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# "CRIME IS LOCAL"

ALBERT COATES\*

Centuries of repetition by courts and authors have given to this title the deceptive clarity and the convenient vagueness of a legal maxim. It has meant: (1) that an officer's power to apprehend criminals is confined to the territorial limits of the governmental unit he represents; (2) that the place where the crime is committed is the place where the accused will be tried; (3) that the place of the crime is the place of punishment; (4) that one sovereign will not enforce the criminal laws of another sovereign. This article traces applications of these meanings in the administration of the criminal law in North Carolina.

## I

### LIMITS OF THE POWER TO ARREST

When a felony was committed, in the early days of the common law, and hue and cry was raised after the criminal, the lords of the land were required "to follow with their households. . . . Let them follow the track through their own land, and at the end of their own land show it to the lord of the next land, and thus let pursuit be made from land to land with all diligence till the criminals are taken."<sup>1</sup> Seven hundred years after the appearance of this law the town policeman was tracking the criminal to the end of his own town,<sup>2</sup> the township constable to the end of his own township,<sup>3</sup> the county sheriff to the end of his own county,<sup>4</sup> the state patrolman to the end of his own state,<sup>5</sup> the federal

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<sup>1</sup> STEPHEN, HISTORY OF THE CRIMINAL LAW (1st ed. 1883) 187, quoting Bracton.

<sup>2</sup> P. L. N. C. 1883, c. 3811 provided that "a policeman shall have the same authority to make arrests and to execute criminal process within the town limits, as is vested by law in the sheriff." N. C. CODE ANN. (Michie, 1935) §2642. In *Sossaman v. Cruse*, 133 N. C. 470, 45 S. E. 757 (1903) a policeman was held liable in civil action for damages for assault when he followed and arrested plaintiff outside the corporate limits of the town for breach of a town ordinance. In *Martin v. Houck*, 141 N. C. 317, 54 S. E. 291 (1906), a policeman was held liable in action for false imprisonment and unlawful arrest when he took plaintiff into custody outside city limits.

<sup>3</sup> N. C. CONST., art. IV, §24 provided "In each township there shall be a constable elected . . . by the voters thereof." As late as 1935, *State v. Corpening*, 207 N. C. 805, 178 S. E. 564, it was argued that this provision restricted the constable's right to arrest to his township lines.

<sup>4</sup> At common law "the power of a Sheriff is limited to his own county. He is to be adjudged a sheriff in his own county and not elsewhere." Kneier, *Territorial Jurisdiction of Local Law Enforcement Officers* (1931) 9 N. C. L. REV. 283.

<sup>5</sup> P. L. N. C. 1929, c. 218, §4, N. C. CODE ANN. (Michie, 1935) §3846 (bbb).

marshal to the end of his own district,<sup>6</sup> and there showing the tracks to the officers of the adjoining governmental units. Too often the adjoining officers were not on hand to follow the track and the pursuing officers had to find them, show them a properly certified warrant and get their endorsement before continuing pursuit.<sup>7</sup> The criminal fleeing from the scene of the crime could cross town, township, county, state or federal lines without these constant interruptions and thus hopelessly outdistance his pursuers. These boundary lines said "stop" to the officer and "go" to the criminal. While the officer was in hobbles, the criminal went free. The law was caught in its own toils.<sup>8</sup>

<sup>6</sup> R. S. §787 (1878), 28 U. S. C. A. 503 (1928).

<sup>7</sup> N. C. CODE ANN. (Michie, 1935) §4526. "If the person against whom any warrant is issued by a justice of the peace or chief officer of a city or town shall escape, or be in any other county out of the jurisdiction of such justice or chief officer, it shall be the duty of any justice of the peace, or any other magistrate within the county where such offender shall be, or shall be suspected to be, upon proof of the handwriting of the magistrate or chief officer issuing the warrant to indorse his name on the same, and thereupon the person, or officer to whom the warrant was directed, may arrest the offender in that county: Provided, that an officer to whom a warrant charging the commission of a felony is directed, who is in the actual pursuit of a person known to him to be the one charged with the felony, may continue the pursuit without such indorsement. The justice of the peace or a chief officer of a city or town shall direct his warrant to the sheriff or other lawful officer of the county, and such warrant when so indorsed as herein prescribed shall authorize and compel the sheriff or other officer of any county in the state, in which such indorsement is made, to execute the same."

In *Stancill v. Underwood*, 188 N. C. 475, 124 S. E. 845 (1924), it was held that a warrant issued in one county would not have extraterritorial effect, so that it might be served in another county, unless it had the indorsement of a justice of the peace or other authorized officer.

<sup>8</sup> The doctrine of fresh pursuit has been recognized from the early days of the common law, BLACKSTONE, COMMENTARIES, 415. It is specifically recognized in N. C. CODE ANN. (Michie, 1935) §4526, see note 7, *supra*. But its scope and limitations have not been clearly drawn in the decisions of this or other states. It has been held "fresh pursuit" where the police officer in whose presence the crime was committed immediately followed the escaping criminal and arrested him beyond the city limits, *People v. Averill*, 208 N. Y. Supp. 774 (1925); also where the officer followed in twenty minutes, *Lewis v. State*, 40 Tenn. 127 (1859), where he follows in thirty minutes, *Hutson v. State*, 53 Okla. Crim. App. 451, 13 P. (2d) 216 (1932), where he follows next morning, *White v. State*, 70 Miss. 253, 11 So. 632 (1892), provided he follows as soon as he learns of the crime, *People v. Pool*, 27 Cal. 573 (1865); but in *Wahl v. Walton*, 30 Minn. 506, 16 N. W. 397 (1883) where the officer waited five hours after the commission of the crime in his presence before starting pursuit, he was not protected by the doctrine of "fresh pursuit" for arrest beyond corporate limits. Private persons as well as officers come within the limits of this doctrine: *People v. Morehouse*, 6 N. Y. Supp. 763 (1889). A private citizen witnessed an assault and together with others pursued defendant in an attempt to arrest him. The court held that a private person may arrest another for a crime committed in his presence but in so doing the person sought to be apprehended must be informed of the cause of his arrest and required to submit. *State v. Mowry*, 37 Kan. 369, 15 Pac. 282 (1887) held that a private person, without a warrant, is authorized to pursue and arrest one who has committed a felonious assault with a deadly weapon. This court held notice of crime and purpose of pursuit need not be communicated to fleeing criminal. In *Porez v. State*, 29 Tex. App. 618, 16 S. W. 750 (1891), cowboys, in unorganized county on frontier, who had their saddles stolen by Mexicans could immediately pursue and arrest the offenders, and recover their property without a warrant.

Recent years have witnessed continued efforts to remove these stubborn hurdles from the pursuing officer's path. Statute and decision have steadily extended the circumference of their arresting power beyond their original territorial limitations. The arresting power of city police extends in specific instances to a mile beyond the city limits,<sup>9</sup> to the township line,<sup>10</sup> to the county line,<sup>11</sup> and even for limited distances beyond the county line.<sup>12</sup> A recent decision removes all question concerning the constable's power to go beyond his township lines and arrest anywhere within the county.<sup>12a</sup> The General Assembly of 1935 allowed the sheriff to pursue fleeing felons beyond county lines, "whether in sight or not" and arrest them anywhere within the state.<sup>13</sup> In 1929 the

<sup>9</sup> Priv. L. N. C. 1935, c. 130. Policemen to preserve peace by suppressing disturbances and apprehending offenders and *for such purposes* in Town (Brevard) and within one mile of corporate limits have all power and authority vested in Sheriffs and County Constables. In execution of precepts and process—"same powers which Sheriff or Constables of the County have." Priv. L. N. C. 1935, c. 89. Randleman police given "full right, power and authority to execute process of all sorts and kinds and to make arrests without warrant in the territory extending one mile in every direction from the corporate limits of the municipality. . . ." Priv. L. N. C. 1935, c. 132, copied the above Randleman statute for Statesville police.

<sup>10</sup> Pub. Loc. L. N. C. 1933, c. 97. "The policemen duly appointed by the town of Hazelwood, shall have the same authority as peace officers . . . anywhere within Waynesville Township."

<sup>11</sup> Priv. L. N. C. 1935, c. 129—Spindale Charter. "Town marshal or police . . . shall have the right to make arrests in any part of the county of Rutherford under a warrant issued by the Mayor of said Town for any violation of law."

<sup>12</sup> Priv. L. N. C. 1935, c. 167. Three counties join in the village of Linville Falls—Avery, Burke, and McDowell. Sheriff or deputy of any of the three counties may arrest or serve warrants anywhere within two miles of the common corner.

<sup>12a</sup> State v. Corpening, 207 N. C. 805, 178 S. E. 564 (1935). Constable arrested person for violation of law in his presence in another township and this was held lawful.

<sup>13</sup> *Power of Sheriff to Follow Felon and Arrest Outside of County.* N. C. CODE ANN. (Michie, 1935) §4544(1) provides that when a felony is committed and the person charged flees the county, the sheriff and his bonded deputies, either with or without process, may pursue the person, whether in sight or not, and arrest him anywhere in the state. This is an extension of the common law doctrine of "hot pursuit" so as to allow arrest beyond county lines even though the fleeing person has not been in sight or hearing during the pursuit. The law is not clear whether the pursuit must be immediate or whether general authority is given the sheriff and his deputies to arrest such a felon at any time. There has been a tendency in recent decisions dealing with arrest to interpret the powers of officers favorably to the officers, but it would seem wise for the officer acting outside of his county, unless pursuit has been begun within a few hours after the discovery of the crime, to seek the aid of officers in the county where the arrest is sought. Only bonded deputies may exercise this power. Whether the deputy is bonded to the sheriff, as is usually the case, or is bonded directly to the county, would apparently make no difference; either would seem to be a "bonded deputy" within the terms of the law.

