A crime wave was envisioned by members of the New Deal. Cummings was drafting new federal legislation that would ensure the expansion of federal police powers and was elated that public opinion was aroused to the point that radical legislation could be drafted. The public as well as local officials were sufficiently aroused to support law enforcement efforts and to show that the federal government was active he said that it would expand its range of activity from kidnapping to organized crime. There was no explanation for such a move and the news media accepted it without question.⁴

³Senate Res. #74 Cong. Record, 73 cong., 1 sess., PP.2966, 5716-5717; NYT, 1933, July 1, 1:7; a noted criminologist also said that the individuals and techniques that made millions selling illicit booze would be transferred to dope, kidnapping, and bank robberies; see Harry Elmer Barnes, "The Real Source of our Crime Problem" in American City, 48: 62, S'33.

⁴NYT, July 30, 1933, 1:1; the question of a crime wave had long been around but most experts negated its validity; see Edwin H. Sutherland and C. E. Gehlke "Crime and Punishment" in Recent Social Trends in the United States Vol. II. (New York: McGraw-Hill Book Co., 1933), PP.1114-1167.

In a period of less than a month it appears that federal concern was expanded from kidnaping, to racketeering, to organized crime with no distinction ever made between the categories as to the seriousness of the crime or the type of criminals involved. Indeed a fourth category, gangsterism, was included later. The crucial consequence of this use of vague crime categories was that they were used synonymously and determined the types of laws that were subsequently passed by Congress. Cummings was to propose a twelve-point plan that increased the federal law enforcement function by expanding federal criminal jurisdiction. The major emphasis of these bills was to increase the federal government's capability of catching the kidnapers. Senator Copeland's bills, almost identical in content and thrust to the Attorney General's, had little to do with racketeering. Indeed, his crime bills suggested that he might have been chairman of a kidnaping committee rather than a racketeering committee.⁵

⁵Ann. Report 1933, P.1; Cong. Record, 73 Cong., 2 sess., PP.448-460; NYT 1934, Jan 6, 1:4; Feb 20, 11:1; Mar 4, 6:4.

Senator Copeland held his first hearing on August 15, 1933 in New York City. His stated objective was to lay before the nation the terrible nature of organized crime and thus stir the public "...to such an extent as to make it easy to get radical legislation to deal with this problem."⁶ The steady stream of witnesses supported that objective. Using such undefined terms as "gangster" and "organized crime" local officials presented their remedies for solving the crime problem. A past police commissioner of New York City urged the use of the lash and exile for habitual offenders. The warden of Sing Sing prison strongly advocated implementing a modified martial law until the Constitution could be amended to eliminate state lines in order to facilitate the war on criminals. There were milder and more rational proposals, such as tightening existing statutes, usually presented by judges. Overall, however, the theme was favorable to an expansion of the federal role in law enforcement.

⁶ NYT Aug. 8, 1933, 2:1; Copeland received a tremendous amount of news coverage on the rackets and crime topics, see "Scrapbooks" Mar.-Nov., 1933, PP.142-198, 240-265; and 1933-1935, PP.1-229 in Copeland Papers, Michigan Historical Collections, University of Michigan.

There was one significant qualification to this theme that Copeland missed or wished to ignore. Most police officials appearing before the Committee welcomed federal cooperation but were less than enthusiastic about being superseded by the federal agents in local crime control.⁷ Thus at the height of the Attorney General's push for federal expansion into a wider sphere of criminal jurisdiction, local police officials were cognizant of and worried about the possibility of being over-shadowed by federal law officers. This mood was to gain momentum and strength, both inside and outside the New Deal administration.

Copeland also ignored the issue of racketeering and organized crime, the essence of the Committee's existence. A number of witnesses presented information that linked local corruption to the harmonious relationship between politicians and racketeers. Since Copeland was a Tammany Senator up for reelection in the fall it is understandable that he would wish to ignore the allegations that the Tammany machine was a cause of local corruption in New York City. The political explosiveness

⁷NYT Aug. 15, 1933, 1:5.

of the racketeer-politician issue probably also explains the federal government's hesitancy to use drastic measures to eradicate local corruption.⁸ Nevertheless, Copeland's Committee was supposed to be investigating racketeering but apparently it was engaged only in the familiar art of headline hunting.

What purpose did the Committee serve if it accomplished little in the way of substantive investigation and submitted no final report? In addition to the crime-fighting image Copeland received from the headlines the Committee served as a forum for him to expound on the need for expanding the federal criminal jurisdiction. His subsequent bills were designed to achieve such expansion with only three related to racketeering whereas the rest were specifically aimed at authorizing federal activity in the apprehension of criminals.

⁸NYT Aug 16, 1933, 1:8; the administration was developing a plan to use federal agents as observers of local justice personnel and processes. Any corruption found would be released to the news media in the hope of raising public indignation to demand reform. The plan was never used. See Charles Stevenson, "U.S. Has Plan Forcing City Crime Cures" Washington Post Aug 12, 1933, 1:8.

His emotional speech to the Senate when he introduced the legislation had one major theme; to prevent crime we needed to expand the authority of the federal government to catch crooks. Why? Because crime is no longer local in nature or committed by single individuals; it is national in scope and committed by organized elements that are a threat to civilized society. To prove his point he used a kidnapping example where the victim was abducted in Oklahoma, the ransom passed in Minnesota, the hideout was in Texas, and some arrests were made in Ohio. Thus, the Copeland Committee, with Cummings' support, used its position and the kidnapping issue to urge the expansion of federal law enforcement.⁹

In the meantime other groups, caught-up in the crime wave hysteria, were also supporting federal expansion. The assistant Attorney General of Illinois declared crime beyond the scope of local and state capabilities and urged that the federal government declare martial law. He suggested further that Roosevelt

⁹Cong. Record 73 Cong., 2 sess., PP.448-460; the Justice Department's figures showed only 29 investigations of kidnappings in a two-year period with only 69 persons arrested, Ann. Report 1934, P.130.

use dictatorial powers such as he had with regard to industry and agriculture to combat the crime wave.¹⁰ As if in refutation of this approach the State of Illinois, three days later, waged its war on crime. State coordination of local courts' efforts was a prime feature of the drive. Dockets were juggled, vacations postponed, and the state's attorneys were securing grand jury indictments against local gunmen. A probe into parole and probation practices illuminated much corruption and the system's weaknesses were repaired. Chicago used a recently passed state vagrancy law that allowed police to arrest and courts to sentence for six months on the basis of reputation alone.¹¹

The Federal Bar Association proposed a federal "Scotland Yard" and a constitutional amendment to allow federal agents authority over homicide, kidnapping,

¹⁰ NYT Aug 3, 1933, 5:1.

¹¹ NYT 1933, Aug 6., vol. IV, 6:8; Aug 28, 12:4. The Illinois Supreme Court later invalidated the "Reputation" law, NYT Apr 22, 2:3; other areas of the nation were also deeply committed to the eradication of crime and local corruption particularly as a result of the efforts of reform district attorneys. See for example, Stanley Walker, Dewey; An American of this Century (New York: McGraw-Hill Book Co., 1944) particularly PP.36-66.

extortion, coercion, and assault. The Bar's basic assumption was that local justice was corrupt and could not perform its crime control functions. Even the state governors were in support of federal expansion. Earlier in the summer the Governors' Conference passed a resolution urging Roosevelt "...to pursue to the utmost..." its activity in fighting racketeering and kidnapping.¹²

This plea from the governors can be understood within the context of state and local politics. Kidnapping victims were not the unemployed laborer or his son. Most, if not all, of the victims were well-to-do members of society such as bankers, financiers, "racketeers", corporation executives, and politicians. These people represented powerful interests and the governors were compelled to act. Caught between the political machines of the city (failure to act might be used as a campaign issue by the opposition) and the public, the governors chose to support federal activity. Given the fact that most governors had at their disposal

¹² NYT 1933, Aug 7, 28:4; Aug 27, 4:2.

a state police with limited powers further justified their position.¹³ Their support of the rackets investigations can also be understood politically. The objects of these investigations were to be a few cities, not states, so the governors were relatively secure from any embarrassing disclosures. Thus the New Deal was receiving some political and associational support for the expansion of its law enforcement activity and jurisdiction but it was also accumulating considerable opposition.

