Some Legal Aspects of Interstate Crime

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SOME LEGAL ASPECTS OF INTERSTATE CRIME

By J. Edgar Hoover*

INTRODUCTION

The advent of modern means of rapid transportation and the growing complexity of life itself have presented numerous problems that no longer are local in character. The past thirty years have witnessed a complete change in many of our institutions. Not the least of these institutions affected are our law enforcement agencies. The peace officer a few decades ago was almost exclusively engaged in directing his efforts against a fairly definite group of persons engaged in activities outside of the law. Increasingly this has not been the case. For the law enforcement officers have witnessed the emergence of a new criminal group, equipped with swift means of transportation, armed with machine guns instead of the bludgeon, and with a cunning that challenges the security of life and property. While the scope of local officers' activities was determined by arbitrary territorial bounds, the criminal was free to cross and recross the boundaries of our forty-eight states to carry on his depredations.

In recognition of the need for bulwarking local law enforcement the criminal jurisdiction of the United States government gradually has been extended to cope with new emergencies in the field of law enforcement. While the statute books of the federal government have from its very inception contained some criminal

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provisions, nevertheless, new conditions have constantly required their extension. The Honorable Homer S. Cummings, Attorney General of the United States, has aptly described the conditions prompting the extension of federal criminal jurisprudence in the following words, "The interstate character of many crimes ... is a factor of constantly increasing importance. The modern criminal has learned that there is a certain security in the twilight zone between state and federal jurisdictions. Pressure of necessity is constantly widening the field of federal activity." 2

Naturally the growing complexity of law enforcement has its attendant legal problems. To discuss all of them adequately would require volumes, consequently this discussion is designed to portray only a few phases of federal criminal jurisdiction.

**FEDERAL CRIMINAL JURISDICTION**

While the United States Supreme Court derives its jurisdiction directly from the constitution, all other inferior courts of the United States are created by Congress. 3

The federal courts inferior to the United States Supreme Court of necessity have certain implied powers, such as the power to enforce obedience to their orders by imprisonment if necessary, and to hold contempt proceedings. 4 No criminal jurisdiction exists in the inferior federal courts, however, except that which is given them by Congress. 5 Thus jurisdiction of crimes against the United States does not attach to the inferior federal courts until

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3"The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish..." Art. III, sec. 1.
4See United States v. Hudson, (1812) 7 Cranch (U.S.) 32, 34, 3 L. Ed. 259, 260; In Re Debs, (1895) 158 U. S. 564, 15 Sup. Ct. 900, 39 L. Ed. 1092; United States v. Hoffman, (D.C. Ill. 1925) 13 F. (2d) 269, affirmed (C.C.A. 7th Cir. 1926) 13 F. (2d) 278, 280. In this case two racketeers were sentenced to serve one year in the county jail. While incarcerated they received many privileges for which they paid a large amount of money each month. During their incarceration they spent considerable time in a dentist's office, contending their nerves were so sensitive that they could not permit the dentist to work on them only a few minutes a day. Likewise the racketeers were permitted on numerous occasions to remain at their apartment over night and return to the jail the following morning. The Federal District Court held the sheriff and a jailer in contempt for violating the order of the court, in that the two racketeers were permitted to leave the jail. Wilkerson, J. quoted with approval (p. 272) from Biskind v. United States, (C.C.A. 6th Cir. 1922) 281 Fed. 47, 50, 28 A. L. R. 1377, "Wilful and intentional disobedience of the order of a court of competent jurisdiction ... is criminally punishable, so far as the proceeding is in vindication of the authority of the court."
5United States v. Hudson, (1812) 7 Cranch (U.S.) 32, 3 L. Ed. 259.
jurisdiction is given them by the power that created them; nor can they be invested with any such jurisdiction beyond that power which the constitution vests in Congress. Hence, in general, before an offense can become cognizable in a federal court Congress must first define it, affix a penalty for its violation and confer jurisdiction upon some court to try the offender.  

Judge Philips in *Morris v. United States* states that the following may be regarded as the settled law within federal jurisdiction:

1. "There are no crimes or offenses cognizable in the federal courts, outside of maritime or international law or treaties, except such as are created and defined by acts of Congress.

2. "Where the statute designates and denounces a crime of the character or class which at common law was regarded as a felony without naming it as a misdemeanor, such as burglary, robbery, et id omne genus, which at common law had a well defined meaning as a felony, these are classified as felonies.

3. "Although the offense prescribed by the state may at common law come within the category of a felony, yet if termed by statute a misdemeanor it is not to be regarded in federal procedure as a felony.

4. "When Congress adopts a state statute or law as to an offense made a felony by the state law, it may be so treated by the federal court."

While it is now firmly established that the common law offenses are not recognized in federal courts in the absence of congressional enactment, nevertheless the operation of the common law has not been totally excluded, for resort to the common law is frequent in interpreting the construction of various federal offenses in federal court. In the case of *United States v. Nye*, Judge Swing said:

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8 United States v. Hudson, (1812) 7 Cranch (U.S.) 32, 3 L. Ed. 259; United States v. Martin, (D.C. Iowa 1910) 176 Fed. 110. It is provided in 28 U. S. C. A. sec. 729, 2 Mason's U. S. Code, tit. 28, sec. 729 that Federal Courts may be guided in certain instances by "...The common law as modified and changed by the constitution and statutes of the state... so far as the same is not inconsistent with the constitution and laws of the United States." Tennessee v. Davis, (1879) 100 U. S. 257, 25 L. Ed. 648; Holmes v. United States, (C.C.A. 5th Cir. 1920) 269 Fed. 96.


10 (C.C. Ohio 1880) 4 F. (2d) 888, 890, 891; United States v. Palmer, (1818) 3 Wheat. (U.S.) 607, 630, 4 L. Ed. 471, 477 where Marshall, C. J.,
"... We have no general statute of the United States prescribing criminal procedure, and that in the administration of criminal law, unless there be an express statute to the contrary, we are governed by the general common-law procedure; in the administration of criminal law and in criminal jurisprudence we go to the common law for the purpose of ascertaining the modes of practice, the modes of procedure, the rights of the defendants, the rights of the government, the duty of the court, and the duty of the jury, and we administer it according to that."

The constitution, while defining and granting the federal judicial power, does not in its provisions make them self-executing. The Supreme Court as such is a constitutional court. It remained, however, for Congress to provide for its organization. The inferior courts provided for by the constitution required the action of Congress to give them life, which it did in enacting the Judiciary Act of 1789, which has since been amended.

The federal district courts were given jurisdiction "Of all crimes and offenses cognizable under the authority of the United States,"11 which coupled with the provision "The crimes and offenses defined in this title12 shall be cognizable in the district courts13 of the United States as prescribed in section 41 of Title 28,"14 leaves no question as to the jurisdiction of the federal district courts to try violators of federal laws.

The matter of jurisdiction of the state and federal courts over offenses growing out of the same acts is an important one, and while it is clearly a problem of procedure, it nevertheless has a bearing on the subject matter of this discussion. Generally speaking the same criminal acts may be punishable both under State and Federal laws, and both state and federal courts will have concurrent jurisdiction over them.15 However, where a Federal district court first takes custody of a person and sentences him to

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11 hypocritical. 12 hyped. 13 hypocritical. 14 hyped. 15 hypocritical.
imprisonment, the state courts cannot assume control over him without the consent of the United States until the end of his penitentiary sentence, and vice versa.¹⁶

The federal statutes provide that "nothing in sections 1 to 553, 567, 568, and 571 of this title¹⁷ shall be held to take away or impair the jurisdiction of the courts of the several states under the laws thereof."