N. C. CODE ANN. (Michie, 1935) §3484. "Any corporation operating a railroad . . . or any electric or waterpower company or construction company or manufacturing company may apply to the governor to commission such persons as the corporation or company may designate to act as policemen for it. . . . N. C. CODE ANN. (Michie, 1935) §3485. "Every policeman so appointed shall . . . severally possess within the limits of the county all the powers of policemen in the several towns, cities and villages in which they shall be so authorized to act."

State Patrol was authorized to arrest for violations of the motor vehicle law irrespective of county lines anywhere within the state<sup>14</sup> and by legislative fiat one hundred and twenty patrolmen stationed in different sections of the state today may at the request of local officers or on their own motion cross county lines and arrest "persons accused of highway robbery, bank robbery, murder or other crimes of violence."<sup>15</sup> And though the powers of the United States marshal to arrest are limited to his district,<sup>16</sup> the powers of the Federal Bureau of Investigation reach beyond state lines and throughout the United States.<sup>17</sup>

Toward the end of the last century the telegraph and telephone lengthened the pursuing officer's arm by allowing him to outrun the escaping criminal to surrounding towns and enlist their help in apprehension. To these effective aids the radio now adds a third and even more effective helper.<sup>18</sup> A telephone call from an outlying home enables police headquarters to radio the warning of a burglary in progress

<sup>14</sup> N. C. CODE ANN. (Michie, 1935) §3846 (bbb). "The State Highway Patrol herein created shall . . . enforce all laws and regulations respecting the use of motor vehicles upon the highways of the state, and to this end . . . are given the power and authority of Peace Officers . . . anywhere within the State irrespective of the county lines." For specific cases other officers may disregard county lines. *State v. Finch*, 177 N. C. 599, 99 S. E. 409 (1919), held that a superintendent of convicts could lawfully arrest in Wake County without a warrant a convict who had escaped before completing a road sentence in Johnston County.

<sup>15</sup> N. C. CODE ANN. (Michie, 1935) §3846 (ooo). "The state highway patrol or any member . . . thereof . . . may at any time and without special authority either upon their own motion or at the request of any sheriff or local police authority make arrests of persons accused of highway robbery, bank robbery, murder, or both crimes of violence."

<sup>16</sup> R. S. 787 (1878), 28 U. S. C. A. §503 (1928). "It shall be the duty of the marshal of each district to attend the district courts when sitting therein, and to execute, throughout the district, all lawful precepts directed to him, and issued under the authority of the United States; and he shall have power to command all necessary assistance in the execution of his duty."

In *Boykin v. Hope Production Co.*, 58 F. (2d) 1041 (W. D. La. 1931) it was held that the authority of the marshal to make service is limited to the territorial jurisdiction of the court of which he is an officer and there is no authority for sending the process of one district into another to be served by the marshal of the latter district. These limitations were apparently removed by an amendment passed by Congress in 1935. "It shall be the duty of the marshal of each district to attend the district courts when sitting therein and to execute all lawful precepts issued under the authority of the United States; and he shall have power to command all necessary assistance in the execution of his duty." R. S. 787 (1878), 28 U. S. C. A. §503 (1928).

<sup>17</sup> STAT. 1008 (1934), 5 U. S. C. A. §300a (1935).

<sup>18</sup> Note the uses of radio by police described in *POPULAR GOVERNMENT*, vol. 3, no. 1, p. 5. "The telephone bell in the office of the desk sergeant tinkles, he picks up the receiver, and a voice exclaims, 'There's a man in my house!' The sergeant takes the address, throws the radio switch, and presses down on the signal button. At that moment the patrol cars of the city are cruising around the residential section. The radios throw out the signal, the officers slow down their car. 'Calling car 98. Go to 1621 Wilson Drive. There's a man in the house. This is station W4XA Howard, N. C., police radio.' In the meantime the officers have turned the car in the direction of the address. Sometimes before the call is finished the car is stopping at the address. Seldom does it take over three to five minutes for the car to appear on the scene."

to police cars cruising in the neighborhood, sometimes have the home surrounded before the burglars escape, always put the officers on the trail in a fraction of the time required before, in an instant give simultaneous warning to law enforcing officers in all surrounding territory and weave them into a net around the escaping criminal.<sup>19</sup> A number of North Carolina cities have installed police radios;<sup>20</sup> others are planning to follow their example; the state is investigating the desirability of a statewide radio system;<sup>21</sup> and a nationwide effort to coördinate state and local radio systems into a single unit for the use of federal, state and local law enforcing officers is already in the offing.<sup>22</sup> One by one the hurdles in the law enforcing officers' path are being removed. But the end is not yet.

## II

### THE PLACE OF THE CRIME IS THE PLACE OF TRIAL

This doctrine originated in the convenience of judges, jurors, witnesses and accused.<sup>23</sup> In the early days of the common law the King's justices went from county to county inquiring into local crime conditions.<sup>24</sup> The early jurors were witnesses to the facts of the case and came from the neighborhood of the crime.<sup>25</sup> When later jurors became judges of the facts, they too were drawn from the county of the crime. The North Carolina Constitution gave the accused the right to have

<sup>19</sup> POPULAR GOVERNMENT, vol. 3, no. 1, p. 5. "In one town not long ago a junk dealer telephoned that a man was at the yard trying to sell a new automobile tire. The information was sent over the air to one of the patrol cars. In less than two minutes the car had appeared on the scene and the officers had arrested a man with a stolen automobile. Under the old communication system the desk sergeant, upon receiving the call, would have turned on a light located on the top of the city standpipe. The officers, granting that they saw the light immediately, would have driven by headquarters, received instructions and then gone to the junk yard. This would have taken ten minutes at the earliest.

"On April 4, of this year, at 1:15 o'clock in the morning a call was received and broadcast to a patrol car that two men were breaking into a store. Within three minutes the car reported back that the two men had been arrested with several hundred dollars worth of stolen property."

<sup>20</sup> POPULAR GOVERNMENT, vol. 3, no. 1, p. 19. (Nine N. C. cities having radio police system—Charlotte, Asheville, Winston-Salem, Durham, High Point, Hickory, Greensboro, Raleigh and Salisbury).

<sup>21</sup> P. L. N. C. 1935, c. 324. The Commissioner of Revenue, through the Division, was directed to set up a State-wide radio system with adequate broadcasting facilities to reach by radio members of the patrol anywhere in the State, for enforcing traffic laws and preventing the criminal use of the highways. . . . The governing bodies of counties, cities and towns are empowered to provide radio receiving sets in the offices and vehicles of their various officers; such expenditures are declared legal expenditures of funds available for police protection.

<sup>22</sup> Associated Press dispatches, May 3, 1936.

<sup>23</sup> 1 STEPHEN, HISTORY OF THE CRIMINAL LAW (1st ed. 1883) 278.

<sup>24</sup> 1 STEPHEN, HISTORY OF THE CRIMINAL LAW (1st ed. 1883) 276.

<sup>25</sup> 1 STEPHEN, HISTORY OF THE CRIMINAL LAW (1st ed. 1883) 276, 301.

criminal charges against him investigated by a grand jury<sup>26</sup> and tried by a petit jury<sup>27</sup> drawn from the vicinage. The legislature in 1779 required the pleas of the state to be commenced in the district where the crime was committed.<sup>28</sup> By 1800 the court was requiring the prosecution to allege in all indictments the county in which the offense charged was committed in order to show that the court had jurisdiction and that the jury came from the proper venue.<sup>29</sup> In *State v. Patterson*<sup>30</sup> the court in Cabarrus County on demurrer refused to take jurisdiction over a riot committed in the adjoining county of Mecklenburg. And in *State v. Fish*<sup>31</sup> this doctrine was carried to absurd lengths in a decision that an indictment alleging the offense was committed in Burke County was not supported by evidence that the offense was committed in McDowell County, even though McDowell was created out of Burke and the statute gave Burke Superior Court jurisdiction over offenses in that part of McDowell created out of Burke. It is true that "the Court has jurisdiction over both counties, but the offence cannot be laid in both. . . . If it is laid in one when it was in the other, the act alleged and that proved are different and the accused must be acquitted." The Court had stuck in the bark. The grammarian had triumphed over the judge.

The requirement that the prosecution allege in the indictment and prove on trial the place where the crime was committed made convictions difficult and in many cases allowed the guilty to go unpunished: (1) where the court insisted on a sterile strictness in the description of place in the indictment, (2) where the county lines were fixed and certain but the county of the crime was undetermined or unknown, (3) where the place of the crime was fixed and certain but the county lines were undetermined or unknown, (4) where the crime resulted from different acts done in different counties.

*The strictness with which the prosecution was required to allege in the indictment and to prove on trial the place of the crime* is illustrated in a series of North Carolina cases beginning in 1793. As already pointed out, the legislature in 1779 required pleas of the state to be commenced in the district where the crime was committed.<sup>32</sup> In *State*

<sup>26</sup> N. C. CONST., art. 1, §12: "No person shall be put to answer any criminal charge except as hereinafter allowed, but by indictment, presentment or impeachment."