By the Spring of 1934 the crux of the criticism centered around the federal government's failure in its war on crime. This criticism reached its peak during the many unsuccessful attempts to capture John Dillinger. A petition was sent to the Justice Department by a group of citizens from Wisconsin charging agent-in-charge, Melvin Purvis, with "criminal stupidity". It seems that the agents had found Dillinger in a Wisconsin hideout and, without asking any advice or assistance from local officials or the citizenry, rushed the house only to find that Dillinger had escaped seconds earlier

¹³ See Bruce Smith, Police Systems in the United States (New York: Harper & Bros., 1940), PP.180-205.

in an automobile. The citizens' complaint: the agents failed to block the only three roads out of that area and, more seriously, the agents' indiscriminate shooting at a suspected vehicle that resulted in the death of one local citizen and the wounding of three others.¹⁴

Earlier in the week the head of the Michigan State Police criticized the Justice Department's agents for not informing him about their plans to raid a hideout in Northern Michigan where Dillinger was hiding. He said that this failure to cooperate with his department resulted in two abortive attempts to capture Dillinger and the unnecessary loss of the lives of two agents. Cummings ignored the criticism and blamed local jail officials in Indiana (from which Dillinger had escaped earlier) for the deaths of innocent people.¹⁵

For the most part the public was not concerned with crime as a problem. The opposition to federal

¹⁴NYT 1934, Apr. 25, 3:1; even Copeland was outraged at this display of incompetence. See "Scrapbook" Nov. 1933-May 1934, P.243 Copeland MSS.

¹⁵NYT 1934, Apr. 26, 1:4; May 4, 1:6.

expansion was quite real and at times quite loud but usually came from a small number of citizens and professionals. The president of the New York Bar Association said that crime conditions were a result of weak local investigation and political corruption not because of weak laws. When Roosevelt signed six crime bills into law to "break the back" of organized crime he pleaded for public support of the anti-crime drive. The head of the federal anti-racketeering unit warned the states that if they did not pass compact laws the public would demand further federal encroachment.¹⁶ Basic to each of these statements is the implication that crime was not perceived by the public as a serious issue.

If the public was not concerned, there were some members of Congress who were beginning to question this plethora of crime legislation. Turner Catledge, discussing the trend toward federal expansion, pointed out the fact that of all the crimes committed by Dillinger only one (inter-state transportation of a stolen auto) violated a federal statute and that the

¹⁶NYT 1934, June 6, 6:6; June 19, 1:2; July 1, II, 1:4; Washington Post June 1934, 1:3.

states rights people were not generating any significant fuss over federal encroachment.¹⁷ He may not have been entirely correct in his conclusion that states rights people were not concerned, however, because those were the people who represented another facet of opposition to the federal expansion of police powers in the criminal justice area.

Illustrative of the states rights opposition is the slowness with which Congress acted upon the crime legislation. As pointed out earlier Senator Copeland presented his dozen bills on January 11, 1934, and Cummings presented the so-called twelve-point plan on February 20, 1934. This crime bill activity was in response to conditions that, according to President Roosevelt, "...threatened our security...".¹⁸ Apparently the administration did not feel Congress was acting

¹⁷Turner Catledge, NYT July 29, 1934, 1:1; It is interesting to note the American Municipal Association's lack of concern over the crime issue. See the AMA Proceedings 1931-1935 (Chicago: Illinois, 1936). During the five-year period the closest the association came to discussing crime was its desire to initiate some form of training for police officers.

¹⁸Cong. Record, 73 Cong., 2 sess., P.7; NYT Jan 4, 1934, 2:5.

quickly enough. A speech by the Attorney General reiterating his twelve-point plan and asking for support was read in both Houses and one month later President Roosevelt found it necessary to urge Congress to act on the crime bills.¹⁹ The basic element of this resistance was the issue of states rights.

Following the Dillinger fiasco in April the House Judiciary Committee reluctantly approved two bills to facilitate the capture of such gangsters. The Chairman, Hatton W. Sumners, made it explicit that he and other members opposed such far-reaching legislation but because of inept and corrupt local officials, they were acceding to public opinion.²⁰ Sumners was not in favor of the crime legislation because he believed that the sovereignty of the states was being threatened. After a number of amendments and a long period of debate the House finally passed a half-dozen crime bills.

The amendments represented attempts to circumscribe the jurisdiction of the federal government. A bill authorizing the Attorney General to pay a \$25,000 reward

¹⁹ Cong. Record, 73 Cong., 2 sess., PP.7118, 7187; NYT Apr 24, 1934, 1:6.

²⁰ NYT Apr 25, 1934, 3:1.

for the capture of one or more public enemies dead or alive was changed to any public enemy with a criminal record. The criminal record amendment was an attempt to restrict the scope of the bill but the Dillinger influence was strong and the House wanted to pass some crime legislation to show that it was active. Yet on the fifth of May when most of the half-dozen bills were presented for the final floor vote there still was considerable debate. Representative Stephen Young from Ohio challenged the credibility of the Attorney General, questioned the need of such general legislation and the proper federal role. By this time, however, the Dillinger hysteria had taken effect and most of the debate indicated that the Representatives were more interested in catching gangsters than raising constitutional or philisophical issues. The states rights issue with regard to over-extending federal criminal jurisdiction gave way to the emotions of gangster catching.²¹

The Senate was experiencing the same form of resistance although the debates were not as pointed as

²¹Cong. Record, 73 Cong., 2 sess., PP.8126-8129, 8141-8143; NYT May 6, 1934, 3:1.

in the House. Modification of the crime bills irritated Senator Copeland, their proponent and most avid supporter. For example, the kidnap bill was submitted with a three-day clause stipulating that if the victim was not returned within that period the federal agents could enter the case under the assumption that state lines were crossed by the perpetrators. This clause was modified to seven days and in the debate supporting arguments were presented on the basis of geographic disparities between states. The Senators from larger states said that it would take longer for kidnapers to leave their states and cross state lines.²²

The real issue, however, was concern over the rapidity with which the federal government could intervene in these cases. Nevertheless, as in the House, the bills were passed on the strength of their crook catching characteristics. The overall theme of these crime bills that were signed into law on May 18, 1934 was that they extended federal jurisdiction and their main objective

²²The seven-day clause is particularly interesting because the FBI entered a kidnapping case immediately. This illegal activity was made public on numerous occasions by both Hoover and Cummings. See Ann. Report 1933, P.105; NYT July 12, 1933, 3:4; July 21, 6:5; Feb. 6, 1934, 1:4.

was to strengthen the federal government's ability to arrest gangsters. This fits very well with Cummings' demand for more men to build a non-uniformed American police force capable of getting its man.²³

These criminal catching bills also represent the closing of a circle. They were proposed as a result of the kidnapping wave, they were resisted by Congress, and finally, they were passed as a result of the Dillinger form of gangsterism. Initiated to catch kidnapers they were passed to catch Dillingers. The missing element of the circle is the original New Deal proposition relating to the long steady push for reform.

In a 1932 speech in Detroit on the topic of social justice, Roosevelt said that such a goal could be achieved through national initiative.²⁴ Was it logical then to assume that this same national initiative would be applied to the crime problem? Probably, but from all indications

²³Cong. Record, 73 Cong., 2 sess., PP.8864-8865; NYT May 16, 1934, 1:2; the laws passed were; public law 230 killing federal officer; 231 extortion; 232 kidnaping amend.; 233 fleeing prosecution; 234 inciting prison riot; 235 bank robbery. See Statutes at Large vol. 48 Part I, PP.780-783, 909.

²⁴NYT Oct. 3, 1932, 1:4.

the New Deal's response to crime had little direct input from Roosevelt. His statements during the kidnapping era of 1933 were largely in response to the need for public statements by the President on such an emotional issue. As far as the criminal legislation was concerned it appears that Roosevelt had little direct input into the formulation of the crime package. The only indication that Roosevelt was concerned with crime was his appointment of Assistant Secretary of State, Raymond Moley, as a special anti-crime advisor in early August.²⁵

Moley was called to Hyde Park during a record heat wave that had killed forty-one people in three days to discuss kidnapping and racketeering. The only decision to come out of the first meeting was to use the wide powers of NIRA to fight racketeering. Subsequent meetings resulted in Moley being commissioned to submit a research report to the President on new procedures to deal with new types of crime.²⁶

²⁵ NYT Aug. 2, 1933, 1:1.

