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## Editorial

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# Journal of the American Institute of Criminal Law and Criminology

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## EDITORIALS

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### ROBERT RALSTON.

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By the death of Judge Ralston, the community loses one of its best treasures and the Institute one of its most faithful and influential supporters. Among the judges of this country, his example is, alas! only too rare. If even a substantial part of the whole body of judges were to apply their intelligence, each according to its measure, to the study of the science of their own business as he did, our criminal justice would soon cease to be a reproach to civilization. Judge Ralston never attempted to exercise upon others the jealous measures of a missionary, nor assumed the role of a preacher of a new panacea; but his example spoke most forcibly his convictions as to the true activities of a criminal judge in bettering the standards of his court. His invincible modesty was a barrier to the complete recognition which the nation owes to him as the example of a criminal judge of today. We commend to all his colleagues on the bench throughout the country the study of his labors in the discharge of that office.

In paying tribute to his worth as a magistrate and as President of this Institute, the officers of the Institute place on record here, for the edification of all, the following Minute of the Proceedings of the Bar Association of Philadelphia.

JOHN H. WIGMORE.

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The members of the Bar of Philadelphia, on this twenty-seventh day of January, 1916, desiring to express the bereavement sustained by them and by the community by the death of

THE HONORABLE ROBERT RALSTON,

on Saturday, the twenty-second day of January, 1916, in the City of Philadelphia, place upon record this "Minute" of their appreciation of his life, character and services:—

#### MINUTE

Robert Ralston was born in the City of Philadelphia, March 11, 1863, his father being Francis William Ralston and his mother Elizabeth Caldwell Meredith, a daughter of William Morris Meredith,

Secretary of the United States Treasury, under General Taylor, and Attorney General of Pennsylvania, during Governor Curtin's administration; a man for many years, the leader of the Bar of Philadelphia and Pennsylvania, of whom it was said, his "character and personality contained elements of greatness, transcending those found in other men, who were recognized as able and brilliant lawyers." A man, who for more than half a century, had honored and illumined the Bar, possessing vast intellectual powers and capacities, so marked and striking, as to make him the most commanding and distinctive figure of his time; a man of true greatness, who always maintained the independence and dignity of the Bar.

Judge Ralston obtained his early education at the Episcopal Academy, Philadelphia. At the age of fifteen years, he secured a clerical position with the "Pennsylvania Railroad" and later with the "Reading Iron Works." Having studied stenography and typewriting, he entered the law offices of C. Stuart Patterson, Esquire, later also studying in the offices of Richard L. Ashhurst, Esquire, and attending the Law School of the University of Pennsylvania, where in his first year, he won the "Faculty Prize," for the best examination, and in his second year, the "Sharswood Prize" for the best essay of his class.

Graduating in June, 1885, he was at once admitted to practice in the County Courts, soon commanding the respect of the Bench and the admiration of his brother advocates. Later, when admitted to the Supreme Court, he entered the offices of Francis Rawle, Esquire.

In 1892, seven years after his admission to the Bar, he was appointed as first assistant of the United States District Attorney, later becoming chief-assistant of District Attorney, James M. Beck.

From 1893 to 1895, he was Lieutenant of Company F. Third Regiment of the National Guard of Pennsylvania, becoming its Colonel in 1895, serving with great credit in the Spanish American War and continuing in command, until he was appointed to the Bench, on March 7, 1901—being sworn in upon his birthday, March 11, 1901. On November 5, 1901, he was elected for the full term of ten years and re-elected for a succeeding term of ten years on November 7, 1911.

Robert Ralston was a man of masterful spirit, of a well-disciplined mind, who could wear the robe of the scholar and of the Judge, as well as the uniform of the soldier and the garb of the trained athlete, wearing each, in turn, with equal dignity and a sense of responsibility for an honest and faithful performance of the duties of each position. He was a man of deep affections, aggressive, in defense of a principle, in which he believed, but a man of humility, when he was conscious

of an unintentional wrong inflicted upon another, and ever ready to apologize and make atonement for the same.

As a Judge, especially when engaged in the trial of a homicide case, he was a model of "impartial and passionless presentation" in marshalling the facts and in explaining the principles of the law involved in the case. He was never fettered when required to be Judicial in action. His most conspicuous work has been upon the bench, in the Criminal Court, where he made an exhaustive study of "Capital Cases," his rulings upon evidence and his charges, showing his ability to pick out principles with dexterity, so that his deep study and unerring grasp of the "Criminal Laws," with the fine distinction drawn by him between different degrees of murder, won him recognition throughout the country.

Read his charges in the one hundred and eleven homicide cases, beginning October 30, 1901, in the case of *Commonwealth v. Albert Abbott* and Jacob Wagner and ending December 14, 1915, in the case of Giovanni Ferrieri, and you will find them models of cogent and logical presentation. You will be ready to conclude that in this most important and responsible branch of Judicial service, he has probably never had his superior and that no Judge was ever endowed with greater capacity for an intelligent understanding of the duties of such a high office or more fully equipped for their performance.