<sup>27</sup> N. C. CONST., art. 1, §13: "No person shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful men in open court. The legislature may, however, provide other means of trial for petty misdemeanours with the right of appeal." <sup>28</sup> Laws of 1779.

<sup>29</sup> *State v. Adams*, 1 N. C. 21 (1793); *State v. Glasgow*, 1 N. C. 264 (1800).

<sup>30</sup> 5 N. C. 443 (1810).

<sup>31</sup> 26 N. C. 219 (1844). CODE OF CRIMINAL PROCEDURE (Am. L. Inst. 1930) 5240. "In all criminal prosecutions the trial shall be in the county where the offense was committed unless otherwise provided in this code."

<sup>32</sup> See note 28, *supra*.

*v. Adams*,<sup>33</sup> the accused was tried and convicted on an indictment alleging the crime was committed in "Beaufort County." On motion in arrest of judgment the indictment was held defective for not alleging that Beaufort County was in New Bern district. "For though Beaufort County is in New Bern district," said the court, "there might be another Beaufort County outside the district and the indictment might be referring to this other county." Seven years later, in *State v. Glasgow*,<sup>34</sup> *supra*, the court pronounced this reasoning fanciful and on motion in arrest of judgment held the charge that the crime was committed "in Greene County in the jurisdiction of this Court," was a sufficient allegation of "place" in the indictment without reference to the district. Forty-three years later, in *State v. Lane*,<sup>35</sup> the court upheld an indictment alleging the crime was committed "in Edgecombe County" without reference to state, district or jurisdiction of court. "The judge," said the court, "must know he was holding court in that county of the state and for the state of North Carolina." And so say we all.

In 1854 the legislature continued the job the court had begun by declaring that "no judgment upon any indictment for felony or misdemeanour . . . shall be stayed or reversed for want of averment of any matter unnecessary to be proved, or for want of a proper and perfect venue, when the court shall appear by the indictment to have had jurisdiction over the offence."<sup>36</sup> The influence of this statute was reflected four years later in *State v. Johnson*<sup>37</sup> when the court upheld an indictment where one count alleged the offense in Harnett County and another count alleged it in Cumberland County. It was carried still further when on motion in arrest of judgment the court held; in *State v. Williamson*<sup>38</sup> that the warrant need not even allege the county in which the crime was committed, in *State v. Outerbridge*<sup>39</sup> that if the place was alleged it need not be proved, in *State v. Long*<sup>40</sup> that since it need not be proved it need not be alleged. The court which had formerly stuck in the bark had finally penetrated to the heart. Law and grammar were reconciled at last.

*Where the county lines were fixed and certain but the place of the crime was undetermined or unknown.* Where property was stolen in one county and carried by the thief through other counties, or where the stolen goods were received by a third person who carried them through other counties, or where the crime was committed during a journey

<sup>33</sup> 1 N. C. 21 (1793).

<sup>34</sup> 1 N. C. 264 (1800).

<sup>35</sup> N. C. CODE ANN. (Michie, 1935) §4625.

<sup>37</sup> 50 N. C. 222 (1858).

<sup>38</sup> 82 N. C. 618 (1880).

<sup>36</sup> 26 N. C. 113 (1843).

<sup>39</sup> 81 N. C. 540 (1879).

<sup>40</sup> 143 N. C. 670, 57 S. E. 349 (1907).



through many counties in any conveyance by land and water it was sometimes difficult to allege and prove the county of the crime. It was not enough for the state to prove *he did it*; unless it could also prove *where* he did it, the accused went free. North Carolina has slowly narrowed this road to freedom. The common law at an early date allowed the transient thief to be indicted in any county into which he carried the stolen goods.<sup>41</sup> The legislature in 1797<sup>42</sup> provided for the indictment, trial and punishment of a receiver of stolen goods either in the county where he received or in any county into which he carried them. In 1870 it made the embezzlement of railroad funds by officers or agents of a railroad, triable in any county through which the railroad passes.<sup>43</sup> And in the same year it made conspiracy by any persons with officers or agents of a railroad to embezzle railroad funds triable in any county through which the railroad passes.<sup>44</sup> In 1899 it made the beating of way on trains punishable in any county through which the train passes, or in which the violation occurred or in which it is discovered.<sup>45</sup> Today the American Law Institute proposes broadening the policy of these statutes to permit all crimes committed on any aircraft, railroad train or vessel going through the state, to be tried in any county through which they pass.<sup>46</sup>

*Where the place of the crime was fixed and certain but the county lines were undetermined and unknown.* It frequently happened that the

<sup>41</sup> 1 STEPHEN, HISTORY OF THE CRIMINAL LAW (1st ed. 1883) 278, citing HALE, PLEAS OF THE CROWN.

<sup>42</sup> P. L. N. C. 1797, c. 485, §2, N. C. CODE ANN. (Michie, 1935) §4250. "*Receiving stolen goods* . . . and any such receiver [of stolen goods] may be dealt with, indicted, tried and punished in any county in which he shall have, or shall have had, any such property in his possession or in any county in which the thief may be tried, in the same manner as such receiver may be dealt with, indicted, tried, and punished in the county where he actually received such chattel, money, security, or other thing; and such receivers shall be punished as one convicted of larceny."

<sup>43</sup> P. L. N. C. 1870-1, c. 103, §1, N. C. CODE ANN. (Michie, 1935) §4272.

<sup>44</sup> P. L. N. C. 1870-1, c. 103, §2, N. C. CODE ANN. (Michie, 1935) §4273.

<sup>45</sup> P. L. N. C. 1899, c. 625, P. L. N. C. 1905, c. 32, N. C. CODE ANN. (Michie, 1935) §3508.

<sup>46</sup> CODE OF CRIMINAL PROCEDURE (Am. L. Inst. 1930) §239: "Any person who commits an offense in or against any aircraft while it is in flight over this state may be tried in this state. The trial in such case may be in any county over which the aircraft passed in the course of such flight."

§245: "Where an offense is committed on a railroad train or other public or private vehicle while in the course of its trip the trial may be in any county through which such train or other vehicle passed during such trip."

§247: "Where an offense is committed on board a vessel in the course of its voyage, the trial may be in any county through which the vessel passed during such voyage."

§248: "Where a person obtains property by larceny, robbery, false pretenses or embezzlement in one county and brings the property so obtained into any other county or counties, he may be tried in the county in which he obtains the property or in any other county into which he brings it."

prosecution could fix the exact place where the crime was committed but because the boundaries of many counties were "either undetermined or unknown," it could not prove the county in which the place was located. "By reason whereof," said a legislative preamble, "high offences go unpunished." It was not enough for the prosecuting attorney to put his finger on the spot; he had to name the spot. He not only had to draw the county lines, he had to put every paling in the fence to keep the criminal from slipping through. In 1844 the legislature took this unconscionable advantage away from the criminal by providing that "for the more effectual prosecution of offences committed on land near the boundaries of counties . . . it shall be deemed and taken as true that the offence was committed in the county in which by the indictment it is alleged to have taken place unless the defendant shall deny the same by plea in abatement . . . wherein shall be set forth the proper county in which the supposed offence, if any, was committed."<sup>47</sup>

This statute was apparently overlooked in *State v. Revels*<sup>48</sup> where evidence that the offense was committed in five miles of Lumberton was no proof that it was committed in Robeson County as alleged in the indictment. This decision was reversed in *State v. Outerbridge*<sup>49</sup> where it was held unnecessary to offer proof of the allegation in the indictment that the offense was in Bertie County, and in *State v. Lytle*,<sup>50</sup> where conviction was upheld on an indictment alleging the offense was committed in Buncombe County and the proof was that it was within eleven miles of Asheville. The objection to jurisdiction, the court said, was available only on plea in abatement if the offense was committed in another county.

This statute not only deprived the accused of the plea to the jurisdiction in these cases and limited him to the plea in abatement. By judicial construction it deprived him of the plea in abatement unless it came in "apt time." It came in apt time if it came at the beginning of the trial.<sup>51</sup> It came too late after grant of continuance,<sup>52</sup> after introduction of evidence by the prosecution,<sup>53</sup> at the time of the judge's charge to the jury,<sup>54</sup> after the jury's verdict,<sup>55</sup> at the beginning of a new trial.<sup>56</sup>

The statute of course does not apply where the crime is committed in

<sup>47</sup> N. C. CODE ANN. (Michie, 1935) §4606.

<sup>48</sup> 44 N. C. 200 (1853).

<sup>49</sup> 82 N. C. 618 (1880).

<sup>50</sup> 117 N. C. 799, 23 S. E. 476 (1895).

<sup>51</sup> *State v. Mitchell*, 202 N. C. 439, 163 S. E. 581 (1932).

<sup>52</sup> *State v. Oliver*, 186 N. C. 329, 119 S. E. 370 (1923).

<sup>53</sup> *State v. Pace*, 159 N. C. 462, 74 S. E. 1018 (1912).

<sup>54</sup> *State v. Holden*, 133 N. C. 710, 45 S. E. 862 (1903).

<sup>55</sup> *State v. Ledford*, 133 N. C. 714, 45 S. E. 944 (1903).