²⁶ NYT 1933, Aug. 2, 1:1; 1:3; Aug. 3, 1:4; 1:5; Aug. 5, 3:3; Aug. 10, 9:3; Apr. 17, 8:4.

The most significant aspects of the report dealt with the thrust of the new crime legislation. Moley was critical of some of the crime bills because of their far-reaching effect on the federal role in law enforcement. He cautioned against over-extending that role while at the same time making recommendations similar to the bills that had been presented to Congress. He also charged that Copeland's Committee consciously developed the viewpoint that the federal government should enlarge its area of criminal responsibility. The report showed signs of support for Hatton Sumners' position and was a result of their close communication during its formulation. Overall the report was ambivalent but the sharp criticisms were evident.²⁷

The ambivalent nature of the report can probably be explained on two counts. First, the report was dated May 15th, 1934 and released to the press on May 23rd. A majority of the pending crime bills before Congress had been passed by May 18th. Secondly, unhappy with these bills, he probably chose to criticize those of a more serious nature and accept the others because of his

²⁷ NYT May 24, 1934, 2:1; 2:2: Washington Post May 24, 1934, 1:3.

identification with the New Deal and his friendship with Roosevelt. The result was that his report accepted federal jurisdiction in the criminal area in principle but rejected the specifics.²⁸

Roosevelt had not made any comment regarding the report. It appears that he was willing to accept the federal role in law enforcement as defined by the proponents of expansionary legislation. In June he was to state in a fireside talk to the nation that the Seventy-third Congress "strengthened the hand of the federal government in its attempt to suppress gangster crime."²⁹

The mold was set by this time. The federal government would provide leadership and cooperation in

²⁸Another factor that may add to the explanation is that three weeks after his appointment as anti-crime advisor he resigned from his post as Assistant Secretary of State to accept an editorial post with a new magazine. There is considerable speculation about a conflict that had developed between Moley and FDR but there is no evidence to support an argument that Moley's criticisms of the crime legislation were attempts to be vindictive. He was an expert in the area and his criticisms were probably sincere.

²⁹See William Seagle, "The American National Police" in *Harpers Magazine* 169: 754; FDR Public Papers vol.III P.312.

the war on crime. That activity, however, would be in the form of select criminal apprehensions by the Division of Investigation with little regard for long-range reform. The social problem of crime and its impact on society would be relegated to a level of reactions to unusual instances or types of criminal activity. This evolving condition was probably recognized by the New Deal late in 1934 when they made an attempt to raise the level of concern to one of understanding the social and economic conditions of crime and its impact on society. They chose the Attorney General's Conference on Crime held in December 1934 to present their reevaluated views.

Reported as the first national gathering of its kind, conference members from all levels and agencies of the criminal justice system heard speeches from politicians and academicians and participated in various workshop discussions. Attorney General Cummings once again presented his cooperation theme of a minimum amount of federal interference and a maximum effort at cooperation. This time, however, he cautioned against seeking the federal government as the solver of

crime problems because of the serious constitutional issues involved.³⁰

Commending the various local officials for their work and asking for their cooperation, President Roosevelt presented an impassioned yet rational speech on the social aspects of the crime problem. He stated that the federal government alone could not enforce order and that the criminal element was more efficient and organized than the system of justice. Tying the crime problem to recovery, he said that the foundations of agriculture, industry, and finance had been secured and now we must eradicate the crime menace. To achieve this objective he asked these officials to bring to the attention of the public that banditry, kidnapping, drugs, and lynchings as distinct acts were not the problem. The social, economic, and political implications of crime as a whole must be recognized as the problem if solutions are to be found. The speech was a call for cooperative reform and a negation of the trend toward reactionary crime legislation based upon spectacular criminal activity.³¹

³⁰Carl Brent Swisher, ed. Selected Papers of Homer Cummings, (New York: Charles Scribner's Sons, 1939), PP. 43-44.

³¹FDR: Public Papers, vol. III, P. 494; NYT 1934, Dec. 3, 3:5; Dec. 14, 1:14; Washington Post Dec. 11, 1934, 1:8.

The response to the crime conference, like so much of the recent activity surrounding the crime issue, was ambivalent. One obvious benefit was that it publicized the issue of crime and it provided an opportunity for over six-hundred officials to hear about and discuss ways to deal with the issue. The national conference passed a number of resolutions such as continuing the conference annually and encouraging federal, state, and local cooperation. For the most part, however, the resolutions were beyond the scope of the federal government's powers. Some observers felt that, because no crime control or prevention program was presented, the conference would have little effect on crime conditions. For them cooperation was fine but such alternatives as grants-in-aid for improvement of local justice machinery was not considered.³²

One resolution submitted by Cummings proposing a federal educational research center was applauded by these same observers because here was a chance to begin

³²Newman F. Baker, "Attorney General's Conference on Crime" and "Current Notes" in Journal of American Institute of Criminal Law and Criminology 25:692-694, 788-791; "Summary: Crime Conference" American Bar Association Journal 21:5-8; American City, 50:72, Jan 1934.

reform through empirical research with only federal initiative needed to start the project. Herein lies the basic and pervasive topic of the conference and indeed surrounds the political issue of crime; federal interference in local crime matters. The conflict generated by prohibition, nursed by the Justice Department's involvement in the kidnapping/gangster cases, and brought to a peak with the passage of the crime legislation, was alive at the conference and was to remain a major element of criminal justice reform movements for decades to come.³³

There were many reasons for the ambivalence and confusion surrounding the New Deal's Response to crime. A major factor was the discrepancy between word and action. The expansion of federal police powers was argued on the basis of federal cooperation with local and state jurisdictions. Cummings had said as early as June, 1933 that crime control would be an integral part of plans in the Justice Department but that no dictatorial

³³For a look at how the states rights issue influenced the 1967 Omnibus Crime Bill see Richard Harris, The Fear of Crime (New York: Frederick A. Praeger, Publishers, 1968).

powers were to be requested from Congress. He said he had plans for a steady, unrelenting campaign for reform and increased coordination of law enforcement activity at all levels of government. By providing leadership and cooperation the federal government would let no criminal of either "...high or low status go unscathed".³⁴

Apparently the rhetoric of the New Deal was not seen as consistent with its actions because Cummings was forced to deny charges on many occasions that the federal government was attempting to federalize all levels of law enforcement. Other officials found it necessary to declare that the federal government did not have, nor did it intend to seek, wider powers and facilities to interfere with the peace-keeping functions of local governments. This apparent discrepancy between word and action caused much anxiety but the use of the concept of cooperation to justify federal expansion was the substance of much of the conflict. The expansion

³⁴ Carl Brent Swisher, ed. Selected Papers of Homer Cummings (New York: Charles Scribner's Sons, 1939), P.28; NYT 1933, June 11, II 1:5.

of federal enforcement activity covering the same crimes of local jurisdictions did not lend itself to cooperation. Indeed, it fostered competition which in turn facilitated the breakdown of what little cooperation existed after the prohibition experience.³⁵

The proponents of expansionary legislation, having learned little from the experiences of prohibition, failed to see the inherent conflict between federal and local enforcement of criminal laws. Attorney General William D. Mitchell, Cummings predecessor, had vehemently argued against federal expansion of criminal law enforcement. He was not in favor of the Lindberg kidnapping statute, federal enforcement of prohibition, and many more such pieces of legislation. His rationale was simply that this form of expansion would not solve the crime problem. Local police would relax and dump responsibility on the federal government and the cost would not be justified because better results would not be achieved.

³⁵ NYT July 24, 1933, 7:1; Sept. 1, 9:1 & 2; San Francisco Examiner Jan 1, 1934 ran an editorial urging all California law enforcement agencies to cooperate for the sake of efficiency and speed of justice, 24:7; Washington Post June 24, 1933 editorial urging National Conference to facilitate cooperation, 6:2.