Thus it has been held that the larceny or burglary of a post office;¹⁸ the passing of counterfeit coin;¹⁹ and the receiving of stolen property belonging to the United States,²⁰ though offenses cognizable by the federal judiciary, may nevertheless be tried and punished under state law by state courts. It is likewise well settled that an act which is an offense against both a state and the federal government may be punished by both, and a plea of former jeopardy will not bar further prosecution in either the state or federal courts, as the constitutional provision of the fifth amendment against double jeopardy applies only to proceedings by the Federal government.²¹

While the federal statutes specifically provide that "When any offense against the United States is begun in one judicial district and completed in another, it shall be deemed to have been committed in either, and may be dealt with, inquired of, tried, determined, and punished in either district, in the same manner as if it had been actually and wholly committed therein,"²² nevertheless a somewhat vexing problem is presented particularly in certain types of interstate crimes, and it is necessary to consider the facts in each case and the provisions of the federal laws applicable thereto.²³

¹¹8 U. S. C. A. sec. 547, 1 Mason's U. S. Code, tit. 18, sec. 547. This provision refers to Title 18 U. S. C. See 18 U. S. C. A. sec. 410, 1 Mason's U. S. Code, tit. 18, sec. 410, which provides that a conviction or acquittal in a state court under state laws will bar prosecution for thefts from interstate shipments arising from the same acts.
¹³Fox v. Ohio, (1847) 5 How. (U.S.) 410, 12 L. Ed. 213.
¹⁴Ex Parte Groom, (1930) 87 Mont. 377, 287 Pac. 638.
¹⁶28 U. S. C. A. sec. 102, 2 Mason's U. S. Code, tit. 28, sec. 103.
¹⁷18 U. S. C. A. sec. 408, Mason's U. S. Code, tit. 18, sec. 408, for instance, provides that a person "May be punished in any district in or through which such motor vehicle has been transported or removed. . . ."
In conspiracy cases the venue of prosecution does not necessarily lie in the district where the conspiracy is formed, for the prosecution may be in any district where an overt act in furtherance of the conspiracy was committed.24

**Federal Criminal Law**

Article 1, sec. 8, of the constitution, in enumerating the powers of Congress authorizes that body among other things to lay and collect taxes,26 "to regulate commerce with foreign nations, among the several states and with Indian tribes;"27 "to establish uniform rules of naturalization and uniform bankruptcy laws;"28 "to provide for the punishment of counterfeiting the securities and current coin of the United States;"29 "to establish post offices and post roads;"30 "to define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;"31 "to exercise exclusive legislation in all cases whatsoever," over the District of Columbia and "to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be for the erection of forts, magazines, arsenals, dockyards, and other needful buildings."32 Congress is then authorized by the constitution "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof."33

Practically all criminal jurisdiction of the United States Government is derived from the clause last quoted above, and under the authority conferred by the fourteenth and fifteenth amendments. Since the effectual operations of congressional enactments in the exercise of enumerated powers require some punishment persons committing crime on the high seas may be tried in the district where he is found or in the district into which he is first brought.

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26Clause 3.

27Clause 4.

28Clause 6.

29Clause 7.

30Clause 10.

31Clause 17.

32Art. 1, sec. 8, clause 18.
for violation of revenue laws, offenses against the postal service, perjury, embezzlement and other wrongful acts, numerous penal provisions have been included in the Federal statutes, designed to punish violators of laws passed by Congress pursuant to its enumerated powers. Thus the money powers of Congress give it the right to establish a system of national banks and to provide penalties for violations of the laws regulating national banks; the constitutional powers granted Congress to lay and collect taxes serve as the basis for a system of collecting customs duties and internal revenue, affixing penalties for violations thereof; and its power to establish post offices and post roads carries with it the power to punish offenses against the postal laws.

The power given Congress to regulate commerce includes the authority to improve rivers and harbors, to maintain a coast survey, and numerous other phases of commercial regulation that have been clearly established. The commerce power also has been construed as authorizing Congress to enact penal provisions distinctly of the nature of police regulations, designed not only to protect commerce against unlawful restraints and monopolies, but to prohibit the interstate transportation of certain persons or things, such as stolen motor vehicles, and kidnapped persons. The validity of laws which regulate immigration and prohibit the entry of anarchists and others has been maintained either under the commerce clause or as an exertion of the national sovereignty.\[33\]

The numerous offenses against the United States which have been declared as such by Congressional enactment may be considered under the following groupings: (1) crimes against the law of nations; (2) crimes against the sovereignty of the United States; (3) crimes against public justice; (4) crimes against the person; and (5) crimes against property.\[34\]

In general it may be suggested that the extension of most penal provisions of the federal code has resulted from the difficulties encountered by the local, county and state authorities in coping with the growing complexity of certain criminal offenses as effectively and as expeditiously as was desirable. It is fundamental that a state cannot compel the attendance of out of state


\[34\] See 1 Wharton, Criminal Law, 12th ed., for a complete discussion and reference to the various penal provisions of the U. S. Code.
witnesses in the absence of reciprocal state legislation, nor enforce its criminal laws in jurisdictions outside of its state boundaries, and peace officers cannot function outside of their jurisdictional limits except in certain instances when they are in “hot pursuit.”

Thus Congress in the past several years has extended the federal criminal jurisprudence in an effort to cope with the exigency of the crime problem. The matter of the enforcement of criminal provisions of the United States code based on the commerce clause consumes the greater portion of the time of the investigative personnel of the Federal Bureau of Investigation.\(^\text{35}\) While most of the offenses against the United States constitute an offense against the state, nevertheless, their many interstate ramifications find state law enforcement agencies and courts sorely handicapped in most instances in coping with them as a whole. Typical of this type of offense is the case involving the Chicago Association of Candy Jobbers,\(^\text{36}\) which was formed in Chicago and was known as early as 1922. The Association was designed to increase the volume of business through increasing consumption; to promote the accepted methods of business practices; and to protect its members from credit losses. In 1925, the Association cancelled all sustaining memberships outside of the state of Illinois, fearing prosecution under the anti-trust statutes.

In 1926, the constitution of the association was amended to prohibit the purchase of candy from manufacturers not supporting the association, and the sale of candy to non-members of the association. The association had an interlocking membership with the Chicago Association of Candy Brokers, which in turn was affiliated with the Amalgamated Confectioners Benevolent Club.

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\(^{35}\) See Boyle v. United States, (C.C.A. 7th Cir. 1930) 40 F. (2d) 49 reversing the judgment of the district court and remanding the case as to one defendant to the district court for another trial, but sustaining the judgment as to the others; and discussing briefly the facts of the Candy Jobbers case.

\(^{36}\) The Federal Bureau of Investigation is charged with the duty of investigating violations of the United States laws, collecting evidence in cases in which the United States is or may be a party in interest, and performing other duties imposed upon it by law. It does not have investigative jurisdiction over violations of the counterfeiting, narcotic, customs and smuggling, immigration and postal laws, except in the case of the latter, where it does have investigative jurisdiction over extortion notes sent through the mails when they contain (1) threats to injure the person or property of any person (2) threats to kidnap any person and (3) demand or request for ransom or reward for the release of any kidnapped person. In addition to the above, the Federal Bureau of Investigation is charged with the duty of compiling criminal identification and statistical data (5 U. S. C. A. Sec. 340, 1 Mason's U. S. Code, tit. 5, sec. 340).
The association attempted to prevent by means of boycott, and in many instances did prevent manufacturers and confectioners from shipping candy in interstate commerce to candy and tobacco jobbers whom the association refused to admit to membership, or who had been expelled or suspended for violating the rules, regulations and by-laws of the association. Manufacturers in Minnesota, New Jersey, Missouri, Indiana, Pennsylvania, New York, Wisconsin, Massachusetts, Ohio, and in other states were forced to deny their products to blacklisted jobbers. Some of the jobbers were forced out of business, and others suffered serious losses. The aims of the association were enforced by suspensions and fines; however, when these methods failed, other tactics of a sterner nature were resorted to such as bombing, beatings, and other general racketeering methods of enforcing compliance.