<sup>56</sup> *State v. Ritter*, 199 N. C. 116, 154 S. E. 62 (1930).

another state. The accused must prove this fact under plea of not guilty.<sup>57</sup> Nor does it apply when the venue is properly laid.<sup>58</sup>

This statute worked so well on land that in 1854 the legislature tried it out on water by providing that "when any offence is committed on any water or water course . . . which divides counties, such offence may be . . . tried and punished at the discretion of the court in either of the two counties which may be nearest to the place where the offence was committed."<sup>59</sup> It was further extended in 1897 by a statute permitting the offense of fishing with nets in Albemarle Sound to be tried in any county bordering on the Sound.<sup>60</sup> This statute was upheld in *State v. Woodard*<sup>61</sup> where a conviction in Bertie County was sustained over the defendant's claim that Chowan County was nearest to the place of the offense. The state was slowly tightening its own nets. For here the criminal was denied the choice of counties and denied the right to resort to the plea in abatement in order to delay the trial.<sup>62</sup>

*Where the crime resulted from different acts done in different counties.* Difficulties of allegation and proof did not arise in cases where the accused in X county shoots B in X county and B dies in X county. But suppose the accused in X county shoots B in X county and B dies in Y county. Or suppose in X county he shoots B in Y county and B dies in Z county. At common law he could be indicted and tried in neither, "for that by the custom of this realm, the jurors of the county where such party died of such stroke, can take no knowledge of the said stroke, being in a foreign county . . . and the jurors of the county where the stroke was given cannot take knowledge of the death in another county." This was also true where the acts of the accessory before or after the fact occurred in one county and the acts of the principal occurred in another and for the same reason.<sup>63</sup>

A series of legislative enactments beginning toward the close of the eighteenth century and continuing to the close of the nineteenth century went far to close these criminal safety lanes. In 1797 the legislature

<sup>57</sup> *State v. Bruton*, 138 N. C. 576, 50 S. E. 214 (1905); *State v. Barrington*, 141 N. C. 820, 53 S. E. 663 (1906); *State v. Lea*, 203 N. C. 13, 164 S. E. 737 (1932).

<sup>58</sup> *State v. Noland*, 204 N. C. 329, 168 S. E. 412 (1933).

<sup>59</sup> N. C. CODE ANN. (Michie, 1935) §4601: "In offenses on waters dividing counties. When any offense is committed on any water, or water-course, whether at high or low water, which water or water-course, or the sides or shores thereof, divides counties, such offense may be dealt with, inquired of, tried and determined, and punished at the discretion of the court, in either of the two counties which may be nearest to the place where the offense was committed."

<sup>60</sup> P. L. N. C. 1897, c. 51.

<sup>61</sup> 123 N. C. 710, 31 S. E. 219 (1898).

<sup>62</sup> CODE OF CRIMINAL PROCEDURE (Am. L. Inst. 1930) §243: "Where an offense is committed on or within five hundred yards of the boundary of two or more counties the trial may be in any one of such counties."

<sup>63</sup> 1 STEPHEN, HISTORY OF THE CRIMINAL LAW (1st ed. 1883) 277-8.

declared the acts of accessories before or after the fact "may be inquired of, tried, determined and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if such offence had been committed at the same place as the principal felony."<sup>64</sup> By statute passed in 1831 any person in this state assaulting another in any county of this state who dies in another county in this state or in another state could be tried and punished in the county where the assault was made.<sup>65</sup> This statute was upheld in *State v. Dunkley*<sup>66</sup> where the accused wounded the deceased in Stokes County, the death occurred in Virginia and the accused was tried and convicted in Stokes County. In 1891 the legislature covered the converse case by providing that if an assault is committed outside this state resulting in death within this state the offense may be punished in the county where the death occurs.<sup>67</sup> This statute was upheld in *State v. Caldwell*<sup>68</sup> where the assault occurred in South Carolina, the death resulted in Mecklenburg County and the accused was tried and convicted in Mecklenburg.

But these statutes did not go far enough. In 1893 a person standing in North Carolina shot and killed a person in Tennessee. In 1894 the North Carolina court held that the accused could not be tried and punished in this state: not under the statute of 1831 because the assault was not committed nor the wound inflicted in this state, nor under the common law because the killing occurred in Tennessee.<sup>69</sup> Thereupon Tennessee sought through extradition the delivery of the accused to its

<sup>64</sup> P. L. N. C. 1797, c. 485, N. C. CODE ANN. (Michie, 1935) §§4175, 4177: "... The offense of the person so counseling, procuring or commanding, howsoever indicted, may be inquired of, tried, determined and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if such offense had been committed at the same place as the principal felony or where the principal felony is triable, although such offense may have been committed at any place within or without the limits of the state. In case the principal felony shall have been committed within the body of any county, and the offense of counseling, procuring or commanding shall have been committed within the body of any other county, the last mentioned offense may be inquired of, tried, determined, and punished in either of such counties: Provided, that no person who shall be once duly tried for any such offense, whether as an accessory before the fact or as for a substantive felony, shall be liable to be again indicted or tried for the same offense."

<sup>65</sup> P. L. N. C. 1831, c. 22, §1, N. C. CODE ANN. (Michie, 1935) §4602: "*Assault in one county, death in another.* In all cases of felonious homicide when the assault has been made in one county within the state, and the person assaulted dies in any other county thereof, the offender shall be indicted and punished for the crime in the county wherein the assault was made."

<sup>66</sup> 25 N. C. 116 (1842).

<sup>67</sup> P. L. N. C. 1891, c. 68, N. C. CODE ANN. (Michie, 1935) §4605: "*In county where death occurs.* If a mortal wound is given or other violence or injury inflicted or poison is administered on the high seas of land, either within or without the limits of this state, by means whereof death ensues in any county thereof, the offense may be prosecuted and punished in the county where the death happens."

<sup>68</sup> 115 N. C. 794, 20 S. E. 523 (1894).

<sup>69</sup> *State v. Hall*, 114 N. C. 910, 19 S. E. 602 (1894).

authorities for trial. The North Carolina court denied this request because extradition could be granted only where the accused was a fugitive from justice and since the accused in this case had not been in Tennessee and therefore had not left Tennessee he could not be fugitive from the justice of Tennessee.<sup>70</sup> The law which could conceive of a person following the bullet into Tennessee could not conceive of him returning with the echo. The murderer went free. In 1895 the legislature corrected this condition by providing that "if any person in this state unlawfully and wilfully puts in motion a force from the effect of which any person is injured while in another state . . . (he) shall be guilty of the same offence in this state as he would be if the effect had taken place within this state."<sup>71</sup> The American Law Institute proposes to go further by broadening the policy expressed in statute and decision covering specific crimes to cover other crimes.<sup>72</sup>

Even where the boundaries of counties are fixed and certain and the place of the crime is determined and known it may be wise to permit investigation and trial of particular offenses in adjoining counties. In 1893 the legislature extended jurisdiction over lynchings beyond the county where the lynchings occurred to all adjoining counties in order to avoid the prejudice or sympathy usually aroused in such cases.<sup>73</sup> This

<sup>70</sup> State v. Hall, 115 N. C. 811, 20 S. E. 729 (1894).

<sup>71</sup> P. L. N. C. 1895, c. 169, N. C. CODE ANN. (Michie, 1935) §4604: "*Person in this state injuring one in another.* If any person being in this state, unlawfully and wilfully puts in motion a force from the effect of which any person is injured while in another state, the person so setting such force in motion shall be guilty of the same offence in this state as he would be if the effect had taken place within this state."

<sup>72</sup> CODE OF CRIMINAL PROCEDURE (Am. L. Inst. 1930) §238: "Any person who commits within this state an offense against this state, whether he is within or without the state at the time of its commission, may be tried in this state."

§241: "Where a person in one county aids, abets or procures the commission of an offense in another county he may be tried for the offense in either county."

§242: "Where several acts are requisite to the commission of an offense, the trial may be in any county in which any of such acts occurs."

§244: "Where a person in one county commits an offense in another county the trial may be in either county."

§247: "Where a person inflicts an injury upon another person in one county from which the injured person dies in another county, the trial for the homicide may be in either county."

§249: "Where a person may be tried for an offense in two or more counties, a conviction or acquittal of the offense in one county shall be a bar to a prosecution for the same offense in another county."

<sup>73</sup> P. L. N. C. 1893, c. 461, §4, N. C. CODE ANN. (Michie, 1935) §4600: "*In case of lynching.* The superior court of any county which adjoins the county in which the crime of lynching shall be committed shall have full and complete jurisdiction over the crime and the offender to the same extent as if the crime had been committed in the bounds of such adjoining county; and whenever the solicitor of the district has information of the commission of such crime, it shall be his duty to furnish such information to the grand juries of all adjoining counties to the one in which the crime was committed from time to time until the offenders are brought to justice."

extension of jurisdiction was upheld in *State v. Lewis*<sup>74</sup> where the grand jury of Union County indicted the accused for a lynching in Anson and in *State v. Rumble*<sup>75</sup> where the grand jury of Surry County indicted the accused for a lynching in Forsyth.

Years of tedious effort have begun to cut down the criminal's power to use governmental boundaries to protect himself as he destroys the peace of the society they were erected to maintain.