He said that in most cases after spending excessive amounts of money federal authorities would find that no interstate transportation had taken place. If the interstate element was missing then no federal crime occurred and no authority existed for federal intervention. He further cautioned that because criminals violated one federal law while violating ten state laws did not justify the federal government having primary responsibility. According to Mitchell, if government was to have a positive effect on the crime problem then the local machinery of justice must be improved.³⁶

Comparing Mitchell's position with Cummings' rhetoric of cooperation illustrates little difference in principle but Cummings' actions indicated that he was an aggressive proponent of federal enforcement. His request for military planes, armored vehicles, fast cars and two-hundred more agents points to increased Justice Department activity not cooperation. Cummings also liked to scold the apathetic public because they deterred the Justice Department's activity.

³⁶ Cummings, Federal Justice, PP.478-479; Ann. Report 1932, P.4; NYT Jan 1, 1933, II 4:3.

It was not that the public was apathetic to the crime conditions, however, but more a case of Cummings' ignoring those articulate publics who opposed his moves.³⁷

This refusal to recognize criticism increased the level of opposition particularly among members of the criminal justice system who comprised the most vociferous segment of that opposition. Judges, prosecutors, and police officials from all governmental levels argued against federal expansion. These bi-partisan arguments were presented as early as Copeland's Hearings and gained momentum after the Dillinger fiasco. They agreed that corruption was the basic problem related to criminal justice inefficiency but it was a local problem that should be handled locally. Some recognized the central government's higher efficiency but the concomittant violation of the principle of states rights was an unnecessary and costly price to pay. A past police commissioner of St. Louis, taking a more pragmatic approach, claimed that with rare exception crime was a local matter and that detection and prevention was too

³⁷ NYT July 18, 1933, 7:4; Apr. 25, 1934, 3:1.

big a job for a national police force.³⁸

As federal agents became more involved in criminal apprehension their prestige rose but so did the criticism. Civic and state anti-crime campaigners were praising the federal agents for their impressive arrest record of kidnapers and gangsters. It is this impressive record that also added to the mounting criticism. The Division of Investigation rarely gave credit to local police for their assistance in any capture activity. This continued to antagonize the local officials.

The crucial element that generated most of the confusion was the New Deal's failure to clearly state its objective. Responding to the rash of kidnappings during the Summer of 1933, it declared war on crime. Because of the impact of kidnapping and such desperados as Dillinger the war became nothing more than a skirmish.

³⁸ NYT 1933, Aug 6, IV 5:5; Aug 16, 1:8; Jan 19, 1934, 22:5; A police reformer, acknowledging the federal government's interest in crime, criticized the willingness of local officials to heap this responsibility on Washington, see August Vollmer, "Police Administration" in Municipal Yearbook 1934 (Chicago: International City Managers Assoc., 1934), P.77.

Kidnapping and gangsters represented an infinitesimally small proportion of crimes and were hardly a serious threat to security when compared to the number of robberies, burglaries, and extortions that were occurring throughout the nation.³⁹ Failing to analyze the scope of the crime problem the New Deal concentrated on spectacular individuals or groups and thus limited itself to the very narrow approach of catching crooks.

³⁹NYT Aug 21, 1933, 30:1, 30:6.

CHAPTER III

COLLECTIVE DISORDERS AND CAUTIOUS CRIME CONTROL

The New Deal's approach to collective violence was significantly different from its approach to crime. It responded much slower and weighed the political ramifications of any action it might take. The Department of Justice, particularly the Federal Bureau of Investigation, played a vital role in this area. But a brief look at the impact of the crime legislation and how it helped to place the FBI in such a crucial role is necessary before we discuss collective violence.

President Theodore Roosevelt gave birth to the FBI.¹ Attorney General Harlan Fisk Stone appointed J. Edgar Hoover as its director in a reform move stemming from the bureau's history of corruption and autonomy from channels of authority. One of the practices that Stone attempted to rectify was the widespread use of agents for political investigations. Hence, he specifically stated that the bureau, under its new chief, would limit its

¹Not without experiencing strong resistance from Congress, see Cummings, Federal Justice PP.376-380; Whitehead, FBI Story; PP.17-21.

activity to the enforcement of federal laws.² Franklin D. Roosevelt was to give the bureau the patronage and support that increased its potential and its organizational growth. Indeed, the largest benefactor, in terms of funding and political support as a result of the increased federal criminal legislation, was the FBI.³

This increase in federal laws was consistently used by Cummings to justify appeals for more funds. Although the bulk of the crime bills were passed in 1934 there was to be more such legislation in the future that added to the burden of the FBI. Cummings also became interested in crime prevention to buttress the crime detection apparatus that he so willingly expanded.

²Cummings, Federal Justice PP.382-383; Whitehead, FBI Story PP.65-69; Fred J. Cook, The FBI Nobody Knows (New York: The MacMillan Co., 1964), PP.136-138, 149, 421.

³Prior to 1933 the Justice Department's investigative unit was called a bureau. Executive order #6610 in 1933 changed the title to Division and then in the annual report of 1935 it is designated as The Federal Bureau of Investigation which remains true today. Each name change represents a move up the organizational hierarchy and the "The" found in the current name can be regarded as representing the relationship and significance of that unit to the federal government.

He wished to develop a crime prevention center that would act as a nerve center for the transmittal of information. It would include a school, a scientific crime laboratory, and a central record file.⁴

These funds were never to be realized during the thirties although Congress grudgingly appropriated increased funds for the expansion of the FBI training academy. Designated the National Police Academy in 1935, this training unit was to be Hoover's most prized possession. According to him the Academy combined theoretical and practical knowledge to equip newly appointed special agents "...to perform his duties adequately as a trained investigator..."⁵ The Academy was also used to present a scheme of cooperation by allowing selected local officers to attend. One hundred and fifteen local officers were graduated from the Academy by June 1938.

Hoover utilized this cooperation scheme very effectively in his reports to Congress. He claimed that these men were "...trained and available to give instruct-

⁴Swisher, Papers of Homer Cummings, P.90; Ann. Report 1938, PP.10-13; NYT Dec. 12, 1934, 1:1.

⁵Ann. Report 1935, P.134.

ion to 55,227 law enforcement officers in their organizations."⁶ Hoover's own figures point out dramatically the weakness of the federal program of cooperation. One hundred and fifteen officers attending an instructional program composed of short-courses will not be transformed overnight into competent instructors. Another weakness is that Hoover assumed that local organizations will have the desire and funds to implement such training. The preceding chapter indicated the reluctance or lack of initiative on the part of local officials.

The most significant weakness in Hoover's and Cummings' position on cooperation stems from their successes. The Bureau of Investigation was represented as the model of efficiency in crime detection. With all the fervor surrounding the Dillinger episode the FBI still managed to be viewed as the ultimate investigators. On the part of Congress, this is evidenced by the consistent yearly increase in funds appropriated to the Bureau.

⁶Ann Report 1938, P.130.

Responding in part to society's needs and in part to its own needs the Bureau cleaned out internal political and criminal corruption and in the end developed a cadre of trained investigators. This investigative mold necessarily permeated the organization including its training academy. Herein lies the fallacy of successful cooperation so ardently presented by Cummings and Hoover. As pointed out earlier, local departments unlike the Bureau, were concerned with broader problems of law enforcement. The latter are specialists concentrating on criminal investigation while the former are concerned with community problems that necessitate a generalist's approach and training in order to serve the disparate needs of a heterogeneous community. Criminal investigation represents only a small part of those needs. Thus the emphasis on investigation by the national academy probably had a detrimental impact on local organizations if they attempted to model their departments after the FBI.

The presentation of the FBI as the model of investigatorial expertise resulted in its use in other than criminal areas. Indeed, during the nineteen-thirties there appears to be a subtle shift from the narrow scope

designated by Attorney General Stone to a broader functional area of general investigation. Hoover makes a brief but yearly comment in his annual reports to the effect that the Bureau conducted a number of other investigations for federal departments that did not result in court proceedings. He never expanded this statement but it is safe to assume that the number of background investigations of potential federal appointees was minimal at this point in time. This practice did not become prevalent until the Second World War. The bulk of these "other" investigations concerned collective violence stemming from labor disputes and farmer protests.