The Federal Bureau of Investigation under the federal anti-trust laws\(^{37}\) conducted the necessary investigation which ultimately broke up the association as then operating, and led to the conviction of sixteen of the principal defendants. Speaking of some of those engaged in the unlawful tactics employed by the Chicago Association of Candy Jobbers, Judge Alschuler said:

"... It is not necessary to a violation of the statute that the transgressors themselves be engaged in such commerce.\(^{38}\)

### Interstate Crimes in General

As previously pointed out, a great deal of our present federal criminal law is based on the commerce clause of the constitution. This power has long been established, and in the words of Chief Justice Marshall, "Commerce, undoubtedly is traffic, but it is something more, it is intercourse. ... This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the constitution.\(^{39}\) Congress may punish, under its general authority to make all necessary laws to execute its delegated constitutional powers, any offense which interferes with, obstructs or prevents the free flow of commerce between the several states; and the constitutional power to regulate includes

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\(^{38}\) Boyle v. United States, (C.C.A. 7th Cir. 1930) 40 F. (2d) 49.

\(^{39}\) Gibbons v. Ogden, (1824) 9 Wheat. (U.S.) 1, 189, 196, 6 L. Ed. 23, 69, 70.
the power to prohibit where such prohibition is in aid of the lawful protection of the public.40

The congressional power over commerce extends to all its phases and to every form of obstruction that may be employed to interfere with the freedom of commerce among the states and with foreign nations. Thus federal laws designed to prevent monopolies, combinations, and trade restraints, containing penal provisions, have been held the proper subject matter of congressional enactment under the commerce clause.41 Federal statutes designed to regulate commerce, with a real relation to the subject matter, are not invalid, because they are essentially regulations of a police character.42 The federal government under the commerce clause has been said to be without power to prohibit the interstate transportation of harmless articles for the purpose of dealing with social problems involved in the manner of their production,43 as it was not intended that the federal government should supersede or interfere with the power of the state to establish police regulations,44 for each state retains the power to protect the public health, the public morals and public safety by such legislation as it deems appropriate, which, of course, does not encroach upon nor come in conflict with the constitution or acts of Congress.45

The problem frequently arises in connection with the power of the federal government to regulate or prohibit certain phases of interstate commerce, as to the concurrent power of the state over the same matter. There seems to be no question, however, as to the right of the federal government to regulate or prohibit interstate commerce where the subject matter is national in character, or is such that it can properly be regulated only by uniform laws. Thus there seemingly is no question as to the extension of federal

criminal jurisprudence to penalize offenses affecting interstate commerce.  

In the field of criminal law the lack of uniformity in procedure and punishment has served in no small measure to make crime a national problem. While the citizen may look upon crime locally, the criminal views it from the standpoint of the entire United States. The criminal knows where he can commit murder and be eligible for clemency within a comparatively few years. He knows where the courts are lax. He knows where prisons have, as criminals call it, "low walls that are easy to climb over." He knows where technicality after technicality exists in the state statutes. He knows in which states he can best utilize extradition technicalities to thwart return to the jurisdiction where he may lawfully be required to stand trial and answer for his misdeeds.

Among the many federal penal provisions defining offenses against foreign and interstate commerce are those which punish: interference or obstruction of foreign commerce through violence; the carrying of explosives on vehicles carrying passengers, with certain limitations; the importation and the interstate transportation of lottery tickets; the delivery of intoxicating liquor transported in interstate commerce to one other than the bona fide consignee; the collection of the purchase price of interstate shipment of liquor to a state prohibiting the delivery or sale of liquor; the failure to label packages containing liquor; the importing of certain types of birds and animals, and the transportation of illegally killed game; the importing and transporting of obscene literature, and contraceptives; the importation and transportation of prize fight films; the interstate transportation of strikebreakers; the interference by violence, threat, coercion or intimida-

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40 See footnote 40.
tion with interstate commerce;\textsuperscript{57} the interstate transportation of prison-made products in certain cases;\textsuperscript{58} together with certain other offenses some of which will be treated in greater detail in the remaining portions of this discussion.

\textbf{The White Slave Traffic Act}

One of the earliest congressional acts penalizing interstate crime had to do with the transportation of women for the purpose of prostitution. The first provision relating to this subject was adopted in 1875, and prohibited the importation into the United States of women for the purposes of prostitution.\textsuperscript{59} In 1903, an act was adopted modifying in certain respects the earlier act.\textsuperscript{60} Four years later witnessed a new act designed to regulate the immigration of aliens to the United States, and prohibiting the importation of any alien woman or girl for the purpose of prostitution or for any other immoral purpose; this act, as did the previous ones, also made it an offense to harbor any alien woman or girl within three years after she had entered the United States.\textsuperscript{61} The United States Supreme Court upheld one phase of the above act in affirming the conviction of the defendant who imported an alien woman as his mistress;\textsuperscript{62} however, in a second case the court held that Congress was without power to penalize a person for harboring a woman imported for immoral purposes, and in the decision Mr. Justice Brewer said:

"While the keeping of a house of ill fame is offensive to the moral sense, yet that fact must not close the eye to the question whether the power to punish therefor is delegated to Congress or is reserved to the state. Jurisdiction over such an offense comes within the accepted definition of the police power. Speaking generally, that power is reserved to the states, for there is in the constitution no grant thereof to Congress."\textsuperscript{63}

In the meantime an international agreement for the repression of trade in white women, signed in Paris on May 18, 1904, to

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\item \textsuperscript{57} 18 U. S. C. A. sec. 420, 1 Mason's U. S. Code, tit. 18, sec. 420.
\item \textsuperscript{58} Pub. 215, 74th Cong. S. 2904: approved July 24, 1935.
\item \textsuperscript{60} Act of March 3, 1903, 32 Stat. at L. 1213, 1905 Suppl. to U. S. Comp. Stat. 276.
\item \textsuperscript{61} Act of February 20, 1907; 34 Stat. at L. 898, 1907 Suppl. U. S. Comp. Stat. 392.
\item \textsuperscript{62} United States v. Bitty, (1908) 208 U. S. 393, 28 Sup. Ct. 396, 52 L. Ed. 543.
\item \textsuperscript{63} Keller v. United States, (1909) 213 U. S. 138, 29 Sup. Ct. 470, 53 L. Ed. 737.
\end{itemize}
which the United States assented in June of 1908, focused considerable attention on traffic in women in the United States, and in 1910, the present White Slave Traffic Act was adopted.

By this law an effort was made to curtail commercialized vice by making it a federal offense to transport or cause to be transported in interstate or foreign commerce "Any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose." The White Slave Traffic Act is manifestly based upon the power of Congress to regulate foreign and interstate commerce. This act was not intended to bring about the suppression or regulation of immorality in general, but it was designed to prevent panderers and procurers from carrying on interstate traffic in women for immoral purposes, and by doing so prevent the nation-wide operations of organized vice rings. The need for such an act is aptly described in the report of the House Committee on interstate and foreign commerce. . . . "As the traffic involves mainly the transportation of women and girls from the country districts to the centers of population and . . . the evil is one which cannot be met comprehensively and effectually otherwise than by the enactment of federal laws."

Such is a recent case investigated by special agents of the Federal Bureau of Investigation, involving a nineteen-year-old victim who was lured into a life of prostitution from a small village in Pennsylvania, and with others was booked at various houses of assignation in Pennsylvania, New York, and Connecticut. The investigation in this case uncovered a large White Slave ring with operations in Connecticut, New Jersey, Pennsylvania, Massachusetts, New York, and Rhode Island, and led to the indictment of forty persons, of which number thirty-eight were convicted, while one of the defendants is still being sought, and a detainer has been lodged against the other defendant, who is presently incarcerated. This ring, conservatively speaking, had hundreds of victims under their control, and one of the bookers alone admitted over one thousand bookings in the past few years:

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67House Report, p. 10, supra, note 64.
68United States v. Joseph D'Allessandro, (D.C.E.D. Pa.). The defendants were convicted and sentenced June 12, 1936.
the annual income of this gang derived from the traffic in its
victims exceeded two and a half million dollars. Such wide-
spread operations manifestly could not easily have been coped
with by local law enforcement agencies limited by municipal,
county or state boundaries.

