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Editorials

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EDITORIALS

A CRIMINAL LAW SECTION FOR THE AMERICAN BAR ASSOCIATION

The American Bar Association has at last taken up its share of the burden of the crime problem. At the last annual meeting, held in St. Louis on August 25-27, 1920, it organized a Criminal Law Section as a regular part of the activities, and elected as the chairman of the Section Hon. Ira E. Robinson, former President of the Institute of Criminal Law and Criminology and former Chief Justice of the West Virginia Court of Appeals.

The Section was organized under the new Constitution of the American Bar Association, adopted at the annual meeting in Boston in 1919. During the 40 years of its existence the Association has never had a standing committee on criminal law. The new constitution provided for allotting the work of the association among several sections, and the field of criminal law was assigned to one of these sections. Each Section has its own by-laws, and holds its own sessions at the time of the annual meeting of the Association. Each Section also elects a council of its own to formulate the Section's program of work.

The Section elected the following members of the Council for 1920-21: Chairman, *Ira E. Robinson*, of Charlestown, W. Va.; Vice-Chairman, *William O. Hart*, of New Orleans, La.; Secretary and Treasurer, *Edwin M. Abbott*, of Philadelphia, Pa.; Council, *Roscoe Pound*, of Cambridge, Mass.; *John G. Buchanan*, of Pittsburgh, Pa.; *Frank G. Drenning*, of Topeka, Kan.; *W. H. Clifton*, Aberdeen, Miss.; *F. B. Crossley*, of Chicago, Ill.; *Lawrence McDaniel*, of St. Louis, Mo.; *Earl C. Arnold*, of Cincinnati, Ohio; and *Thomas J. O'Donnell*, of Denver, Colo.

The meeting of the Section was called to order by Edwin A. Abbott, Esq., of Philadelphia, as temporary chairman, who delivered a comprehensive address, entitled "Modern Movements in Penal Law." A Committee on By-Laws was then appointed, with John H. Wigmore, Esq., former President of the Institute, as chairman, and a Committee on Nominations, with Hon. John P. Briscoe, of Baltimore, former president of the Institute, as chairman.

After the adoption of the by-laws reported by the committee, Mr. Wigmore proposed the adoption of the following resolutions, as defining the scope of the work of the Section:

Resolved: 1. Inasmuch as the Section of Criminal Law undertakes by its by-laws to study, discuss, and formulate measures in the field of substantive criminal law, procedural criminal law, and the practical administration of justice in the criminal courts and related topics; that for this purpose the Section appoint two standing committees, to report at the next annual meeting; one on the substantive law of crime and the other on criminal procedure;

2. That the Section recognizes the importance of combining the studies and efforts of the legal profession with the sciences of sociology, penology, psychology, medicine, psychiatry, and criminology in general, and of co-operating with the representatives of those branches for the purpose of reaching practical solutions of the crime problem; and for this purpose it declares itself to be ready to co-operate at all times with the American Institute of Criminal Law and Criminology, and with its allied associations and its committees; and the Section will appoint a standing committee on co-operation with the Institute of Criminal Law and Criminology."

On behalf of these resolutions, Mr. Wigmore offered the following remarks:

"The *first* statement to be made in support of these resolutions is to call attention to the circumstance that several branches of science, with the related professions, are all concerned in one or another aspect with the criminal problem; and that the law to the legal profession represents only a part of the interest involved. Of course, all the various practical measures proposed for the solution of the crime problem are likely to end ultimately in some measure of law; and, therefore, in a sense, the law is the bottle neck in which all of the efforts of the other professions and sciences have to pass sooner or later. Nevertheless, each of these other professions or sciences regards as very important its relation to the crime problem; and the only fair attitude on the part of all is that of joint, deliberative co-operation for the purpose of reaching solutions in which each has contributed its part.

"Such was the object of the American Institute of Criminal Law and Criminology, founded in 1910, at a national conference consisting of one hundred and fifty delegates representing all the various interested professions. The Institute has, since that time, published a Journal, and in the Journal can be seen the great variety of data which

contribute to the solution of the crime problem. Therefore, the Section of Criminal Law of the American Bar Association should take its part as an active contributor and co-operator with these other professions or sciences.

"The *second* statement that may be made is that the natural field for the legal profession, in thus contributing its share, is restricted to the subject of crimes, and of criminal procedure. They will then be doing what the medical men do with their medical studies, the psychologists with their psychological studies, and so on.

"The substantive law of crimes is in a condition which is anything but creditable to the criminal law as an expression of intelligence. The subject of criminal procedure is one upon which there is much popular sentiment and also much professional legal experience; but very little systematic study. It is not possible to find on record today any trustworthy data, e. g., as to how the abolition of the grand jury has operated in certain States, or how the less than twelve verdict of any jury has worked in other States.

"The *third* statement that ought to be made here is that the legal profession thus far has a humiliating record of shame for its indifference to the progress of criminal law and procedure. The American Institute of Criminal Law and Criminology has tried for ten years, but has tried in vain, to find an active committee of ten or twelve qualified persons from the legal profession to study and formulate the needs of improvement in criminal procedure. The professors of criminal law in the universities publish little or nothing in the way of research on their subject. The judges and the state's attorneys apparently have little interest in anything but jogging along in the old ruts; out of twenty-five hundred letters which I recently signed personally and sent to state's attorneys inviting their interest in the Journal of Criminal Law only one hundred and seven subscriptions were received in answer; and out of twenty-five hundred letters which I personally signed and sent to trial judges inviting their interest to the same Journal, only twenty subscriptions were received in answer. And the plainest demonstration of professional lack of interest is seen in the fact that the American Bar Association, from the day of its founding, and for more than forty years, never even had a standing committee on the subject of criminal law and procedure. It was not until the year 1919 that this Association took the slightest recognition of the field of criminal law and procedure.