*Removal of Criminal Causes.* The doctrine that the place of the crime is the place of trial has also been transcended in cases where it has been necessary in order to insure the accused a fair and impartial trial. When the obstacle to a fair trial grows out of the interest or prejudice of the trial judge, it may be overcome by a voluntary exchange of courts between two judges, or by arrangement of the court calendar, or, under our system of rotating judges, by a continuance of the case. When the obstacle grows out of other conditions such as local prejudice or sympathy, jurors may be summoned from another county.<sup>76</sup>

But the normal procedure, even in cases of interest or prejudice of the trial judge, is by removal of the cause. A justice of the peace is required by statute, upon written request of either party to an action, to remove the case to another justice of the peace in the same township, or, if there is no other justice of the peace in the same township, to a neighboring township. Only one removal is allowed.<sup>77</sup> And this procedure does not apply to a mayor's court.<sup>78</sup> In *State v. Greenville Publishing Company*<sup>79</sup> the judge of the county court of Pitt County of his own motion removed a criminal prosecution for libel to the Superior Court of Pitt County because he was a stockholder in the defendant company. Under a special act passed in 1855,<sup>80</sup> the defendant in *State v. Johnson*<sup>81</sup> sought removal from the county court to the Superior Court of the county on the ground that judge had privately called him "a grand scoundrel." The Supreme Court upheld the trial judge in his refusal to remove the case because there was no evidence of "a settled preconceived opinion" adverse to the defendant. In *State v. Mott*,<sup>82</sup> where three defendants were indicted by the Inferior Court of Wayne County and two gave bond for appearance at the next term but one was unable to give bond and was imprisoned, it was held no error to transfer his

<sup>74</sup> 142 N. C. 626, 55 S. E. 600 (1906).

<sup>75</sup> 178 N. C. 717, 100 S. E. 622 (1919).

<sup>76</sup> N. C. CODE ANN. (Michie, 1935) §473.

<sup>77</sup> N. C. CODE ANN. (Michie, 1935) §1498; *State v. Warren*, 100 N. C. 489, 5 S. E. 662 (1888); *State v. Ivie*, 118 N. C. 1227, 24 S. E. 539 (1896).

<sup>78</sup> *State v. Joyner*, 127 N. C. 541, 37 S. E. 201 (1900).

<sup>79</sup> 179 N. C. 720, 102 S. E. 318 (1920).

<sup>80</sup> Priv. L. N. C. 1855, c. 53.

<sup>81</sup> 104 N. C. 780, 10 S. E. 257 (1889).

<sup>82</sup> 86 N. C. 21 (1882).

trial to the next term of the Superior Court of Wayne County which met before the Inferior Court.

By statute in 1806<sup>83</sup> removal to another county was allowed when the applicant stated on oath "that there are probably grounds to believe that justice cannot be obtained in the county." An amendment in 1808<sup>84</sup> required the applicant to set forth the facts on which his belief was grounded, for consideration by the judge. The present law, enacted in 1917,<sup>85</sup> permits either the state or the defendant to set forth under oath their beliefs and the grounds therefor and the judge to decide on the removal after hearing all the testimony offered on both sides by affidavit. Both the removal of the case and the adjacent county to which the case is removed rest in the discretion of the courts. And this discretion will not be reviewed except in cases of gross abuse.<sup>86</sup>

<sup>83</sup> P. L. N. C. 1806, c. 693, §12.

<sup>84</sup> P. L. N. C. 1808, c. 745.

<sup>85</sup> P. L. N. C. 1917, c. 44, N. C. CODE ANN. (Michie, 1935) §471.

<sup>86</sup> Removal rests in the discretion of the trial judge, and is not reviewable except in cases of gross abuse. *State v. Duncan*, 28 N. C. 98 (1845); *State v. Hildreth*, 31 N. C. 429 (1849); *State v. Hill*, 72 N. C. 345 (1875); *State v. Hall*, 73 N. C. 134 (1875); *State v. Johnson*, 104 N. C. 780, 10 S. E. 257 (1889); *State v. Smarr*, 121 N. C. 669, 28 S. E. 549 (1897); *State v. Turner*, 143 N. C. 641, 57 S. E. 158 (1907); *State v. Plyler*, 153 N. C. 630, 69 S. E. 269 (1910); *State v. Lea*, 203 N. C. 13, 164 S. E. 737 (1932). Likewise the county to which the cause is removed rests in the sound discretion of the court, provided it be an adjacent county. *State v. Anderson*, 92 N. C. 733 (1885). This duty is not delegable. In *State v. Harrison*, 145 N. C. 408, 59 S. E. 867 (1907), the court criticized the trial judge for allowing counsel for the state to select the county and indicated that it would be reversible error if the opposing counsel had objected. Removal may be obtained by either the state or the defendant. See *State v. Swepson*, 81 N. C. 571 (1879) (motion by the state); *State v. Haywood*, 94 N. C. 847 (1886) (motion by defendant).

*Removal to federal court.* Federal Judicial Code c. 3, §§28-39 [N. C. CODE ANN. (Michie, 1935), Appendix 4] provides for removal as to persons denied any civil rights or as to persons within the jurisdiction of the federal government. The act further provides that removal shall be ordered to the next term of the district court upon defendant's filing of the petition stating the facts under oath in the state court, at any time before final hearing of the cause. Upon filing this petition, all further proceedings in the state court shall cease. *State v. Dunlap*, 65 N. C. 492 (1871), removal allowed to the federal court on an affidavit of a negro that he could not obtain full and equal benefit of the laws in a state court. Section 33 of the act provides for removal of suits against federal revenue officers arising on account of acts done under color of their office. The procedure here is to petition the federal district court for removal. In *State v. Hoskins*, 77 N. C. 530 (1877), the defendant, indicted for assault and battery in the Superior Court, filed a petition with the clerk of the circuit court of U. S. (before the creation of the District Court) alleging that he was a revenue officer and that the alleged offense was committed under color of his office. The clerk issued an order of removal to the Superior Court, and when the case was called, the judge ordered the proceedings in the Superior Court to be stayed. In *State v. Deaver*, 77 N. C. 555 (1877) a federal revenue officer asked removal of an indictment for conspiracy to federal court, in obedience to a writ of certiorari issued therefrom. The Superior Court granted the motion of removal and this action was affirmed. In *State v. Sullivan*, 110 N. C. 513, 14 S. E. 796 (1892), the court stated that statutes depriving courts of jurisdiction once attached are to be strictly construed and every requirement of such statute must be met before the court will yield jurisdiction. Here the court held that an order of removal of an indictment of a revenue officer was ineffective, as the order was signed by a deputy clerk of the federal court. However, in a

Early decisions permitted several removals. A statute in 1822 prohibited more than two removals under any circumstances. A statute in 1879 prohibited more than one removal by either party. This statute was repealed in 1883. No case has been found since this date where more than one removal was sought.<sup>87</sup>

motion to proceed with a trial of the case in the federal court, the circuit court in *State v. Sullivan*, 50 Fed. 593 (C. C. W. D. N. C. 1892), held that the removal to a federal court is effected and complete jurisdiction acquired, immediately upon the filing of the proper petition in the clerk's office, and the subsequent writ or order to the state court is but a ministerial duty and may be performed by a deputy clerk. In *State v. Kirkpatrick*, 42 Fed. 689 (C. C. W. D. N. C. 1890), the removal of a prosecution of a revenue officer for murder was ordered, though no indictment had been found. The warrant of the justice of the peace was held sufficient.

*Application for removal.* N. C. CODE ANN. (Michie, 1935) §472, provides "No action, civil or criminal, shall be removed unless the affidavit sets forth particularly and in detail the ground of the application. It is competent for the other side to controvert the allegations of fact in the applications and to offer counter affidavits to that end. The judge shall order the removal of the action if he is satisfied, after thorough examination of the evidence as aforesaid, that the ends of justice demand it." See also N. C. CODE ANN. (Michie, 1935) §471.

*Sufficiency of affidavits.* *State v. Twitty*, 9 N. C. 248 (1822), affidavit for removal insufficient, which did not set forth the fact on which deponent founds his belief. *State v. Seaborn*, 15 N. C. 305 (1833), not necessary for the affiant to state his belief in so many words, but it is sufficient if he sets forth the facts upon which he founds his belief that a fair trial cannot be had in the county. The affidavit in this case reads as follows: "Benjamin Seaborn maketh oath that he is advised by his counsel that a strong feeling exists in this county so firmly seated as to his guilt that a fair and impartial trial therein can be hardly expected." This affidavit was held sufficient.

*Cf. CODE OF CRIMINAL PROCEDURE* (Am. L. Inst. 1930) §255. On a prosecution by indictment or information the State [Commonwealth or People] or the defendant may apply for removal of the cause on the ground that a fair and impartial trial can not be had for any reason other than the interest or prejudice of the trial judge.

*Cf. CODE OF CRIMINAL PROCEDURE* (Am. L. Inst. 1930) §256. The application for removal of the cause shall be in writing and shall be presented in open court and then filed. It shall state the ground on which it is based and shall also state the facts constituting the ground. When made by the State [Commonwealth or People] it shall be verified by affidavit of the prosecuting attorney; when made by the defendant it shall be verified by his affidavit.

*Cf. CODE OF CRIMINAL PROCEDURE* (Am. L. Inst. 1930) §257. Upon the filing of an application for removal of the cause a copy thereof and a copy of any supporting affidavit shall be served upon the other party at least five days prior to the hearing of the application.

*Cf. CODE OF CRIMINAL PROCEDURE* (Am. L. Inst. 1930) §260. Where the application is made for removal of the cause the court shall hear the application and shall either grant or refuse it after considering the facts set forth therein and the affidavit accompanying it and any other affidavits or county affidavits that may be filed and after hearing any witnesses produced by either party. If the court grants the application it shall make an order removing the cause to the proper court of some other convenient county where a fair and impartial trial can be had.