It is true that the term "White Slave Traffic" is at times mis-
leading, as in many instances the victims willingly consent to the
practices in which they are engaged. However, all too frequently
they are led into the racket by lurid promises and kept there by
threats. The methods of operation advocated by a ring of colored
procurers of white women operating between the middle west and
the Atlantic coast, were set forth in outline form. This outline
was found by special agents at the time one of the procurers was
taken into custody, and a portion of the outline entitled: "A few
methods of holding a girl captive" advocated that the victim be
kept "Behind locked doors, second or third floors or basement or
sub-basement," by "Duress—force or clothing taken away; threats
or act of injury, punishment, torture," through the use of "Guards,
preventing escape." The outline advocated that the victims be
"Forced to acquire liquor or drug habits," or be intimidated by
"Threats or act of arrest under real or cunningly devised mis-
demeanors," through "Marriage or 'coupling up' with an explo-
ier, the latter having his advantage which she cannot combat;"
by "Intentional venereal infection; inscription by police to sever her
from society." The practice of "Interchange of girls between
cities or countries speaking an unknown tongue" was urged. It
was also set out that a victim might be coerced by "Incurred debts
to house, false charges before public to change or divide opinion,"
by breaking their spirit by humiliations and through "Lures,
promises."

The White Slave Traffic Act was upheld when its constitu-
tionality was first tested in the case of United States v. Hoke," and the Act, though of the character of a police regulation, is
valid; at the same time state legislation making it an offense to
transport women for immoral purposes into or through a state is
valid. The Courts have held that procuring or aiding the inter-

70 (1913) 227 U. S. 308, 33 Sup. Ct. 281, 57 L. Ed. 523.
71 Bennett v. United States (1912) 194 Fed. 630, aff'd (1913) 227 U. S.
333, 33 Sup. Ct. 288, 57 L. Ed. 531.
72 Sisemore v. State, (1918) 135 Ark. 179, 204 S. W. 626; contra,
State v. Harper, (1914) 48 Mont. 456, 138 Pac. 495; but cf. State v. Reed,
(1917) 53 Mont. 292, 163 Pac. 477.
state transportation for the purpose of placing a girl in such surroundings as will tend to induce her into a life of debauchery, or which will expose her to such influences as will naturally lead her to acts of sexual immorality, comes within the purview of the Act.\textsuperscript{73}

Immediately after the passage of the Act, considerable controversy arose as to the facts which might be included within its wording. In the cases of Caminetti, Diggs and Hays, the Supreme Court held that the transportation of a woman in interstate commerce for the purpose of becoming the concubine or mistress of the transporter, is a violation of the Act, as interstate transportation of a woman for immoral purposes is what is prohibited by the Act, and pecuniary gain, either as a motive for the transportation or as an attendant of its object, is not an element in the offense defined.\textsuperscript{74}

The possibility that the reaction to the decision in the \textit{Caminetti Case} might amount to a nullification of the law, through attempts to punish in federal courts matters of a purely local police character, was eliminated by the adoption of policies within the United States Department of Justice, defining elements of aggravation which were considered sufficient to warrant investigations and prosecutions, and the intention behind the White Slave Traffic Act of preventing and punishing the introduction of women to a life of commercial debauchery has been maintained.

A practical and interesting problem as to conspiracy has arisen through the Supreme Court decisions in the \textit{Holte} and \textit{Gebardi Cases}.\textsuperscript{75}

In the \textit{Holte Case}, the Court held that a woman may conspire to violate the White Slave Traffic Act, although the object of the conspiracy is her own transportation. It should be noted that in the \textit{Holte Case} the only question before the Court was "whether it is impossible for the transported woman to be guilty of a crime in conspiring as alleged," which was answered in the negative.


\textsuperscript{74}(1917) 242 U. S. 470, 37 Sup. Ct. 192, 61 L. Ed. 442.

In the Gebardi Case the defendant, Jack Gebardi, alias "Machine Gun" Jack McGurn, a late Capone gangster, transported his paramour, Louise Rolfe, from Chicago, Illinois to Miami, Florida and various other points. Gebardi purchased the railway tickets, and in each instance the woman consented to go on the journey voluntarily. There was no question as to the immoral purpose of the transportation, and the parties at this time were unmarried; both were indicted for conspiracy to violate the White Slave Traffic Act, and the United States Supreme Court held that the proof showed no more than that the victim, Louise Rolfe, went willingly upon the journeys for the purposes alleged, and that to fall within the ban of the statute she must, at least, aid or assist someone else in transporting or in procuring transportation, and that the evidence was insufficient to warrant a conviction for conspiring to violate the Act. In other words the Court held that mere consent alone to be transported for immoral purposes does not make the woman guilty of conspiracy.

Another interesting question which has arisen in this type of violation is whether hitch-hiking comes within the meaning of interstate transportation as set out in the White Slave Traffic Act. In a recent case the defendant was sentenced upon entering a plea of guilty after it was fully explained to the Court that the defendant and victim had hitch-hiked from Pocatello, Idaho to Helena, Montana. On the other hand, in other recent cases hitch-hiking has been held not to constitute interstate transportation.

It would thus appear that hitch-hiking as a means of transportation under the White Slave Traffic Act must be determined by the facts in each case.

Wide latitude is permitted under the Act in selecting the venue where prosecution may be had, as it specifically provides that prosecution may be in any judicial district where the violation is committed, "or from, through, or into which any such woman or girl may have been transported."

77United States v. William Paul Webster, (D.C. Tex. 1936); directed verdict on ground that there was lack of evidence that defendant transported or caused to be transported by automobile or other vehicle, United States v. Marlin Eugene Kauffman, (D.C. Okla. 1936).
LARCENY FROM INTERSTATE SHIPMENTS

In 1913 Congress, in the exercise of its power to regulate interstate commerce, enacted a law penalizing the larceny of goods constituting shipments in interstate or foreign commerce. This Act sets out several offenses such as breaking the seal of any railroad car containing interstate or foreign shipments and entering such car with intent to commit larceny; stealing, concealing or obtaining by fraud or carrying or transporting in interstate commerce and buying, receiving or possessing such goods knowing them to have been stolen.

The above mentioned Act was amended in 1933, at which time Congress provided that it should be unlawful not only to break open or rob box cars moving in interstate commerce, but likewise to obtain by any fraudulent device, scheme or game any money, baggage, goods or chattels from any passenger while on a train moving in interstate commerce.

The Act was designed to define and punish the offense of larceny or unlawful possessing of goods stolen from interstate shipments, which offenses interfere with the free flow of commerce. It is well established that the enactment of this Act was within the power Congress, and is of the character of a police regulation, although the violations of the Act may be punished in state courts. However, by specific statutory provision the Act provides that the jurisdiction of the state courts shall not be impaired, but that a conviction, or acquittal under a state law will bar further prosecution in the Federal courts for the same acts.

The Act applies to shipments from one point in the state to another point where the route is in part through another state, and once the goods have been placed in the car or are delivered to the carrier, they are in interstate shipment.

In numerous instances individuals have been prosecuted in federal district courts under the provisions of this Act for hi-jacking of interstate shipments. A question has been raised in one

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80Note 79 supra, Jan. 21, 1933, ch. 16, 47 Stat. at L. 773.
81White v. United States, (C.C.A. 2nd Cir. 1921) 273 Fed. 517.
84Sharp v. United States, (C.C.A. 5th Cir. 1922) 280 Fed. 86.
instance, however, as to prosecution under this Act where the entire truck and its cargo have been hi-jacked and stolen, on the ground that there could be no theft from interstate shipment where the truck and its cargo of interstate commerce is stolen in its entirety. In considering cases of this type, it is observed that the statute denounces the theft of "any goods or chattels moving as or which . . . constitute an interstate or foreign shipment of freight or express," and accordingly such cases are investigated by the Federal Bureau of Investigation.