The last half of 1933 and the beginning of 1934 saw a tremendous rise in industrial strife. Business was tightening its resistance to the collective bargaining provisions of section 7(a) of the National Industrial Recovery Act and labor was split on the issue of organizing along craft or industrial lines. The basic issue, however, was union recognition. Having received encouragement from the New Deal, particularly in section 7(a), the

unions fought for their organizational lives.⁷

The largest strike of 1933, estimated at involving one-half million workers, occurred in the textile industry. Roosevelt used personal persuasion and promises of future mediation to get the union back to work.⁸ In the coal strikes of Western Pennsylvania that resulted in pitched battles between company police and workers, assisted by their wives and children, Hugh Johnson, Director of National Recovery Administration, persuaded the workers to end their strike and return to work. The persuader was that recovery was at stake but the issues were so volatile that violence erupted three days later during a wildcat strike which required a personal appeal by Roosevelt to the men's patriotism before the walk-out was ended.⁹ Thus, during the early period of the New Deal persuasion from Washington was enough to mitigate or at least delay the conflict between industry and labor. Presidential appeals to patriotism

⁷For a history of labor see, Foster Rhea Dulles, Labor in America: A History (New York: Thomas Y. Crowell Co., 1949), on the basic issue see particularly PP.269-271.

⁸Dulles, Labor, P.272.

⁹NYT 1935, Aug 1, 1:5; Aug 2, 5:1; Aug 3, 6:2; Aug 5, 1:6; Aug 9, 4:1.

and assistance in achieving recovery, the lustre of NRA, and promises of future solutions were enough to dampen heated tempers.

By 1937 the labor/industry confrontation had changed considerably. The conflict was still present but the economic and political conditions had changed. The country was rising from the depression and the economic outlook was better. The emergency situation was no longer dominant and the Supreme Court had found NRA unconstitutional. Because of this decision industry continued to resist the union movement at a stronger level of intensity. Violence broke out in Harlan County Kentucky one of the last strongholds of resistance to the United Mine Workers. Brutality, mayhem, and murder were the norms of the day. Senator Robert LaFollette's Education and Labor Sub-committee found, among other things, that the coal company completely dominated the area. It owned the shopping districts and forced the workers to purchase all their needs from these local stores. It controlled the total machinery of justice and hired outside gunmen as Sheriff's Deputies to legitimize the harrassment and, at times, murder of

union organizers.¹⁰

At the urging of John L. Lewis and LaFollette, Roosevelt sent the FBI into Harlan on May 19 under the authority of the Wagner Act and a civil rights reconstruction statute. The result of the investigation produced numerous federal indictments of police officials, mine operators, and corporations. There were no convictions because of a hung jury but the mine owners were smart enough to see that continued resistance was futile. Peace was restored with their signing of a contract with the unions.¹¹

The Harlan Kentucky incident illustrates the slight shift in tactics used by the New Deal to restore peace between labor and industry. Personal appeals and the defunct NRA were replaced with the congressional committee and FBI. They were both fact-finding bodies but for different purposes. Ideally the congressional committee is interested in recommending new legislation

¹⁰ See Walter Galenson, The CIO Challenge to the AFL: A History of the American Labor Movement, 1935-1941 (Cambridge: Harvard University Press, 1960) PP.200-204; NYT 1937, Apr 17, 4:1; Apr 23, 11:1; Apr 27, 17:2.

¹¹ Jerald S. Auerbach, "The LaFollette Committee and the CIO" in Wisconsin Magazine of History, 48:20.

whereas the FBI concerns itself with the enforcement of federal law. In practice, however, each of these units were to stray from the ideal.

As a result of the labor turmoil, the loss of NRA, and the virtual ineffectiveness of the Wagner Act (particularly the National Labor Relations Board), Senator Robert M. LaFollette had urged Congress to investigate violations of free speech and assembly with regard to labor's right to organize and bargain collectively. Approved in June 1936, LaFollette's sub-committee on civil liberties began its hearings. Its staff was made up of a large number of NLRB people because of the board's ineffectiveness and lack of use due to the "wait and see" attitude of all involved pending the Supreme Court's decision on a challenge to the Wagner Act. Indeed, thirty-six employees of NLRB were hired as staff members on LaFollette's committee.¹² The committee was to enjoy its greatest impact with its investigation of the General Motors sit-down strike.

¹² Auerbach, "The LaFollette Committee: Labor and Civil Liberties in the New Deal" in Journal of American History, 51:442; "LaFollette: CIO" in Wisconsin Magazine of History 48:3. Sen Res 266 in Cong. Record, 74 Cong., sess 1, PP.4151, 9186.

1937 was the year of the strike. During the year there were massive strikes in the coal, steel, and automobile industries with almost two million workers involved. Another labor tactic was introduced along with the massive strikes. The sit-down strike was relatively new in the United States with the textile industry initiating it on a massive scale during the Summer of 1936.¹³

Probably the most significant strike of the thirties was the sit-down at General Motors. The existing conditions were ripe for a massive confrontation. The Supreme Court's previous activity had encouraged business to resist the unions and they in turn were fighting between themselves with the Congress of Industrial Organization pushing for representation along mass production industry lines. The American Federation of Labor argued for jurisdiction along craft lines. It is safe to surmise that business probably wished to play the CIO against the AFL to gain time and if lucky to destroy the CIO.

¹³Galenson, CIO Challenge, P.134.

The strike began in the two "mother plants" upon which the total specialized plant system was dependent. The Flint, Michigan plant produced key parts for all of the G.M. automobile line and the Cleveland plant produced the major portion of body parts for the Chevrolet line. The strike, however, did not represent any strategic master plan of the United Auto Workers. There had been a number of sit-downs, usually as a result of employee dismissals, throughout the G.M. complex and the union was rebuffed when presenting its grievances. It was such an incident that precipitated the strikes at Flint and Cleveland. It was at Flint, however, that the drama between Washington, business, and labor developed so acutely.¹⁴

G.M. immediately took a hard line as the response from its Executive Vice-President, William S. Knudson, indicates: "Sit-down strikes are strikes. Such strikers are clearly trespassers and violators of the law of the land. We cannot have bona fide collective bargaining with sit-down strikers in illegal possession of the plants."

¹⁴Galenson, CIO Challenge, P.134-136; NYT 1937, Jan 1, 1:8; Jan 3, 2:2.

Collective bargaining cannot be justified if one party, having siezed the plant, holds a gun to the other parties head."¹⁵ This language is interesting in itself but is exceptionally significant within the context of the government's response and the subsequent findings. For here is a case of collective illegal disorder that could have justified the use of police or military forces. It is clear from the statement that the strikers violated the law and it is implied that they were armed. The strikers' violation of the law was generally acknowledged but the presence of arms was not documented. Furthermore, the moral rightousness and innocence of G.M. that the response conveyed was dramatically exposed as false by LaFollette's hearings.

The Committee found widespread evidence of company spies, coercive tactics, munition stockpiles, strike-breakers and private police being used to suppress industrial worker organization. Subsequent investigations were to show that companies spent a total of eighty million dollars to hire spies for union smashing and intelligence gathering. It has been stated that companies were better

¹⁵Galenson, CIO Challenge, quoted in, P.126, NYT Jan 1, 1937, 10:2; The significance of the strike to the union and G.M.'s resistance are discussed by Russell B. Porter in NYT Jan 31, 1937, IV, 6:1.

armed than law enforcement agencies during the strikes of 1937. These findings were similar to those found during the nineteen-twenties but conditions had changed considerably because section 7(a) and the Wagner Act had embodied a shift in the government's view of labor. Government would no longer follow the laizze-faire philosophy; labor was to have a right to organize and business could not use unfair labor practices to resist. The Supreme Court sustained the Wagner Act on April 12 and thus further delineated the expected approach.¹⁶

With the publicity surrounding LaFollette's hearings, G.M. began to retreat and look for a way out of the adverse publicity. There were other elements involved, of course, that forced G.M. to reconsider its position. Roosevelt operating behind the scenes brought pressure on G.M. The Supreme Court decision on the Wagner Act, adverse public opinion, and the loss of