<sup>87</sup> *State v. Lewis*, 10 N. C. 411 (1824), defendant, charged with murder, allowed removal from Wake to Franklin County, and then to Warren County; *State v. Duncan*, 28 N. C. 98 (1845), refusal to remove a second time held within discretion of court and not reviewable; *State v. Hildreth*, 31 N. C. 429 (1849), accord. Rev. Stat. (1822) c. 31, §123 prohibited removal more than twice under any circumstances. P. L. N. C. 1879, c. 45, §3 limits the number of removals to one for



Early decisions established the rule that the case must be in issue before it could be removed.<sup>88</sup> In *State v. Swepson*<sup>89</sup> the court held that the case was in issue when the defendant pleaded former acquittal and not guilty although the state entered no replication to the plea of former acquittal. In 1921<sup>90</sup> by statute the judge in cases of felony was empowered, with the written consent of the defendant, to remove the case prior to the arraignment or plea of the defendant.

In all cases removal was restricted to some county adjoining the county where the crime was committed, but jurors might be summoned from any county in the same judicial district or in an adjoining district.<sup>91</sup> The doctrine that the place of the crime was the place of trial

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either party. Section 3 of the act of 1879 was repealed by P. L. N. C. 1833, c. 41, §1.

Cf. CODE OF CRIMINAL PROCEDURE (Am. L. Inst. 1930) §258. Neither the State [Commonwealth or People] nor any defendant in the same cause may make more than one application for removal of the cause.

<sup>88</sup> *State v. Reid*, 18 N. C. 377 (1835); *State v. Haywood*, 94 N. C. 847 (1886). Cf. CODE OF CRIMINAL PROCEDURE (Am. L. Inst. 1930) §259. The application for removal of the cause may be made only before the jury is sworn, or, where trial by jury is waived, before any evidence is received.

<sup>89</sup> 81 N. C. 571 (1879); *State v. Flowers*, 109 N. C. 841, 13 S. E. 718 (1891).

<sup>90</sup> P. L. N. C. 1921, c. 12, §1; N. C. CODE ANN. (Michie, 1935) §4606a.

<sup>91</sup> N. C. CODE ANN. (Michie, 1935) §473; *State v. Kincaid*, 183 N. C. 709, 110 S. E. 612 (1922).

*Proceedings on Removals.* *State v. Twiggs*, 60 N. C. 142 (1863), defendant indicted for murder in Burke and cause removed to Rutherford, where convicted. Judge ordered sheriff of Burke to execute sentence, *held*, sheriff of Rutherford must execute sentence, because when cause is removed, custody of defendant is turned over to the sheriff of county of removal, and the sheriff of first county has no further power over defendant.

*Removal to federal court.* Federal Judicial Code, c. 3, §32, provides that if defendant is in custody of the state court, upon removal, the clerk of the district court shall issue a writ of habeas corpus *cum causa* and the U. S. marshal, by virtue of said writ, shall take the defendant into his custody.

*Sufficiency of transcript.* N. C. CODE ANN. (Michie, 1935) §474 provides: "When a cause is directed to be removed, the clerk shall transmit to the court to which it is removed a transcript of the record of the case, with the prosecution, the prosecution bond, bail bond, and the depositions, and all other written evidence filed therein; and all other proceedings shall be had in the county to which the place of trial is changed, unless otherwise provided by the consent of the parties in writing duly filed, or by order of the court."

*State v. Johnson*, 6 N. C. 201 (1812), no cause for arrest of judgment that the original indictment was sent as a part of the record instead of a copy of the indictment. *State v. Lamon*, 10 N. C. 175 (1824), record sent upon removal need not state that the grand jury were drawn from the original panel, nor is it necessary that the record should state the formula and process by which the grand jury was constituted. Where record recited that the grand jury was "duly drawn, sworn and charged," defendant's plea in abatement denied. *State v. Lewis*, 10 N. C. 410 (1824), upon a second removal, transmission of the same papers which had been sent upon the first removal, no cause for arrest of judgment. *State v. Weir*, 12 N. C. 363 (1837), transcript need not state either the appointment of a foreman or the motion for removal, since they may be inferred from the other entries on the record. *State v. Martin*, 24 N. C. 10 (1841), use of past tense in transcript, though not strictly regular, not fatal error. *State v. Shepherd*, 30 N. C. 195 (1847), order of removal directing that "the trial of the prosecution shall be removed," is sufficient without directing that a copy of the record of the

cause be removed. *State v. Johnson*, 50 N. C. 221 (1856), order removing cause applies to both bills where two indictments have been found against defendant, and the transmission of both bills in the record removes jurisdiction. *State v. Lee*, 80 N. C. 483 (1879), where the transcript states that court was opened, grand jury drawn and organized, and the indictment properly presented, it is sufficient to show that the indictment was returned in open court. *State v. Chavis*, 80 N. C. 353 (1879), where transcript that prisoner was brought to the bar of the court, arraigned, plead not guilty, and was removed to jail, *held*, sufficient to show that the arraignment was in open court. *State v. Weddington*, 103 N. C. 364, 9 S. E. 577 (1889), no error, although unnecessary, for court to order transmission of record upon removal through several hands to the court of removal.

*Who is judge of sufficiency.* The court to which a cause is removed is the sole judge of the sufficiency of the record transmitted, and all other courts are bound by its decision. *State v. Moses*, 13 N. C. 452 (1828); *State v. Duncan*, 28 N. C. 236 (1846); *State v. Lambert*, 93 N. C. 618 (1885).

*Power to compel more perfect transcript.* The court to which the cause is removed has full power to see that a more perfect transcript is transmitted. *State v. Collins*, 14 N. C. 117 (1831), court upon removal has right to issue a writ of certiorari to the first court directing that a more perfect transcript be certified. *State v. Scott*, 19 N. C. 35 (1836), after conviction in the court of removal and defendant moves in arrest of judgment because of a defect in the transcript of the record, the judge may suspend judgment and order a certiorari for a more perfect transcript. If upon return of the certiorari to the next term, it appears that the transcript was correct, judgment will be pronounced. *State v. Swepson*, 81 N. C. 571 (1879), where there is defect in transcript, proper course is to move an amendment in that county and have the amended record brought up by certiorari. *State v. Surles*, 117 N. C. 721, 23 S. E. 324 (1895), where transcript of order of removal is defective, proper course, on motion to quash for such reason, is to have a writ of certiorari issued for more perfect transcript, or in case of motion in arrest of judgment, to suspend judgment until such true transcript can be had. The court can order that errors in the transcript be corrected by the clerk of court from which the cause is removed. In *State v. Upton*, 12 N. C. 513 (1828), transcript omitted names of judge and grand jurors, and later transcript misspelled name of murdered person, subpoena *duces tecum* issued to clerk to produce original record, and he was allowed to amend the transcript to conform with original record.

*Amendments by Clerk of original court.* After a cause has been removed, the court from which it is removed can proceed no further in it; yet, since every court is the exclusive judge of its own record, it has the right to amend the transcribed record to make it speak the truth. In *State v. Reid*, 18 N. C. 377 (1835), when found that record did not reveal that defendant had entered a plea before removal, clerk of first court was allowed to insert in the transcript the plea of not guilty from his trial docket. In *State v. Underwood*, 77 N. C. 502 (1877), an amendment of transcript was allowed to be made by clerk of original court so as to show that the indictment was returned in open court. In *State v. Anderson*, 92 N. C. 732 (1885), where clerk sent defective transcript, it is not a compliance with the order of removal, and he can, of his own motion, send a second transcript.

*Duty of clerk upon issuance of certiorari.* *State v. Martin*, 24 N. C. 101 (1841), clerk to whom certiorari has been directed should make a return under his hand and seal of office that in obedience to that writ he has sent the annexed record. *State v. Carroll*, 27 N. C. 139 (1844), transcript sent in pursuance of a certiorari should be affixed to the writ, though failure to do so is not error provided enough appears to show the court that it is in truth the proper transcript.

*Other cases.* In *State v. Duncan*, 28 N. C. 236 (1846), where trials of both principal and accessory to murder were removed, and transcript of principal's conviction was received in evidence on accessory's trial; *held*, accessory could not take advantage of error in the record of the principal. In *State v. Carland*, 90 N. C. 668 (1884), judge refused to let defendant read a part of the transcript to the jury referring to a mistrial; *held*, defendant has no right to have the whole transcript of record read to jury, and judge may refuse to allow more than the

indictment and so much of record as to show the jurisdiction of the court to be read.

*Removal to federal court.* Federal Judicial Code, c. 3, §29 [N. C. CODE ANN. (Michie, 1935) Appendix 4] provides that the petition for removal shall be filed with the state court, and that thereafter the state court shall proceed no further with the trial. Section 31 states that it shall be the duty of the state court clerk to furnish a defendant petitioning for removal copies of the process against him, and of all pleadings, depositions, testimony and other proceedings in the case. If the clerk neglects or refuses to furnish these, the petitioner may thereupon docket the case in the district court. Section 35 provides that the district court may then direct the clerk of the state court to deliver copies of the records. Section 36 provides that previous attachment bonds, undertakings and securities shall remain valid notwithstanding such removal.

*Duty of witnesses.* N. C. CODE ANN. (Michie, 1935) §1806 provides that "When any cause shall be removed from the superior court of one county to that of another, after the order of removal, deposition may be taken in the cause, and subpoenas for the attendance of witnesses and commissions to take depositions may issue from either of said courts, under the same rules as if the cause had been originally commenced in the court from which the subpoenas or commissions issued." N. C. CODE ANN. (Michie, 1935) §1807 provides for forfeitures by the witnesses in case of non-attendance.

It is to be noted that a subpoena may be issued from either the original court or the court of removal.