**NATIONAL MOTOR VEHICLE THEFT ACT**

The automobile presented one of the first great problems to local law enforcement agencies in dealing with larcenies, in that the stolen cars might be readily transported out of their jurisdiction. Then too, it has only been in comparatively recent years that we have had rigid State licensing and title laws. The use of the automobile to effect escape following the commission of crimes also presented a serious problem. Congress, recognizing the seriousness of this growing evil, and what extensive ramifications were presented by the problem of coping with the interstate transportation of stolen cars, enacted the National Motor Vehicle Theft Act in 1919, commonly referred to as the Dyer Act. The Act defines motor vehicles as including automobiles, trucks, motor cycles, and other self-propelled vehicles not designed for running on rails, and provides as a penalty a fine of not more than $5,000 or imprisonment of not more than five years or both. A separate provision of the Act also provides the same penalty for receiving, concealing, storing, bartering, selling or disposing of any motor vehicle transported in interstate or foreign commerce knowing it to have been stolen.

The constitutionality of this Act was upheld in the case of *Brooks v. United States*, where the Supreme Court clearly recognizes the problem of interstate crime. In the course of his opinion Chief Justice Taft said:

"Congress can certainly regulate interstate commerce to the extent of forbidding and punishing the use of such commerce as an agency to promote immorality, dishonesty, or the spread of any

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86 United States v. Roy Crowley, (D.C. Mo. 1933).
evil or harm to the people of other states from the state of origin. In doing this it is merely exercising the police power, for the benefit of the public within the field of interstate commerce.

"It is known of all men that the radical change in transportation of persons and goods effected by the introduction of the automobile, the speed with which it moves, and the ease with which evil minded persons can avoid capture, have greatly encouraged and increased crime."

The operations of some car stealing rings present many perplexing investigative problems as well as legal ones, particularly where the operations of the ring extend into foreign countries, as in a case investigated by the Federal Bureau of Investigation a few years ago. Information was furnished the Bureau by the Automobile Underwriters Detective Bureau, to the effect that cars which were believed to have been stolen were being crated at Trenton, N. J., for foreign shipment. Subsequent investigation revealed that many high priced cars had been exported to Norway, Denmark, Russia, China and Persia by a ring of car thieves who had been operating for several years. Over ninety stolen cars, valued at a quarter of a million dollars, had been disposed of in Norway alone, while one of the cars shipped to China later became the property of a Chinese general. The problem of proof necessitated the sending of a special agent to Denmark and Norway, in order that the stolen cars might be identified by checking secret numbers, or by restoring motor numbers defaced by the thieves. Numerous members of the ring were indicted and convicted. Among them was one individual who had been indicted for the transportation of two cars from Brooklyn, N. Y. to Leningrad, Russia; on appeal from his conviction it was held that whether the accused knew that the cars were stolen was a question for the jury and that proof of such knowledge was essential.90

One of the problems raised in the above case centering around the words of the act, "knowing the same to have been stolen" is at times a rather difficult one. It has now, however, been fairly well established that knowledge alone that the car was stolen is sufficient to sustain a conviction, as it is not essential that the accused know that the car had been transported in interstate commerce; and it has been held that evidence that one of the pur-

90 United States v. Vigorito, (C.C.A. 2nd Cir. 1933) 67 F. (2d) 329. It is of interest to note that the operations of this ring were so extensive that theft insurance was reduced fifteen per cent in Brooklyn, N. Y., after the ring had been broken up.
91 Katz v. United States, (C.C.A. 6th Cir. 1922) 281 Fed. 129.
chasers of a stolen car knew that the seller had previously been engaged in car stealing and that the car was from out of town, and took a bill of sale signed by the seller with a fictitious name, is sufficient to sustain a conviction. 91 Likewise the problem has arisen as to the possession of a stolen car after its interstate transportation. In such cases it has been held that possession within twelve days after the car had been stolen raised a presumption that the possessor was the thief and had transported it in interstate commerce; this presumption of course, is one of fact and does not depend upon the statute; however, for the presumption to exist, the possession must be unexplained, and be fairly recent and conclusive. 92

The question has also been raised as to whether an airplane comes within the meaning of the Act. And it has been held that airplanes did not come within the definition of Motor Vehicles as set out in the Act. In deciding a case where this question was raised, Mr. Justice Holmes, in his opinion said,

"Although it is not likely that a criminal will carefully consider the text of the law before he murders or steals, it is reasonable that a fair warning should be given to the world in language that the common world will understand, of what the law intends to do if a certain line is passed. To make the warning fair, so far as possible, the line should be clear. When a rule of conduct is laid down in words that evoke in the common mind only the picture of vehicles moving on land, the statute should not be extended simply because it may seem to us that a similar policy applies, or upon the speculation that if the legislature had thought of it, very likely broader words would have been used." 93

According to the terms of the Act, prosecution may be had in any federal judicial district in or through which the stolen motor vehicle has been transported or removed; however, it has been held that a defendant charged with selling a stolen automobile could be tried only in the state and district where the sale occurred. 94

Since the passage of the National Motor Vehicle Theft Act in 1919, until November 1, 1936, 42,984 stolen motor vehicles, representing a value of $26,427,284.73, have been recovered in cases in which an investigation was made by special agents of the Fed-

eral Bureau of Investigation. These figures, of course, do not give an adequate picture of the extent of the interstate transportation of stolen automobiles, since in many instances prosecution is had in state courts under State Laws.

**Federal Kidnaping Act**

Within the past few years, under the leadership of the Attorney General of the United States, the Honorable Homer S. Cummings, numerous provisions have been enacted by Congress extending the power of the federal government to function in the case of certain types of criminal acts of a purely interstate character. Notable among these new penal provisions is the Federal Kidnaping Act.\(^6\) Enacted first in 1932, it was destined to permit the United States government to investigate and prosecute an extremely dangerous and well organized criminal group operating in most instances on a nationwide basis. The provisions of this Act have since been amended\(^8\) to clarify and broaden its original provisions and intent, and to permit federal investigation and prosecution in numerous instances which would possibly have been questionable under the Act as originally enacted.\(^7\) This Act is based upon the Congressional power to regulate interstate commerce, and makes it unlawful to transport in interstate or foreign commerce any person who has been “unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away by any means whatsoever and held for ransom, or reward or otherwise.”\(^9\)

The Act provides the death penalty upon the recommendation of the jury, unless the victim is released unharmed; or a sentence for a term of years which the discretion of the Court may determine. Further, Congress has also made it a federal offense for two or more persons to conspire to violate this Act, and to do any overt act toward carrying out their agreement, for which they shall be punished as provided by the Act.\(^9\) In its most recent

\(^{6}\)18 U. S. C. A. sec. 408 a, b, and c, 1 Mason’s U. S. Code, tit. 18, sec. 408 a, b, and c.

\(^{7}\)Act of May 18, 1934, ch. 301, 48 Stat. at L. 781, supra Note 95.