¹⁶ For the Committee's findings see Auerbach, "LaFollette CIO" Wisconsin Magazine of History, 48:9-11; for the cost of labor spying see Leo Huberman, The Labor Spy (New York: Modern Age Books, 1937), particularly PP. 3-8; for a detailed look at G.M. espionage and the amount of violence during the sit-down see Sidney Fine, Sit-Down: The General Motors Strike of 1936-1937 (Ann Arbor: The University of Michigan Press, 1969), PP.39-42, 196-198, 213-214; for a general treatment of the strike see Galenson, CIO Challenge, PP.274-275, 278-279; NYT 1937, Jan 22, 2:2; 7:3; Feb. 12, 21:1.

productivity all brought G.M. to the realization that further resistance might be unwise and unnecessarily costly. The greatest amount of credit must be allotted to Governor Frank Murphy who was able to maintain a composed atmosphere in the city of Flint by resisting pressures to use the National Guard to evict the strikers. He also restrained local police officials and refused to use the state police to evict the strikers, believing that the state must be neutral in such matters. Lastly, he performed the vital role of mediator between the conflicting groups.¹⁷

There is no evidence that the FBI took an active part in the investigation although they were present. LaFollette's committee, staffed by members who were sympathetic to labor's cause, was the only evidence of federal presence.¹⁸ Labor effectively used this public forum to its best advantage. In essence the totalitarian

¹⁷For a discussion of Murphy's role see Fine, Sit-Down, PP.233-241; NYT Jan 10, 1937, 1:1.

¹⁸The NLRB staff people were more than objective observers, see Auerbach, "LaFollette: CIO" in Wisconsin Magazine of History 48:13; and Fine, Sit-Down, PP.223-224; in a one paragraph note the NYT claimed that the FBI had been sent to investigate strikebreaking but no evidence of arrests or a final report could be located, Jan 29, 1937, 4:3.

tactics of G.M. that were publicly exposed served to weaken the moral position of General Motors. As a result of these hearings LaFollette introduced a bill on March 28, 1939 to eliminate oppressive labor practices but it never reached a final vote and died in committee.¹⁹

Roosevelt did not personally take sides in the sit-down dispute but it is evident from his cautious support of LaFollette that his sympathies were with the workers objectives if not their tactics. In Congress the sit-downs aroused fears of disorder. Accompanied by shouts of dictatorship, revolution, and anarchy, congressmen voiced their disapproval of workers seizing private property to achieve their goal of union recognition. Vice-president John Garner said that such mass lawlessness could not be tolerated. The most serious threat to the administration came in the form of an anti-sit-down amendment proposed by Senator James F. Byrnes of South Carolina.²⁰

¹⁹See Auerbach, "LaFollette: Civil Liberties" in Journal of American History 51:455.

²⁰James T. Patterson, Congressional Conservatism and the New Deal: The Growth of the Conservative Coalition (Lexington: Kentucky Paperbacks, Univ. of Kentucky Press, 1967) PP.134-136.

Byrnes opposed the seizure of private property and was also fearful that the CIO would use the sit-down tactic in the southern textile mills. He attempted to add the amendment to an administration coal bill but through the leadership of Joseph Robinson of Arkansas a compromise was reached.²¹ The amendment could have been embarrassing to the administration because if Roosevelt had signed the bill it would have outlawed the sit-down strike thereby forcing either his or Governor Murphy's hand. Secondly, it might have put the miners in a weaker position if the amendment was worded so that it applied only to them. Lastly, if Roosevelt vetoed or refused to sign the bill he would probably lose the coal legislation as well as imply an approval of the sit-down tactic.

The sit-down issue also brought forth another personality who was to agitate the New Deal. Representative Martin Dies of Texas attempted, with the support

²¹ James T. Patterson, Congressional Conservatism and the New Deal: The Growth of the Conservative Coalition (Lexington: Kentucky Paperbacks, Univ. of Kentucky Press, 1967), PP.136-138.

of many conservatives, to secure a Congressional investigation of the whole question of sit-down strikes.

His objective was to expose the radical elements within the CIO as well as its ties to the New Deal. Fortunately, for the administration, New Dealers were able to defeat the proposal but not without the showing of strong sentiment on the part of conservatives against the sit-down tactic as well as indicating a growing anti-New Dealism.²² Thus Roosevelt's ambivalence toward the sit-down can be understood within the political climate of the time. Any overt action favorable to the union would have alienated many moderates and thus strengthened the conservative bloc. Technically, the strikers (and G.M.) were involved in illegal activity. Politically, it was safer to let them fight it out among themselves with only covert interference from the White House.

With regard to farmer disputes new tactics were devised by the New Deal to ameliorate the conflict situation. As in the previous cases of the sit-downs and the coal strikes the character of the New Deal response was determined by the social and political

²² Patterson, Congressional Conservatism, PP.167-168.

conditions related to the conflict. Early in 1935 the cotton country of Eastern Arkansas was in a state of revolt. The crop reduction policies of the federal Agricultural Adjustment Administration brought increasing economic hardship on the "forgotten farmers."²³

Sharecroppers were forcibly evicted from their farms and the landowners refused to fill vacant positions. Landowners were willing to rehire sharecroppers but only as day laborers thus changing the status of the traditional tenant farmer, with a personal stake in the land, to that of a hired hand. Repeated appeals to Washington received delayed and conciliatory replies but no action. Another factor that appears to have worked against the sharecroppers is that the AAA allowed the operation of the local grievance machinery to the landowners.²⁴

By 1939 the situation had grown worse and the croppers became militant. The policies of the AAA had

²³For a study of the sharecroppers and the New Deal see David Eugene Conrad, The Forgotten Farmers (Urbana, Ill.: Univ. of Ill. Press, 1965), PP.160-162 for the effects of AAA Policy; and Auerbach, "Southern Tenant Farmers: Socialist Critics of the New Deal" Labor History 1966, 7:4-5.

²⁴Conrad, Forgotten Farmers, PP.80-81; for a sympathetic contemporary account of plight of the croppers and their union activity by one of the socialist organizers see Howard Kester, Revolt Among the Sharecroppers (N.Y.: Covici, Friede Pub., 1936)

not been changed to meet the needs of the tenant farmers in spite of many critical official and unofficial investigations into the matter. The Southern Tenant Farmers Union organized a protest in Missouri that caused widespread publicity and resulted in an official FBI investigation. The subsequent report was extremely critical of the AAA administration, its policies, and the local landowners.²⁵

In January officials of AAA had requested an official investigation of the croppers conditions and the alleged violation of their civil liberties. The FBI was given the job and completed its report in March. Beginning with a historical analysis of the social and economic conditions of the region, the report ended by leveling most of its criticism at AAA and the local planters.²⁶ Among other things it accused the landowners of corrupting AAA tenant regulations for their

²⁵Conrad, Forgotten Farmers, PP.122-126. For a study of the 1939 demonstration see Louis Cantor, A Prologue to the Protest Movement: The Missouri Sharecroppers Roadside Demonstration of 1939 (Durham, N.C.: Duke Univ. Press, 1969); PP.69-71 for the allegations of communist influence.

²⁶Cantor, Prologue to Protest, PP.126-130; St. Louis Post-Dispatch Mar 13, 1939, II, 1:1; according to Prof. Cantor as of 1969 the FBI report was still not available to the public.

own self-interest. It also pointed out loopholes in AAA regulations that allowed the planters to embezzle the share of the subsidy for crop reduction rightfully due the tenant farmers.

The report also destroyed the "outside agitator" allegation made by the planters to various congressmen and AAA officials. The planters had used this allegation in their plea for an investigation by the House Un-American Activities Committee. What is interesting from a criminal justice perspective is the two-fold use of a federal law enforcement agency. On the one hand the FBI was sent to Missouri to investigate charges of terror and violations of civil liberties, clearly issues requiring a criminal investigation. On the other hand, the FBI is used as an alternative to a congressional investigative committee that is hostile to the administration.

Roosevelt remained above the farm conflict just as he had with the sit-downs. He was too politically astute to become personally involved in such a volatile situation. During the 1935 to 1936 protests Roosevelt's actions can be explained by the fact that any interference from Washington might prove embarrassing to Joseph T.