*Where there are several defendants.* In *State v. Lewis*, 10 N. C. 410 (1824), three defendants indicted in Wake County, trial of two removed to Franklin County, and third was tried in Wake. *State v. Mills*, 13 N. C. 420 (1828), three defendants indicted, trial of one removed to another county, trial of other two had in the county of the indictment. In *State v. Martin*, 24 N. C. 101 (1841), where three were indicted for murder in Anson and the trial of two of them was removed to Richmond, the court said "we have no doubt that where two are indicted, the trial of one only may be removed. However it may be in cases of dependent guilt, or although it may be in the discretion of the court to refuse a removal as to one, without all, yet in ordinary cases the court undoubtedly has the power to allow such a removal."

*Power to secure more perfect transcript.* When a cause is removed from one superior court to another, the latter may issue certiorari to the former directing a more perfect transcript to be sent. In *State v. Collins*, 14 N. C. 117 (1831), two transcripts were sent, one fuller than the other, certiorari issued to have a more perfect transcript certified. In *State v. Scott*, 19 N. C. 35 (1836), upon a motion in arrest of judgment for a defect in the transcript, the judge suspended judgment and ordered a certiorari for a more perfect record.

*Power to order amendment.* Transcripts of records sent from one court to another upon removal of a cause can be amended by the original records. It makes no difference at what time during the term the amendment is made. In *State v. Upton*, 12 N. C. 513 (1828), transcript omitted to state the name of the judge or of the grand jurors. A subpoena *duces tecum* ordered the clerk of first court to produce the original records and he was allowed to amend the transcripts to conform with the original. In *State v. Buckley*, 72 N. C. 358 (1875), the court said "it would be a serious obstruction to the administration of justice if transcripts sent from one court to another, sometimes loosely made up, could not be amended by the original record." In *State v. Underwood*, 77 N. C. 502 (1877), the judge of the court to which trial was removed allowed the clerk of court of the county of removal to amend the transcript from the original records, so as to show that the indictment was returned in open court. Where there is a defect in the record of the cause in the county from which it is removed, the proper course is to move amendment in that county and have the record brought up by certiorari. *State v. Swepson*, 81 N. C. 571 (1879); *State v. Surles*, 117 N. C. 721, 23 S. E. 324 (1895).

*Power to determine sufficiency.* The court to which the transcript of the record is sent is the sole judge of whether the transcript is properly verified by the seal

persisted as tenaciously in cases of removal after the criminal was caught as in cases of extending jurisdiction in order to catch him.

### III

#### THE PLACE OF THE CRIME IS THE PLACE OF PUNISHMENT

The constitution which gave the person accused of crime the right to be indicted by grand jurors drawn from the neighborhood and tried by petit jurors from the same territory, never gave him the right to pick his jail and jailer on the same principle. But similar reasons oper-

of the court from which it is sent, and all other courts are bound by its decision. *State v. Duncan*, 28 N. C. 236 (1846); *State v. Lambert*, 93 N. C. 618 (1885).

*Objections to removal and transcript.* The overruling of an objection to the transcript of the record cannot be assigned as error if the objector refused to specify in what respects the transcript was defective; especially, where there is no contention that the record is not sufficient to show that the court below had jurisdiction. *State v. Hassell*, 119 N. C. 852, 25 S. E. 812 (1896). An objection to the venue in that a case has been improperly removed from one county to another must be by a plea in abatement, not by a motion in arrest of judgment. *State v. Ledford*, 133 N. C. 714, 45 S. E. 944 (1903).

*Removal to federal court.* Federal Judicial Code, c. 3, §§31, 35 [N. C. CODE ANN. (Michie, 1935) Appendix 4] requires the clerk of the state court to furnish copies of the record and proceedings to the one petitioning for such removal. If such copies are refused by the clerk of the state court, the federal court may require such record to be supplied by a writ of certiorari, and proceedings and judgment may be had in the federal court as if certified copies of such records had been regularly before the court. Section 38 states that cases removed to the district court shall be proceeded in as if the suit had originally commenced in such court, and all proceedings taken in the state court had been had in such district court. Section 37 provides that if, in any suit removed to a district court, it shall appear to the satisfaction of the court that the case was improperly removed due to the lack of a controversy properly within the jurisdiction of the federal court, the court shall remove the cause to the court from which it was removed.

*Cf. CODE OF CRIMINAL PROCEDURE (Am. L. Inst. 1930) §261.* If the defendant is in custody, the order shall direct that he be forthwith delivered to the custody of the sheriff of the county to which the cause is removed.

*Cf. CODE OF CRIMINAL PROCEDURE (Am. L. Inst. 1930) §262.* The clerk shall enter of record the order of removal and shall transmit to the court to which the cause is removed a certified copy of the order of removal and of the record and proceedings and of the undertakings of the witnesses and of the accused, if any.

*Cf. CODE OF CRIMINAL PROCEDURE (Am. L. Inst. 1930) §263.* Where the cause is removed to another court the witnesses who have entered into undertakings to appear at the trial shall, on notice of such removal, attend the court to which the cause is removed at the time specified in the order of removal. A failure so to attend shall work a forfeiture of the undertaking.

*Cf. CODE OF CRIMINAL PROCEDURE (Am. L. Inst. 1930) §264.* If there are several defendants and an order is made removing the cause on the application of one or more but not all of them the other defendants shall be tried and all proceedings had against them in the county in which the cause is pending in all respects as if no order of removal had been made as to any defendant.

*Cf. CODE OF CRIMINAL PROCEDURE (Am. L. Inst. 1930) §265.* The court to which the cause is removed shall proceed to trial and judgment therein as if the cause had originated in such court. If it is necessary to have any of the original pleadings or other papers before such court, the court from which the cause is removed shall at any time upon application of the prosecuting attorney or the defendant order such papers or pleadings to be transmitted by the clerk, a certified copy thereof being retained.

ated in our early days to reach a similar result. In 1797 the legislature provided that "no person shall be imprisoned . . . except in the common jail of the county, unless otherwise provided by law."<sup>92</sup> The cost of confinement strengthened this notion of punishment at home as is shown by the statute requiring the county removing a case to an adjoining county for trial to bear the expense of the removal and trial.<sup>93</sup> Early types of punishment likewise conspired to encourage local punishments—pillory, stocks, whipping post, branding iron, etc.

The transition from purely local punishments began with the problem of imprisonment. In 1835 it was provided that prisoners might be committed to the jail of an adjoining county in cases where local jails had been destroyed<sup>94</sup> or had not been built.<sup>95</sup> In 1867 judges were authorized to sentence prisoners to work *on any railroad construction or other work of internal improvement in the state*.<sup>96</sup> In 1872 county commissioners were authorized to hire out prisoners to *any county* if the offense was punishable by imprisonment at hard labor for a year or more<sup>97</sup> and in 1874 this provision was broadened to include all persons convicted of any crime.<sup>98</sup> In 1933 the legislature reached the peak of county collaboration by permitting two or more contiguous counties to provide district jails.<sup>99</sup>

State entry into this hitherto local system of punishments began definitely with constitutional provision for a State Prison<sup>100</sup> and a State Board of Charities<sup>101</sup> in 1868. Pursuant to the Constitution of 1868 the legislature in 1869 provided for the erection of a central state prison.<sup>102</sup> In the same year it provided that in the future all of the more serious non-capital crimes were punishable by imprisonment in the state prison.<sup>103</sup> In 1870 it provided for the transfer to the state prison

<sup>92</sup> P. L. N. C. 1797, c. 474, N. C. CODE ANN. (Michie, 1935) §4517.

<sup>93</sup> P. L. N. C. 1889, c. 354, N. C. CODE ANN. (Michie, 1935) §1263.

<sup>94</sup> P. L. N. C. 1835, c. 2, §1, N. C. CODE ANN. (Michie, 1935) §1355.

<sup>95</sup> P. L. N. C. 1835, c. 2, §3, N. C. CODE ANN. (Michie, 1935) §1353 (when no jail exists, sheriff may imprison accused in jail of adjoining county); P. L. N. C. 1835, c. 2, §2, N. C. CODE ANN. (Michie, 1935) §1354 (when no jail exists, the courts may commit prisoner to jail of adjoining county).

<sup>96</sup> P. L. N. C. 1866-67, c. 30.

<sup>97</sup> P. L. N. C. 1872-73, c. 174, §10.

<sup>98</sup> P. L. N. C. 1874-75, c. 113.

<sup>99</sup> "Any two or more counties contiguous to one another or which lie in a contiguous group may enter into an agreement for the construction and maintenance of a district jail" or " . . . may also by agreement establish a jail already built, as a district jail." P. L. N. C. 1933, c. 201, N. C. CODE ANN. (Michie, 1935) §1317(a).

<sup>100</sup> N. C. CONST., art. XI, §3.

<sup>101</sup> N. C. CONST., art. XI, §7. (Board of Charities to supervise penal institutions.)

<sup>102</sup> P. L. N. C. 1868-69, c. 238.