\(^{9}\)See footnote 95. It is interesting to note the similarity of this Act with the common law definition of kidnapping, 4 Bl. Comm. 219, in so far as applicable to interstate transportation.

amendment to this Act, Congress has made it unlawful to knowingly receive, possess or dispose of any money or property which has been delivered as ransom or reward, and has provided a penalty of a fine not to exceed $10,000, or imprisonment not to exceed ten years, or both.\textsuperscript{100}

The Act, as amended, provides that the failure to release a person within seven days shall create a presumption that such person has been transported in interstate or foreign commerce. The necessary postulate of a genuine kidnaping is assumed. It also provides, however, that such presumption shall not be conclusive. The presumption obviously is intended to confer jurisdiction in those cases where mutual assistance and cooperation between state and federal agencies is so necessary. A presumption in itself is not of the essence of finality—it is not characterized by completeness, nor is it decisive. The manner in which this portion of the statute will be interpreted, should a question arise under it, remains to be determined.\textsuperscript{101}

At the time the Federal Kidnaping Act was adopted, this country was witnessing a wave of kidnapings, which of all offenses is one of the most heinous. Through the enforcement of this Act, by the United States government, by virtue of the cooperative endeavors of local, county and state law enforcement agencies with the Federal Bureau of Investigation, considerable improvement has been noted, for at this writing (December 2, 1936) there has not been a major kidnaping case in this country for ransom since May of 1935.\textsuperscript{102} In all, since the passage of this Act until November 1, 1936, seventy-two cases of kidnaping and plots to kidnap have been solved. Prosecution as a result of investigation in these seventy-two cases has resulted in one hundred and seventy-one convictions with the imposition of four death sentences, thirty-three life sentences and penitentiary sentences totaling nearly 2,230

\textsuperscript{100}U. S. C. A. sec. 408 C-1, 1 Mason’s U. S. Code, tit. 18, sec. 408 C-1.

\textsuperscript{101}It was the opinion of the House Judiciary Committee that this presumption would seem to be fairly within the rule laid down by the Supreme Court in Mobile, J. & K. C. Railroad Co. v. Turnipseed, (1910) 219 U. S. 35, 31 Sup. Ct. 136, 55 L. Ed. 78, where it was held that “a legislative presumption of one fact from evidence of another may not constitute a denial of due process or a denial of the equal protection of the law, it is only essential that there shall be some rational connection between the fact proved and the fact presumed, and that the inference of one fact from proof of another shall not be so unreasonable as to be a purely arbitrary mandate.” (House Report No. 1457, note 97 supra.)

\textsuperscript{102}Kidnapping of George Weyerhaeuser on May 24, 1935 by Harmon Waley and William Dainard, who have been apprehended and convicted for this offense.
years, while twelve persons were in custody awaiting court action. Three of the culprits committed suicide, six were murdered by gangland, and five were killed resisting arrest. Kidnapping is an outstanding example of the types of interstate crime lying in that "zone" of law enforcement requiring federal assistance.

The kidnaping of Mr. Charles F. Urschel on July 22, 1933, illustrates the many problems raised by the criminal who does not operate in any one locality. While Mr. Urschel was abducted by only two individuals, "Machine Gun" Kelly and Albert Bates, within ninety days after his abduction a considerable portion of the $200,000 payment of the ransom money had been recovered in the states of Washington, Oregon, California, Wyoming, Colorado, Texas and Minnesota; fifteen individuals implicated in the kidnaping had been apprehended, convicted and sentenced, six of whom received life sentences. Subsequently numerous others have been apprehended and convicted who were implicated in the offense. Among the persons convicted with the actual abductors were the harborers, aiders and abetters, money changers and Ben B. Laska, defense counsel for Albert Bates. The investigation centered in twenty-three states having a total area of over one million square miles.102

One of the problems raised in the Urschel case had to do with the culpability of the money changers under the Act prior to its amendment. It was held that persons agreeing with the members of the kidnaping conspiracy to exchange the ransom money for other money, and thereby assist the principals to avoid detection, apprehension and punishment, with knowledge of the kidnaping, become accessories after the fact after the fact and that the acts of the principal and accessory after the fact are one continuous criminal transaction and constitute a single offense committed by them.103 It was likewise determined that persons with knowledge of a conspiracy to kidnap in violation of the terms of the Act who agreed to join the conspiracy and exchange ransom money became parties to the conspiracy to the same effect as if they had joined it at its inception;104 and it is not essential that the defendant should know all members of the conspiracy or the parts that each played.105

102 See pages 252, 253.
104 See footnote 103; also Shannon v. United States, (C.C.A. 10th Cir. 1935) 76 F. (2d) 490.
105 Laska v. United States, (C.C.A. 10th Cir. 1936) 82 F. (2d) 672, certiorari denied (1936) 56 Sup. Ct. 957.
the kidnapping occurred, and the principal conspirators were sentenced. The following cities and towns, among others, were involved:


**Paradise, Tex.** Urschel held victim July 23, 1933 to July 31, 1933. Harvey J. Bailey and others apprehended Aug. 12, 1933.

**Tulsa, Okla.** John G. Catlett received ransom letters July 26, 1933, demanding $200,000.

**Joplin, Mo.** Ransom letters mailed July 27, 1933 to F. E. Kirkpatrick, Oklahoma City, Okla.

**Kansas City, Mo.** F. E. Kirkpatrick delivered ransom of $200,000 on July 30, 1933.

**Norman, Okla.** Urschel was released July 31, 1933.

**Minneapolis-St. Paul, Minn.** Edward Breman and others taken into custody, on or about Aug. 5, 1933, as aiders and abettors, having exchanged a quantity of ransom money.

**Madison, Wis.** George and Kathryn Kelly mailed $1,500 on Aug. 7, 1933, to R. G. Shannon, Paradise, Tex.

**Indianapolis, Ind.** Registered receipt for letter sent from Madison, Wis. received General Delivery, addressed to Kathryn Kelly.

**Cleveland, O.** Kelly negotiated for the purchase of an automobile on Aug. 8, 1933.

**Chicago, Ill.** Kelly purchased an automobile Aug. 10, 1933, under name of Fred E. Coleman.

**Des Moines, Iowa.** The Kellys registered Aug. 11, 1933, as Mr. and Mrs. F. E. Coleman.

1933, by local officers, and $68,000 of ransom money recovered from his person.

**Biloxi, Miss.** Kelly registered at a local hotel, Aug. 27, 1933.

**Coleman, Tex.** Ransom money in the sum of $73,250 recovered from farm of Cassey Earl Coleman and Will Casey, Sept. 7, 1933.

**Memphis, Tenn.** George and Kathryn Kelly apprehended Sept. 28, 1933.

**Jackson, Tenn.** Two conspirators sentenced Oct. 21, 1933, to two years, six months each.

**Dallas, Tex.** Harvey J. Bailey escaped from Dallas county jail on Sept. 4, 1934; recaptured same date, at Ardmore, Okla. Three other conspirators sentenced.

**San Angelo, Tex.** Louise Beaton sentenced, April 30, 1934, to one year, one day.

**Roseburg, Ore.** Ransom money in the sum of $1,360 recovered from personal effects of Alvin H. Scott on Nov. 3, 1934.

**Medford, Ore.** Ransom money in the sum of $6,140 recovered from its burial places on Nov. 7, 1934.

**Woodland, Wash.** Ransom money in the sum of $62,000 and $38,480 recovered from hiding places.

**Cheyenne, Wyo.** Mrs. Clara Feldman resided in this town and buried a portion of the ransom money.

**Dunsburn, Cal.** Mrs. Clara Feldman and her son Edward were taken into custody on Nov. 9, 1934, and $1,000 of the ransom money recovered from their possession.

