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Foreward

Henry H. Foster Jr.

University of Nebraska College of Law

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FOREWARD

The two basic values of society are freedom and security. The administration of criminal law is the area of social control which most immediately and intimately impinges upon and reflects the compromise reached between these two interests. The liberty of the individual and the security of society must be weighed and considered before an intelligent appraisal can be made as to the efficacy of criminal law. In our time, security is deemed to be a means to the end of freedom, and the most essential security is the security of our freedoms. In a democratic society, the highest value is a freedom qualified by the imperatives rather than the expediencies of security.

Our substantive criminal law and procedure, if it is to be adequate, must keep abreast of and reflect the values of our time and place, or as Professor Hall puts it, the ultimate objective of criminal law must be the maintainance of the "conditions of civilization." More than that, as he points out, we should have a sound coherent policy of the criminal law and "use sound ways of discovering and appraising the relevant empirical knowledge." Scientists and social scientists and their techniques must be consulted and used if we are to have a just and adequate criminal law and minimize the lag between science and law. The sociologist and the criminologist can give us added insight into what law in action does and fails to accomplish, and whether accepted objectives are being furthered or frustrated. This, to me, is the gist of Professor Hall's article. Comments in this issue dealing with the *Nebraska Statutory Revision of Punishment of Sex Offenders*, *Strict Liability Crimes* and the *Individualized Treatment of Criminal Offenders*, bring into sharp focus the cogency of Professor Hall's analysis.

Professor Remington, in discussing the need for revision of criminal statutes and methods of revision, speaks from the vantage point of a draftsman of a criminal code, having participated in the preparation of a new criminal code for the State of Wisconsin. His presentation of the arguments for and against the alternatives of "piecemeal" revision or codification illuminates the practical problems involved. The need for revision is made out and the argument for the method of codification is convincing. Nebraska's experience with the "piecemeal" technique is illustrated in the comments dealing with *The False Pretenses Statute in Nebraska, Criminal Law—Homicide—Prosecutions for Motor Vehicle Homicide*, and *Criminal Law—Homicide—Is a Purpose or an Intent an Indispensible Element of Murder in Nebraska?*

Professor Moreland's article on the law of arrest is particularly timely and apt due to the inadequacies in the law of arrest that prevail in Nebraska. These deficiencies are pointed out in the comment on

Problems of Arrest Without a Warrant in Nebraska. Here, indeed is an area which calls for legislative action so that medieval law may be modernized to comport with the actualities of mechanized crime.

Some significant problems of criminal procedure are also discussed in this issue. The *Nature and Consequences of the Plea of Nolo Contenders*, recently provided for in Nebraska, *Extra Judicial Confessions—Sufficiency of Corroboration*, and *Habeas Corpus—Coram Nobis—Remedies Available to Validly Sentenced Prisoners who are Mistreated by State Penal Authorities*, are subjects for comment.

It is hoped that this symposium will be stimulating and provocative. In devoting an entire issue to criminal law, emphasis is placed on a somewhat neglected field. Although it may be true that "this interest in criminal law is rooted in the traditions of the American bar," the average practitioner gives insufficient attention and thought to a sound administration of criminal justice. It is most important that the public and especially lawyers consider the social and legal problems involved so that there is an approximation to justice in criminal law. For there is no area of law which is more important to society and to the individual than that which we call criminal law. Human liberty is at stake, the security of society hangs in the balance. Moreover, to a great extent the public evaluates and judges law and lawyers by the rules and procedures which prevail in our criminal courts. Because of this responsibility and self-interest, lawyers should ponder some of the problems raised and perhaps afford leadership in minimizing the lag between science and criminal law.

HENRY H. FOSTER, JR.*

* Professor of Law, University of Nebraska College of Law, instructor in the class in criminal law.