Robert Ralston was never a man who sought to free himself from "the dreary drudgery of detail." He evidenced this by the laborious care taken by him, in the preparation of his able "Papers:"—"Remarks upon Charging Jury in Trial for Murder" (Volume II, Pa. Bar Association Reports, pp. 262 to 276, inclusive), and "The Delay in the Execution of Murderers (Volume 17 *ibid.*—259 to 296) with the supplemental tabular statements of results in 347 cases in Pennsylvania, and of the law, in all the States and Territories." Surely he was a master of analysis and a born tabulator of the application of legal principles. Judge Ralston "by invitation" sat in an advisory capacity in the trial of numerous homicide cases by other Judges.

His editorial work on "Mitchell on Real Estate," "Adams on Equity" and "Garland and Ralston's Federal Practice," together with his specializing on the "Law of Homicide" gave him a National and even an international reputation among members of the legal profession. He became a member of the Pennsylvania Bar Association in 1902, becoming a member of its "Committee on Law Reform in

1907, and the Chairman of this important Committee in 1915, succeeding the late William U. Hensel. As such Chairman he was engaged in the work of the Committee at the time he contracted his last illness.

At the annual meeting of "The American Institute of Criminal Law and Criminology," at Washington, D. C., in October, 1914, he became its President.

Judge Ralston's latest contribution to the profession, is "The New Practice Act of 1915," which will always be known as "The Ralston Act." He was an absolutely fearless man. Moral and physical fear never deterred him in the performance of Judicial duty. His appearance was commanding, his manner gracious, and his courtesy that inherited from an honorable ancestry.

He was an affectionate man, considerate with his associates and untiring in his labors.

The Bar of Philadelphia has lost an eminent member, the Bench a learned, laborious and lovable associate and the Commonwealth a most faithful official servant.

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#### ADMINISTRATION OF ADULT PROBATION IN COOK COUNTY, ILLINOIS.

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The Illinois legislature in its last session amended the adult probation law of the state, making it incumbent upon the judges in criminal cases to order the probation officers to make an investigation of each offender who seeks the benefit of this law, and to report the results of their investigation to the court as a preliminary to deciding the question of probationary release.

Certain exceptions to this requirement are stated in the following quotation from the law, which covers the point referred to above:

"Before granting any request for admission to probation, the court shall require the probation officer to investigate accurately and promptly, the case of the defendant making such request, to ascertain his residence and occupation and whether or not he has been previously convicted of a crime or misdemeanor, or previously been placed on probation by any court and the court may, in its discretion, require the probation officer to secure in addition, information concerning the personal characteristics, habits and associations of such defendant, the names, relationship, ages and conditions of those dependent upon him for support and educa-

tion and such other facts as may aid the court as well in determining the propriety of probation, as in fixing the conditions thereof.

"Provided, that in cases of a violation of 'An Act to provide for the punishment of persons responsible for or directly promoting or contributing to the conditions that render a child dependent, neglected or delinquent and to provide for suspensions of sentence and release upon probation in such cases,' or of 'An Act making it a misdemeanor to abandon or willfully neglect to provide for the support and maintenance by any person of his wife, or of his or her minor children, in destitute or necessitous circumstances,' the court may admit the defendant to probation without the preliminary investigation required by this section.

"Orders granting or refusing release on probation shall be entered of record. Application for release on probation may, in the discretion of the court, be granted if it shall appear to the satisfaction of the court both that there is reasonable ground to expect that the defendant may be reformed and that the interests of society shall be subserved. If such application is granted, the judge granting the same shall thereupon enter an order continuing the cause for a period not exceeding six months in cases of violation of a municipal ordinance and not exceeding one year in the case of other offenses, and shall by such order fix and specify the terms and conditions of the probation of such defendant as herein provided. A cause continued pursuant to the provisions of this Act shall be deemed subject to the jurisdiction of the court in which it is pending, or any judge thereof, for the full period of its continuance, during which time orders may be entered with respect to the conditions of probation, or final sentence imposed without the formal setting aside of such order of continuance."

(Laws of Illinois, 1915, p. 379.)

This makes the duty of the court, in the matter of investigations, perfectly clear. Nevertheless the January Grand Jury, investigating the operation of the law, discovered that during the month of December, 1915, 306 adults were admitted to probation in Cook county, and that of these the officers were required to investigate only 120. This means that 186 were admitted to probation during that month without a preliminary investigation by probation officers—without an order having issued for such investigation. A number of these 186, no doubt, were persons to whom the provision of the law relating to investigation by probation officers does not apply. (See the law quoted above). It is safe to say that, after such deductions have

been made, there are 50% of probationers who, contrary to the letter and spirit of the law, were not investigated in the manner defined. Yet there is an inclination in the Grand Jury, and among others too, to blame the probation system when the 186, or any portion of this group, are found outside the straight and narrow way. Such an attitude is not a creditable one. The administration of the law by the courts is intolerable. By no stretching of the imagination can we say that we are giving a fair trial to the law, when 50% of probationers are not brought under its provisions. In the circumstances its repeal, or its amendment, would be an exhibition of the poor workman quarrelling with his tools.

ROBERT H. GAULT.