**Washington, D. C.** Entire investigation directed from Washington headquarters.
In the case involving Ben B. Laska\(^{106}\) the defense counsel for Albert Bates, the Court said that a proper defense does not include the aiding of a criminal to escape detection, apprehension, trial and punishment, nor does the defense counsel have the right to accept stolen property or ransom money as payment of his fee. To date a case has not arisen which has been prosecuted under the latest amendment to the Act,\(^{107}\) and it is not known whether the courts will limit the penalty to a fine of not more than $10,000 or imprisonment not to exceed ten years as provided by the amendment, or whether they will view the passing of ransom money as they have viewed similar overt acts in furtherance of a conspiracy on the part of the money changers in the Urschel case.\(^{108}\)

Apparently there has never been any question as to the meaning or validity of the Act as originally enacted;\(^{109}\) however, there was some question as to the interpretation of the words "or otherwise" in the amended Act following the words "... and held for ransom or reward. ..." The "or otherwise" clause came before the United States Supreme Court in the *Gooch Case*\(^{110}\) on a certification from the circuit court of appeals for the tenth circuit.\(^{111}\) In this case Gooch and his associate, Nix, were accosted by two police officers at Paris, Texas, where they were fixing a tire at a filling station. One of the police officers inquired as to the ownership of their car, at which time Gooch informed him that he was from Arkansas and didn't have any papers with him. When the other officer walked around Gooch, the latter attempted to draw his gun and grapple with one of the officers, while Nix drew his gun and covered one of the officers, and the other officer was pushed through a glass show case which broke, inflicting a deep wound in the officer's hip. After the encounter, Gooch and Nix, having gained control over the officers, forced them into the rear seat of their patrol car, later transporting them into the state of Oklahoma. During this trip Gooch and Nix threatened the officers, and it might be added that the former were heavily armed with various types of weapons. About a month later, on December 23, 1934, Gooch was apprehended, and Nix was killed while resisting

\(^{106}\)Laska v. United States, (C.C.A. 10th Cir. 1936) 82 F. (2d) 672, certiorari denied (1936) 56 Sup. Ct. 957.

\(^{107}\)18 U. S. C. A. sec. 408 C-1, 1 Mason's U. S. Code, tit. 18, sec. 408 C-1.

\(^{108}\)See footnotes 103 and 105.


\(^{111}\)Gooch v. United States, (C.C.A. 10th Cir. 1936) 82 F. (2d) 534.
arrest. Gooch was arraigned before the federal district court, charged with violating the kidnaping Act, and entered a plea of guilty to both counts of the indictment, which the court refused to accept, and submitted the facts to a jury. The jury returned a verdict of guilty, and Gooch was sentenced to be hanged. The questions were then raised as to whether the holding of an officer to avoid arrest was within the meaning of the phrase "held for ransom or reward or otherwise," and whether the act of transporting a person in interstate commerce for the purpose of preventing arrest was an offense within the Act. In deciding the questions in the affirmative, the Supreme Court held that the holding of an officer to prevent arrest, like kidnaping for ransom, was done with the expectation of receiving a benefit, and that if the meaning of the word reward is not in itself broad enough to include the benefits expected to ensue from preventing the arrest, then it comes within the broad term "otherwise."

While the Supreme Court was more or less limited in the Gooch Case to the particular factual situation, Mr. Justice McReynolds in the course of his opinion, speaking of the rule of ejusdem generis said,

"Ordinarily it limits general terms which follow specific ones to matter similar to those specified, but it may not be used to defeat the obvious purpose of legislation. And, while penal statutes are narrowly construed, this does not require rejection of that sense of the words which best harmonizes with the context and the end in view."

It would thus appear that while the Court did not strictly apply the rule of ejusdem generis, so as to limit the Act to situations where there was a monetary "ransom or reward," it is apparent that the Court limited the words "or otherwise" to factual situations where there was some benefit or gain which will enure to the kidnaper, as expressed by Mr. Justice Roberts:

"Evidently Congress intended to prevent transportation in interstate or foreign commerce of persons who are being unlawfully restrained in order that the captor might secure some benefit to himself."

While the interstate transportation is an essential element in the substantive offense, nevertheless a conspiracy followed by overt acts to transport a person in interstate commerce who has been abducted and unlawfully held for which some benefit or gain will enure to the abductors comes within the Act, although the victim is not actually transported across any state lines.\[112\]

The Act specifically exempts the kidnaping of a minor by his parent.

Federal Extortion Act

With the recent wave of kidnapings there resulted a multitude of attempts to mulct prominent citizens under threats to kidnap, which was particularly harmful in its destructive effect upon the peace of mind of those receiving the extortion notes. These acts have presented some rather perplexing problems, more perhaps from the investigative rather than from the legal aspect, particularly in view of the fact that often the extortionist and the victim were widely separated, necessitating investigation sometimes by numerous law enforcement agencies separated by distance and hampered by lack of coordination.

In 1932 Congress enacted the Federal Extortion Act, making it an offense against the United States to mail any communication with intent to extort from any person any money or other thing of value, containing any threat to injure the person, property or reputation of the addressee or the reputation of a deceased person, to kidnap any person or to accuse the addressee or any other person of a crime, or containing any demand or request for ransom, or reward for the release of a kidnapped person. This portion of the Act was amended in 1935 to permit prosecution in the district where the communication is mailed or carried. The Act also makes it a federal offense to deposit extortion notes in a foreign country to be delivered in the United States and in such instances prosecution is authorized either in the district the extortion note was carried or in the district in which it was caused to be delivered.

To circumvent the use of the mails in sending their threatening communications, criminals have resorted to using other means of communication. This resulted in Congress adopting an Act penalizing the transmission “in interstate commerce by any means whatsoever, [of] any threat” with intent to extort money or a thing of value.

114Ch. 326, 49 Stat. of L. 427, June 28, 1935, 18 U. S. C. A. sec. 338 a. 1 Mason’s U. S. Code, tit. 18, sec. 338 a. By agreement the Federal Bureau of Investigation investigates threats deposited in the mails to injure the person or property of any person, to kidnap, and requests for ransom or reward for the release of any kidnapped person. All other violations of this portion of the Act remain under the jurisdiction of the Post Office Department.
11618 U. S. C. A. sec. 408d, 1 Mason’s U. S. Code, tit. 18, sec. 408d.
Federal Felon Act

In 1934 Congress adopted an act making it unlawful for any person to travel in interstate or foreign commerce to avoid prosecution for murder, kidnaping, burglary, robbery, mayhem, rape, assault with a dangerous weapon or extortion accompanied by threats of violence or attempts to commit the crimes enumerated, and to avoid giving testimony in any state criminal proceedings for the commission of a felony.\textsuperscript{117}

The purpose of this Act is not to usurp state police functions nor to supersede state extradition proceedings, for the Act affixes a specific penalty for flight to avoid prosecution or to give testimony, making those acts separate offenses; its function was aptly described by the attorney general of the United States in his statement to Congress when he said:

"While this bill would undoubtedly extend Federal criminal jurisdiction in a marked degree, yet it would afford an opportunity for the apprehension of the roving class of criminals who are responsible for so many of the crimes of violence in our country. Although drastic in nature, it is my opinion ultimately some relief must be provided for those who suffer from offenses committed by criminals who flee from the scene of crime beyond the jurisdiction of the State wherein the crime is committed and eventually escape punishment entirely."\textsuperscript{118}

Inasmuch as the Act specially provides that venue will be only in the district where the original crime was committed, it is of course necessary to return the fugitive to that district upon his apprehension. Thus it has been the practice to turn the defendant over to State authorities for prosecution where the state offense is of a more aggravated character. In every instance it has been the policy of the Federal Bureau of Investigation and the Department of Justice, after a fugitive has been apprehended, to cooperate closely with state authorities. If the fugitive is willing to waive extradition, or if extradition can be readily granted, that means is usually employed. If, however, a federal removal proceeding is more judicious, the United States district attorney in the district of apprehension institutes the removal proceedings. Only offenses committed after the passage of the Act (May 18, 1934) are investigated by the Federal Bureau of Investigation,

The purposes of the threats are similar to those enumerated in section 338a, supra, and specific provision is made in 408d that it shall not amend or repeal 338a.

\textsuperscript{117}18 U. S. C. A. sec. 408e, 1 Mason's U. S. Code, tit. 18, sec. 408e.

\textsuperscript{118}Senate Report 539, 73rd Congress, 2nd Session, March 20, 1934.
and in those instances there must be facts indicating that the accused has moved or traveled in interstate commerce, a state process must be outstanding or state prosecution instituted, and the United States district attorney must authorize prosecution. It would appear that the state process of arrest is basic evidence against the accused of his intention to flee from prosecution, and an essential element of jurisdiction is proof that the accused has moved in interstate commerce.