Robinson the Arkansas Senator who was up for reelection in 1936 and was a stalwart of the New Deal.²⁷ The political vacuum left by Robinson's death in 1937 was filled by the increased militancy of the Southern Farmers Tenant Union. The union, with its socialist tinge and the strong backing of Norman Thomas, managed to maintain itself as a thorn in the side of the New Deal by publicizing the sharecroppers plight and blaming the New Deal.²⁸ By 1939 the thorn had to be removed and the FBI investigation was part of the operation.

To suggest that only pragmatic political expediency was the sole criterion upon which the New Deal resisted intervening in the many demonstrations and strikes that occurred during his administration is somewhat harsh.²⁹ His humanitarian instincts and his concern

²⁷For the importance of Senator Robinson see Conrad, Forgotten Farmers, PP.29-30, 169, 174; Patterson, Congressional Conservatism; Auerbach, "Southern Tenant" Labor History, 7:15.

²⁸Cantor, Prologue to Protest PP.18-19; Auerbach, "Southern Tenant" Labor History, 7:3-18.

²⁹Louis Cantor takes this view with regard to Roosevelt's lack of response to the sharecropper's problems Prologue to Protest, P.154.

for the underdog also played a large role in his refusal to act, particularly with force, in these situations. With respect to collective demonstrations and even collective violence, Roosevelt had never called out the military to suppress the activities. During the 1934 "General Strike" on the West Coast Roosevelt refused to dispatch federal troops even though two states had requested them.³⁰

In part his decision was based on the rational analysis of the situation by two of his advisors who diagnosed the request as unnecessary official panic at the local level. But Roosevelt also considered the use of military troops during a strike or demonstration as the ultimate danger to a democratic society.³¹ He preferred alternative methods to deal with such explosive situations.

One such alternative was the use of congressional committees to study the situation and recommend

³⁰The two states requesting federal troops were California and Oregon see Arthur M. Schlesinger, Jr., The Age of Roosevelt; Vol. II, The Coming of the New Deal, (Boston: Houghton Mifflin Co., 1958, Sentry Edition, 1965), P. 392.

³¹FDR: Public Papers, Vol. VI, P.274.

corrective legislation. As mentioned earlier, this method was used a great deal when he was governor. The congressional committee, however, is a two-edged sword that can either assist or resist the incumbent administration. Roosevelt was aware of this phenomenon and explains his changing tactics over a period of time.

Roosevelt did not oppose LaFollette's objectives or his tactics. While not publicly supporting the committee's activities, Roosevelt did so privately. At one point he encouraged its continuance and recommended that Congress appropriate more funds.³² This support came about as a result of the formation of Martin Dies' House Committee on Un-American Activities, the other edge of the sword.

Congressional approval of the Dies investigations created quite a stir in the White House. High level meetings were held to determine the significance of such a move and to develop means of minimizing its impact. Many suggestions were considered including the expansion

³²See Auerbach, "LaFollette: Civil Liberties" Journal of American History 51:451-452.

of the committee with New Deal sympathizers or to merge its investigation with that of the FBI. The approach decided upon was to have the Justice Department monitor and reinvestigate various charges made by Dies and that LaFollette's Committee be continued.³³

The Dies Committee never achieved the traditional function of obtaining information for legislative action. It became evident that Dies wished to embarrass the administration and further his own publicity. He unsuccessfully attempted to force the executive department to take repressive action against certain groups. As if to exemplify his dissatisfaction with the level and intensity of federal investigative activity, he duplicated FBI offices in major cities. His xenophobia concerning radical groups damaged his relationship with congressional comrades but allowed him wide latitude in his investigations.³⁴

³³ See Harold L. Ickes, The Secret Diary of Harold L. Ickes: The Inside Struggle vol. II 1933-1936 (New York: Simon and Schuster, 1953) P.548-549; Cong. Record 75 Cong., 3 sess., PP.7567, 7568, 7586; Dies refused to state the amount of funds needed and thus caused some apprehension among house members.

³⁴ Ickes Diary, vol. II, PP.528-529; Marquis W. Childs, I Write From Washington (New York: Harper Brothers Publishing, 1942), P.92.

Politically speaking, Martin Dies was dynamite. A conservative democrat from Texas, who played on the "conspiracy and insurrection" fears of the people could not be looked upon as politically harmless. The tenuous congressional coalition that Roosevelt depended upon for support of New Deal legislation, which was already showing signs of dissolution by 1935, did not need increased party and regional conflict to speed the process. Roosevelt, true to his public stance with regard to other congressional committees, did not personally interfere with Dies or his committee. Only once did he publicly rebuke the committee when it publicly villified Governor Frank Murphy for his role during the General Motors sit-down strike.³⁵

It is safe to say that pragmatic political considerations tempered by humanitarian instincts and a social conscience guided Roosevelt in his response to collective disorders. He did not approve of the strike or demonstration tactic. Indeed, he was usually irritated by them because of their actual or potential threat to

³⁵For a discussion of the issues raised by Dies attempts to embarrass the administration see Albert Alexander, "The President and the Investigator: FDR and Dies" Antioch Review 15:106-117.

other economic and political objectives.³⁶ His ambivalent public attitudes to labor issues and his reluctance to commit the resources of the administration into labor and farm disputes can be explained--if not justified--by the political conditions surrounding these issues. What appeared morally right to one interest group was anathema to another. What was clear from a legal standpoint in the short-run could be politically disastrous in the long-run. The politics of responding to collective disorders served to ameliorate the immediate situation rather than escalate the conflict or rectify underlying conditions.

³⁶ Schlesinger, Age of Roosevelt Vol. II, P.402; Fine, Sit-Down, P.233; Sidney Edelman, "New Deal Sensitivity to Labor Interests" in Martin Derber and Edwin Young, eds. Labor and the New Deal (Madison: Univ. of Wisc. Press, 1957), PP.181-182; in NYT June 11, 1937, 22:5; Arthur Krock suggests that Roosevelt's silence on labor conflicts was a studied policy to allow labor leaders to regain control of strikers; non-interference would tend to lessen chances of further polarizing the factions.

CONCLUSION

The New Deal's interest in the problems of crime and its recognition of the necessity for overhauling the administration of criminal justice stemmed from Roosevelt's reform activities while Governor of New York. Apparently, his basic theme of limited federal intervention into the area of crime which was a basic responsibility of the states was carried into the White House. The Justice Department's constant reiteration of the cooperation concept mirrors that theme. In essence the federal government was going to provide maximum assistance but with a minimum amount of direct enforcement activity. The assistance would be in the form of long-range reform measures that would stand as models for local communities.

On its own terms the New Deal failed in its response to crime. Long-range reform measures were not forthcoming and the jurisdictional divisions were blurred. The singularly long-range reform was the expansion and entrenchment of the Federal Bureau of Investigation. In achieving this success the New Deal acquiesced to emotional and political pressures while having at their disposal the necessary capacity to blunt

and redirect those pressures. The expansion of the FBI resulted from exploitation of the public's anxiety with respect to the rise in kidnappings during the Summer of 1933. Senator Copeland, joined by Justice Department officials, used the kidnapping issue as a basis for their crime legislation and when it stalled in House and Senate Committees, because of constitutional as well as political considerations, the Dillinger hysteria saved the day for the expansionists. Congress could not balk on legislation that would rid the country of such desperadoes. It should be clear then that the crime legislation of the New Deal was in response to spectacular crimes with little accomplishment in the area of long-range reforms.

Did the administration have any alternative in supporting this legislation? If one looks at the amount and type of recommendations made by some criminal justice officials, ranging from methods of punishment used during the colonial period to complete martial law, the crime legislation pales by comparison. But there does not appear to be much justification for thinking the alarmists were having any significant impact on the specific content of the laws. They were providing news headlines,

however, that must have given a wide impression of rampant crime. In this sense the alarmists probably supported Senator Copeland's proposed expansionary legislation. But the administration did not attempt to soften the impact of these headlines except to refer to the federal government's goal of waging a war on crime. Through this declaration the administration placed itself on the side of Copeland and other protagonists for a greater federal role by reenforcing the "crime wave" hysteria.

Once the administration had committed itself to the "war on crime" approach it was essentially trapped. Never making a distinction between the types of spectacular crimes--kidnapping, gangsterism, organized crime, or racketeering--and the problem of crime in general, the administration left itself open for criticism. The war on crime became a war on kidnappers and Dillingers. Racketeering, with its pervasive hold on some industries and local governments, was left for local reform groups to solve.