<sup>103</sup> After listing the more serious, non-capital crimes, made punishable by imprisonment in the state prison, a blanket provision further provides that offenses

of prisoners already sentenced to county jails for twelve months or more.<sup>104</sup> Capital punishment which formerly was inflicted by hangings in the several counties by the local sheriffs was in 1909 transferred to the electric chair in the state prison under the supervision of the warden.<sup>105</sup>

Further expansion of this state prison system came with the establishment of the Jackson Training School in 1907<sup>106</sup> for children under 16; with the State Industrial School for Women in 1917;<sup>107</sup> with Morrison Training School for Negro Boys in 1921;<sup>108</sup> with the Eastern Carolina Training School in 1923 for white boys under 18;<sup>109</sup> with the Industrial Farm Colony for Women in 1927.<sup>110</sup>

Local control of punishment for crime receded further in importance when the legislature of 1931 required all prisoners in any county prison camp or in jail assigned to work on the county roads to be turned over to the State Highway Commission and all judges to sentence prisoners in the future to work under the State Highway Commission instead of under county supervision when the imprisonment was for sixty days or more.<sup>111</sup> Two years later state control was further broadened by extending the State Highway Commission's responsibility to all prisoners sentenced to terms of thirty days or more<sup>112</sup> with even the expense of transportation to the prison camp devolving on the state.<sup>113</sup> And this shift of local responsibility to the state goes on as economic factors inform the conscience of the court that sentences of less than thirty days become a financial burden to the locality which a slight increase in stringency of sentence may easily remove.

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punishable "with public whipping or other corporeal punishment, shall hereafter, in lieu of such corporeal punishment, be punished by imprisonment in the state's prison (or county jail) for not less than four months nor more than ten years." P. L. N. C. 1869, c. 167.

<sup>104</sup> P. L. N. C. 1870, c. 180.

<sup>105</sup> P. L. N. C. 1909, c. 443, §3.

<sup>106</sup> P. L. N. C. 1907, c. 509, N. C. CODE ANN. (Michie, 1935) §§7313-28. N. C. CONST., art. XI, §4, providing that "The General Assembly may provide for the erection of houses of correction, where vagrants and persons guilty of misdemeanors shall be restrained and usefully employed" was construed to refer to reformatories for youthful offenders, the court adding at p. 351 "We also are of the opinion that the power would exist without this provision of the Constitution, in the absence of a prohibition in that instrument." *In re Watson*, 157 N. C. 340, 72 S. E. 1049 (1911).

<sup>107</sup> P. L. N. C. 1917, c. 255, N. C. CODE ANN. (Michie, 1935) §§7329-43.

<sup>108</sup> P. L. N. C. 1921, c. 190, N. C. CODE ANN. (Michie, 1935) §5912.

<sup>109</sup> P. L. N. C. 1923, c. 254, N. C. CODE ANN. (Michie, 1935) §7362.

<sup>110</sup> P. L. N. C. 1927, c. 219, N. C. CODE ANN. (Michie, 1935) §7343 (d-aa).

<sup>111</sup> P. L. N. C. 1931, c. 145, §§26, 28, 30, 32, N. C. CODE ANN. (Michie, 1935) §3846 (19) (21) (23) (25).

<sup>112</sup> P. L. N. C. 1933, c. 39, N. C. CODE ANN. (Michie, 1935) §3846(25).

<sup>113</sup> P. L. N. C. 1931, c. 145, §33, N. C. CODE ANN. (Michie, 1935) §3846(26).

## IV

ONE SOVEREIGN WILL NOT ENFORCE THE CRIMINAL LAWS OF  
ANOTHER SOVEREIGN

This doctrine may be stated in many ways: North Carolina will not enforce the criminal laws of another state; her criminal laws stop at her boundary lines; she will not punish for crimes committed beyond her territorial limits. Pursuant to this doctrine North Carolina has refused to punish the accused: for counterfeiting her currency in Virginia,<sup>114</sup> for theft of a horse in Ohio,<sup>115</sup> for assault and battery in Tennessee,<sup>116</sup> for bigamy in South Carolina,<sup>117</sup> for murder in Tennessee,<sup>118</sup> for larceny in South Carolina,<sup>119</sup> for embezzlement in Georgia.<sup>120</sup> Where the legislature has sought by statute to extend its jurisdiction over crimes committed in adjoining states these statutes have been declared unconstitutional by the courts.<sup>121</sup>

This doctrine that sovereignty does not cross the boundary line has led to uncertainty, confusion and paralysis of the law when acts done in one state culminate in crimes in another state. The previously discussed case of the man standing in North Carolina and shooting across the state boundary to kill a man in Tennessee<sup>122</sup> is a local example of border line problems confronting every state and shows the uselessness of the law of extradition in such cases. North Carolina's corrective statute deals with this specific case. The American Law Institute in a preliminary draft proposed for adoption by all states a statute providing that "Any person who does an act within this state which culminates, or is one of a series of acts culminating, in the commission outside the state of an offense which is also an offense within this State may be tried for the offense in this State." Laws of this sort have been upheld as statutory extensions of common law jurisdiction. In 1934 efforts of the states to deal with borderline problems were facilitated by congressional enactment of the Interstate Compact Bill<sup>123</sup> providing: "That the con-

<sup>114</sup> *State v. Knight*, 1 N. C. 65 (1797).

<sup>115</sup> *State v. Brown*, 2 N. C. 100 (1794).

<sup>116</sup> *State v. Mitchell*, 83 N. C. 674 (1880).

<sup>117</sup> *State v. Cutshall*, 110 N. C. 538, 15 S. E. 261 (1891); *State v. Long*, 143 N. C. 670, 57 S. E. 349 (1907); *State v. Ray*, 151 N. C. 710, 66 S. E. 204 (1909), *overruling State v. Long*, 143 N. C. 671, 57 S. E. 349 (1907); see *State v. Moon*, 178 N. C. 715, 100 S. E. 614 (1919).

<sup>118</sup> *State v. Hall*, 114 N. C. 910, 19 S. E. 602 (1893).

<sup>119</sup> *State v. Buchanan*, 130 N. C. 660, 41 S. E. 107 (1902).

<sup>120</sup> *State v. Blackley*, 138 N. C. 620, 50 S. E. 310 (1905).

<sup>121</sup> *State v. Knight*, 1 N. C. 65 (1797); *State v. Cutshall*, 110 N. C. 538, 15 S. E. 261 (1891); *State v. Ray*, 151 N. C. 710, 66 S. E. 204 (1909).

<sup>122</sup> *State v. Hall*, 114 N. C. 910, 19 S. E. 602 (1893).

<sup>123</sup> 48 STAT. 909 (1934), 18 U. S. C. A. (1935) §420. Dean, *The Interstate Compact—A Device for Crime Repression* (1934) LAW AND CONTEMPORARY PROBLEMS, 460, 462.

sent of the Congress is hereby given to any two or more states to enter into agreements or compacts for coöperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts." But neither constitutional extensions of the common law jurisdiction of the states, nor federal legislation enabling them to enter into compacts with each other—transcending as it does in part the notion that one sovereign will not enforce the criminal laws of another sovereign, goes far enough.

A motor vehicle stolen within the limits of any North Carolina town is at once a problem with which the town policeman, the township constable, the county sheriff, and the state patrolman are called upon to deal. As this stolen car speeds across county lines and state boundaries, local and state officers cannot keep pace with the thief under common law limitations of their arresting power, under its statutory extensions, under the power of fresh pursuit, or under the most effective coöperation of officials in adjoining governmental units aided by modern means of communication. They need the help of law enforcing officers who are at least as free to cross state lines as the fleeing criminal. This help was made available by the passage of the National Motor Vehicle Theft Act.<sup>124</sup> It has been extended to other situations where conflicting sovereignties and jarring wills have too often left states helpless to help themselves as: in the transportation across state lines—of women for immoral purposes,<sup>125</sup> of stolen property valued at \$5,000 or more,<sup>126</sup> of extortion messages,<sup>127</sup> of kidnapped persons,<sup>128</sup> etc. Where these federal statutes coincide with state laws it may perhaps be said that two sovereignties are working toward the same end; but it can hardly be said they violate the ancient and deeply rooted doctrine that one sovereign will not enforce the criminal laws of another sovereign.

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Thus the common law of crime, coming with the colonists from a closely knit England, adapted in the eighteenth century to the needs of scattered settlements reaching westward from the Atlantic seaboard, adapted again in the nineteenth century to the needs of communities woven by railroad, telegraph and telephone into a connected commonwealth, is being adapted in the twentieth century to the needs of a state which is reaching out by railway, highway and airway into interlocking

<sup>124</sup> 41 STAT. 324 (1919), 18 U. S. C. A. §408 (1927).

<sup>125</sup> 36 STAT. 825 (1910), 18 U. S. C. A. §398 (1927).

<sup>126</sup> 48 STAT. 794 (1934), 18 U. S. C. A. §§413-419 (1935).

<sup>127</sup> 48 STAT. 781 (1934), 18 U. S. C. A. §408d (1935).

<sup>128</sup> 48 STAT. 781 (1934), 18 U. S. C. A. §§408a *et seq.* (1935).



relationships with other states and sections. Crime as local is a product of days when most things were local. It originated in the practical necessities of governmental administration and the convenience of officials responsible for keeping the peace. It developed into safeguards protecting accused persons from the arbitrary exercise of autocratic power. It overreached itself as these safeguards of the liberties of citizens became open thoroughfares for escaping criminals and the state was caught in the net it had woven for the violators of its laws. But it has not outlived its usefulness. Local law enforcing officers still keep the peace of the states and the United States. Without their help federal law enforcing officers would be as helpless to enforce federal criminal laws in all their local impacts as local law enforcing officers alone are helpless to enforce their own state laws in all their national implications. The federal government in entering this unoccupied territory is not stepping on the toes of state and local governmental units—it is standing on their shoulders. Federal, state and local units are not frustrations but fulfillments of each other. National criminal laws furnish procedural opportunities for federal, state and local agencies to unite their several efforts in the control of crime which is no less national in its significance because of its local origins.