**National Stolen Property Act**

Until the passage of the National Stolen Property Act,\(^1\) by Congress in 1934, it was rather difficult to prosecute the jewel and bond thief who was instrumental in transporting stolen goods in interstate commerce. This particular type of criminal, parasite that he is, has been rather difficult to cope with because of his nationwide scope of operations, and on several occasions, Congress had previously considered the enactment of federal laws punishing the interstate transportation of stolen property.\(^2\)

The National Stolen Property Act, after defining interstate and foreign commerce, the terms securities and money, makes it unlawful to transport goods, wares or merchandise, securities or money valued at $5,000 or more, which had been stolen or feloniously taken by fraud, with knowledge of the character of the goods. In addition, the Act makes it unlawful to receive, conceal, store, barter, sell or dispose of stolen property, securities or money valued at $5,000 or more, or to pledge or accept as security for a loan, stolen property valued at $500 or more which is a part of an interstate or foreign shipment. In determining value of stolen property under the Act if a defendant is charged with two or more violations, the aggregate value of all the stolen property referred to in the indictment shall constitute the value of the goods stolen within the meaning of the Act.

A portion of the Act would appear to be merely a restatement of the law applying to thefts from interstate shipments,\(^3\) but limits that law by providing that persons knowingly pledging or

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\(^1\)18 U. S. C. A. secs. 413-419, 1 Mason's U. S. Code, tit. 18, secs. 413-19.


\(^3\)18 U. S. C. A. sec. 409, 1 Mason's U. S. Code, tit. 18, sec. 409.
accepting as security for a loan stolen property valued at $500 or more from an interstate or foreign shipment shall be guilty.

It would appear from the Act that persons who actually stole the property but who do not have any part in its transportation do not come within its terms. Nor does it appear to be an offense under the Act for a person to sell stolen property unless it was stolen while moving in or constituting a part of interstate or foreign commerce, and the vendor knew of its stolen character.\(^{122}\)

There is a question as to whether counterfeit or spurious securities or money would come within the terms of the Act, since they are of no real value as the word “value” is used in the Act without any qualification. In a situation involving counterfeit securities, however, successful prosecution could be had, in certain instances,\(^{123}\) under the penal provisions of the Securities Act,\(^{124}\) and under the Mail Fraud Statute.\(^{125}\)

Probably one of the most difficult of all crimes to prosecute successfully is that worked through the medium of confidence schemes. Proof is difficult, and the operations of so-called “con men” are nation-wide and sometimes international in character. Annually, millions of dollars are lost by unsuspecting, respected, reputable citizens, who are victimized by confidence schemes. It is hoped that some relief can be given them through the provisions of the National Stolen Property Act, for such fraudulent schemes come within the terms of the statute if the facts show that money was taken feloniously with intent to defraud, and subsequently was transported in interstate or foreign commerce. Such is a case recently investigated by special agents of the Federal Bureau of Investigation with the cooperation of other law enforcement agencies, arising out of a typical confidence scheme. Albert Blatt, one of the “Con men” possessed thirty-two known aliases. He had been arrested in the states of Florida, Michigan, California, Ohio, Texas, Illinois and Canada, and was wanted in Sacramento, California, in St. Paul, Minnesota, and in Tacoma, Washington. Blatt's associate, Charles Phillips, possessed fourteen known

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\(^{122}\)Gable v. United States, (C.C.A. 7th Cir. 1936) 84 F. (2d) 929.


\(^{124}\)15 U. S. C. A. sec. 77Q, 1 Mason's U. S. Code, tit. 15, sec. 77Q.

aliases, and had been arrested in the states of Florida, Missouri, Michigan, Maryland, Kansas, California, New York and Nebraska. Blatt met the victim, who was seventy-seven years of age, while the latter was vacationing in Florida.

The victim was taken out driving by Blatt on numerous occasions, and in one instance pointed out Phillips, who was sitting in a chauffeured car, stating that Phillips would bet on anything and never lose a bet. Phillips was later introduced to the victim by Blatt, at which time Phillips asked Blatt to place a bet for him on a horse race. Thereafter, they went to the victim's room, at which time Phillips gave Blatt what purported to be $2,500. Blatt departed immediately for the so-called "Betting Exchange" returning soon after with a roll of bills, stating he had won $100,000. Phillips then told Blatt to bet the $100,000, and again Blatt departed, returning soon thereafter stating he had won $300,000, but couldn't get the money until the following morning. The next day, Blatt informed Phillips and the victim that the "Betting Exchange" refused to pay off as Phillips' bond had not been signed by his partner.

Thus the foundation was laid for mulcting the victim to contribute to the so-called "good faith fund." It was agreed among the three that Blatt would put up $30,000, Phillips $30,000, while the victim agreed to furnish 245,000 Swedish kroner, or about $63,000, constituting his life savings, which was deposited in banks in Stockholm, Sweden. In addition, the victim went to Boston and secured $6,658, which he gave Blatt and Phillips upon his return to Florida, and on the instructions of this pair of con men departed for Sweden to secure his life savings. The victim, upon his return, handed the 245,000 kroner to them, which was in turn handed to Blatt by Phillips, with instructions to go to the club and exchange it for United States currency. Soon Blatt returned empty handed, claiming he had bet the money on a horse and the horse had lost, a rather common termination of a confidence scheme of this type. Phillips assured the victim that everything would be all right, and, contrary to the general practice of such crooks, gave the victim $500 with instructions to go to Paris, France, where a horse race was to be held in the near future. These instructions were complied with. The investigation that was to follow revealed that 135,900 Swedish kroner was shipped by mail from the Royal Bank of Canada in Belize, British Hon-
duras to the Royal Bank of Canada in New York City for exchange into American money, and returned by mail to Belize, where the photographs of Phillips and Blatt were identified as the two men exchanging the Swedish kroner for American money. Blatt and Phillips, when apprehended, entered pleas of guilty to indictments charging violation of the National Stolen Property Act, as well as to indictments charging violation of the Mail Fraud Statute.\textsuperscript{128}

\textbf{Conclusion}

In considering the legal aspects of interstate crime and of federal criminal jurisdiction, one faces problems that are numerous and intricate. All of them have certainly not been discussed in the foregoing—space would not permit. In considering the legal aspects of interstate crime, we should not lose sight of what is probably a more important antecedent—that of effectively dealing with the investigative and law enforcement angles of crime. Before our prosecuting agencies and the courts can function, the crime must be detected and its perpetrators apprehended. This at times requires long, painstaking and scientific endeavors on the part of the law enforcement officers. If the evidence is secured, the task of the prosecutor is lightened, and the machinery of criminal justice becomes more effective. The past few years have witnessed law enforcement developing an increased effectiveness and a greater efficiency. There still remains room for improvement, which is inevitable, with the present progressive strides that are being made in the selection and training of personnel, the advances of scientific crime detection and the cooperative endeavors of municipal, county, state and federal law enforcement agencies.

We frequently hear the need expressed for a national police. It is believed however that the combined efforts of all law enforcement agencies working shoulder to shoulder toward a common goal is the most effective system of policing that this country can have. Good law enforcement is a necessity for the security of our property and the peace of mind of our citizenry. Not only is it a necessity, it pays good dividends. In the fiscal year 1936 (July 1, 1935 to June 30, 1936) for instance, the cost of operating the Federal Bureau of Investigation amounted to approximately $5,000,000. During that period, however, as a result of the ac-

tivities of the Bureau, the total value of recoveries and savings to the government and citizens effected amounted to $34,708,815. In other words, for every dollar which was spent for the operating costs of the Federal Bureau of Investigation, during the last fiscal year, approximately seven dollars was secured for the government or individual citizens in savings effected or property recovered.

If good law enforcement is to result from any municipal, county, state or federal law enforcement agency, it is of prime importance that the agency and its individual officers operate on the basis of merit alone and not be fettered by the stifling influences of corrupt politics and inefficiency; likewise, there must be an unqualified support of all law abiding citizens, particularly those of the legal profession.