Admittedly there are constitutional questions involved but it is evident that Senator Copeland's racketeering committee did not dig into the racketeer/politician connection. Indeed, Copeland's crime

bills and his speech recommending them to Congress indicate that he avoided the issue entirely. The political overtones of this avoidance are obvious. Crime in general, with its socio-economic and behavioral characteristics, was ignored. The natural result of concentrating on specific and spectacular crimes was to strengthen the apparatus most logically capable of solving them. Kidnappers and gangsters needed to be caught and the FBI was the agency that was selected to perform the task.

What was the impact of setting up the FBI as the ultimate criminal investigation model? With regard to the model's impact on local police departments, the question can only be answered in a speculative vein because the writer did not gather data relating to changes in local areas. It appears safe to assume that the successful image of the FBI as a crime fighter probably influenced local departments to hasten their attempts to form a professional detective unit within their respective organizations. At the federal level, the expansion and support of the FBI helped blur the functional lines of the agency. When Attorney General Stone limited its function solely to the enforcement of

federal laws he probably did not expect that the number of those laws would increase significantly or that their jurisdiction would be vastly extended. He would probably be shocked to find the FBI involved in numerous "other" investigations that did not result in court proceedings.

In some respects the New Deal's response to collective disorders can be viewed as successful on its own terms of cooperation, assistance and leadership. Roosevelt refused to use force on these occasions preferring to rely on the leadership of the contending parties and the capabilities of local government officials. He provided for the cooperation of administration officials with the disputants in attempting to ameliorate the conflict. Congressional committees favorable to the administration were given encouragement and executive departments such as Justice were sent in to perform official investigations. In none of the strikes or protests was the existing law invoked to the letter. This condition was beneficial to both sides of the conflict since each was involved in illegal activity.

This discretionary use of the law can be explained by the political overtones of the conflict. In each of the cases cited a number of clearly defined political groups were involved, with labor and business being predominant. A decade or two earlier would have seen the use of the law for the benefit of business but the times were changing and business no longer had the upper hand. The conditions were not right for the law to be used solely for labor's benefit so a relatively neutral position was taken by the administration, eg. the G.M. strike.

In other cases the administration was forced to take some action because the excesses of one side were so severe or other political groups became interested and upset the balance. An FBI investigation was conducted in Harlan County Kentucky because of the systematic pattern of violence and mayhem aimed at the miners. A similar investigation was conducted in Missouri during the sharecroppers protests. Each of these investigations were ordered because of allegations that both the miners' and farmers' civil liberties were being violated

But the two cases are different. In Harlan the request for an investigation was made by the labor leader involved in the strike and a Senator conducting congressional hearings related to the strike. In Missouri the request had been made repeatedly by the sharecroppers union but no action was taken until a third political group became interested. When the administration discovered that the House Un-American Activities Committee, a group hostile to the New Deal, was considering an investigation the FBI was immediately sent. Thus, it was not just the fact that clearly defined groups were in conflict that triggered New Deal action; the political power wielded by the groups was a prime factor.

What appears to emerge from the above is that the discretion in the use of the law is determined to a large extent by the political power of the involved parties. Once the issue becomes political in nature the dependence upon right or wrong, legal or illegal, law and order, is no longer sufficient to solve the conflict. In these situations a more flexible arrangement is needed that will allow the parties to arrive

at a compromise solution. In this sense the New Deal's response to collective violence was more successful than its response to crime in general. The difference between the two is that while they both involved politics the crime issue did not reach a sufficient level of political confrontation because politically powerful and clearly definable interest-groups were not present to raise the issue to a level of national concern.

BIBLIOGRAPHICAL NOTE

The sources used in this study are cited throughout the work. The purpose of this note is to evaluate those sources that were significant in providing an understanding of crime and its relationship to the New Deal. It is hoped that this evaluation will guide those individuals interested in the topic under discussion to the most important sources.

Because of the local unavailability of federal publications on the various committee hearings discussed in this Thesis, great use was made of newspaper sources to determine committee findings. The most useful newspapers were the NEW YORK TIMES and the WASHINGTON POST (D.C.).

An invaluable bibliography on crime for the period under study is Dorothy Campbell Culver, Comp., Bibliography on Crime and Criminal Justice, 1932-1937 (1939). Of course, the Samuel Rosenman, ed., The Public Papers and Addresses of Franklin D. Roosevelt is a crucial source for any student of the New Deal. The Congressional Record is dry and sometimes boring but it

provides interesting and significant information.

The only manuscript collection related to the topic and accessible to this author was the Copeland Papers, Michigan Historical Collections, University of Michigan. The papers, currently being catalogued, were disappointing for the years 1932 through 1936 with most of them referring only to government employee and veterans legislation.

There has not been a major study of the Department of Justice since the late 1930's. Homer Cummings and Carl McFarland, Federal Justice: Chapters in the History of Justice and the Federal Executive (1937) is useful for a historical development of the Justice Department from colonial times to the 1930's. For a well researched and extensively documented book on the functions of the Department of Justice in the late nineteen-twenties see Albert Langeluttig, The Department of Justice of the United States (1927).

A useful source on Homer S. Cummings is his own book We Can Prevent Crime: The American Program which presents his thesis that a prevention program aimed at

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juvenile delinquency would alleviate much of the crime problem; another is Carl Brent Swisher, ed., Selected Papers of Homer Cummings (1939) but the method of dividing speeches into fragments and then scattering them topically throughout the book presents some distortion of the original speech.

The best history of prohibition is Andrew Sinclair, Prohibition: The Era of Excess (1962). A challenging article on the subject of revising earlier views of prohibition is J. C. Burnham, "New Perspectives on the Prohibition 'Experiment'", Journal of Social History (II:51-68).

There are many books on John Dillinger covering a wide spectrum of quality but John Tolland's, Dillinger Days (1963) provides the reader with an informative social history of the period. For Dillinger fans Jay Robert Nash and Ron Offen, Dillinger Dead or Alive? (1970) presents some forceful evidence to suggest that the FBI never captured Dillinger.

Collective disorders during the New Deal have received increased attention by historians in the past few years. Sidney Fine, Sit-Down: The General Motors

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Strike of 1936-1937 (1969), the first monograph on that significant incident, is a detailed analysis of the many forces involved in the strike. For an excellent study of the New Deal's impact on sharecroppers see David Eugene Conrad, The Forgotten Farmers (1965); Louis Cantor, A Prologue to the Protest Movement: The Missouri Sharecropper Roadside Demonstration of 1939 (1969) is an excellent study of the socio-economic and political conditions surrounding the conflict and has much information on how numerous law enforcement agencies responded.

Jerald S. Auerbach has studied the issue of civil liberties and the New Deal extensively and his articles provide numerous insights into the relationship between the New Deal, LaFollette's Committee, and collective violence; on labor see "The LaFollette Committee and the C.I.O." Wisconsin Magazine of History (48:3-20) and "The LaFollette Committee: Labor and Civil Liberties" Journal of American History (51:435-459); "Southern Tenant Farmers: Socialist Critics of the New Deal" Labor History (VII:3-18) is critical of the utility of the farm strike but recognizes the value of

the union in keeping the issues before the public.

Students of criminal justice will be interested in works by Raymond Moley covering the late twenties; Politics and Criminal Prosecution (1929) discusses the process of prosecution and concludes that state control might eliminate many of the excesses harmful to the offender; Our Criminal Courts (1930) presents observations on the functioning of state and local courts and is based on his extensive research in connection with his participation on numerous state crime commissions.

All monographs on the FBI deteriorate into either pro or con polemics. Don Whitehead's, The FBI Story (1956) is extremely partial to J. Edgar Hoover and is the only work to date that had access to Hoover memoranda and FBI records. Fred J. Cook, The FBI Nobody Knows (1964) is a blistering attack on Hoover and his domination of the bureau. Harry and Bonaro Overstreet's, The FBI in Our Open Society (1969) is more moderate in tone and well written but the lack of reference notes and the authors' tendency to concentrate on refuting Cook weakens the book's usefulness. Nevertheless, a cautious student, balancing the monographs on the FBI, can glean numerous and valuable insights into the operations of that agency.

END