"The record is one of shame, which ought to humiliate us. I wish to repeat, with emphasis, that this record is shameful to our profession.

"If we experience the proper sense of shame, we shall therefore be ready with a will to make this Section of Criminal Law an active and useful one. We have a long record of indifference and inefficiency to make up for.

"That is why this Section of Criminal Law may be welcomed as an evidence that the American Bar Association is ready to devote itself to a natural duty which has long remained unfulfilled."

The resolutions were unanimously adopted.

Judge Robinson has accepted the chairmanship of the Section, and this presages an active and useful beginning for the work of the Section.

It is worth suggesting that Professor Millar's Report of the Institute's Committee on Criminal Procedure, printed in the present number of the Journal, may furnish a convenient basis for the work of the Section's committee during the coming year.

TWELFTH ANNUAL MEETING OF THE INSTITUTE

We publish in this number the papers and reports that were presented at the Twelfth Annual Meeting of the American Institute of Criminal Law and Criminology in Indianapolis, Indiana, September 16 to 18.

From the point of view of the program and interest in it as demonstrated by the discussions it called forth, the meeting was highly successful.

Article 5, section 2, of the constitution of the Institute was amended at this meeting in accordance with the recommendation of the Executive Board, made April 7, 1920. The section, as amended, provides that the Executive Board shall be composed of twelve members, each elected for a term of three years—four each year. The Secretary, the Treasurer, the Managing Editor and the Managing Director of the JOURNAL, the President and Vice-President, as heretofore, are *ex officio* members of the Board. Each retiring president of the Institute continues as a member of the Board *ex officio*, but only during the term of his successor. Heretofore each past president has been *ex officio* a member of the Board.

The following officers were elected:

Vice-Presidents—

Professor E. R. Keedy, University of Pennsylvania, Philadelphia.
Hon. Quincey A. Myers, Indianapolis.
Dr. Herman M. Adler, Chicago.

Secretary—

Professor Robert H. Gault, Northwestern University, Evanston, Ill.

Treasurer—

Bronson Winthrop, New York City.

Members of the Board for the Term Beginning 1923—

Professor Herbert Harley, Northwestern University, Chicago.

Amos W. Butler, Secretary, State Board of Charities, Indianapolis.

Hon. Edward Lindsey, Warren, Pa.

Dean John H. Wigmore, Northwestern University, Chicago.

MINUTES OF THE MEETING OF THE EXECUTIVE BOARD
OF THE INSTITUTE, HELD IN INDIAN-
APOLIS, SEPTEMBER 18, 1920.

A meeting of the Executive Board of the Institute was called to order in the Claypole Hotel at 11 o'clock on September 18, 1920. There were present the following:

President Hugo Pam	Dr. F. Emory Lyon
Professor Robert W. Millar	Dr. Herman M. Adler
Professor Herbert Harley	Mr. Amos W. Butler
Mr. Burdette Lewis	Col. Henry Barrett Chamberlin
Judge Edward Lindsey	Robert H. Gault
Hon. Quincy A. Meyers	

The first matter of business was the consideration of a meeting place for a year hence. Dr. John R. Oliver of Baltimore presented the advantages of Baltimore as a meeting place. Professor Herbert Harley spoke of the advantages of Detroit. Others spoke of the desirability of meeting in Chicago. After some discussion a motion was duly made and seconded, and it was ordered that this question be held over until the next meeting of the Board, which will take place within the month of October in Chicago.

Consideration was then given to the resolutions adopted at the recent joint conference of the American Association of Public Officials and the National Conference for the Education of Backward, Truant, Delinquent and Dependent Children, and after prolonged discussion, on motion duly made and seconded, it was ordered that this matter be referred to a committee of lawyers, who should meet and reach a decision upon the question involved. The resolution referred to follows:

"WHEREAS, It has been held in several states that the courts are not vested with sufficient power to authorize them to commit for institutional care and treatment persons adjudged in danger of becoming insane, nor of such authority in the cases of feeble-minded persons, epileptics, and other mentally unstable; and

"WHEREAS, Court action taken in accordance with such decisions seri-

ously interferes in many cases with the necessary care and treatment of persons suffering from such afflictions; be it

Resolved, That the American Bar Association and the American Institute of Criminal Law and Criminology be and they are hereby requested to take cognizance of this situation, investigate and report thereon, and if in the judgment of the members of such bodies who are constitutional lawyers the necessary power cannot be obtained without the amendment of the Constitution of the United States, the said Bar Association and the American Institute are requested to draft a form of amendment which, if finally adopted, will authorize our courts to assume jurisdiction over such afflicted persons when deemed necessary for their protection and benefit or for the public welfare."

The committee appointed to study the foregoing resolution and to report at the next meeting of the Executive Board is as follows:

Judge Hugo Pam, *ex officio*.
 Judge Quincy A. Meyers, Indianapolis.
 Professor Edwin R. Keedy, University of Pennsylvania.
 Judge Edward Lindsey, Warren, Pennsylvania.
 Mr. Burdette Lewis, Trenton, New Jersey.
 Professor Robert W. Millar, Northwestern University.
 Professor Herbert Harley, Northwestern University.

The president, on motion duly made and seconded, appointed the following committee to draw up appropriate resolutions relating to the life and work of our late colleague and former president, the Honorable John B. Winslow of the Supreme Court of Wisconsin:

Hon. Quincey A. Meyers, Indianapolis.
 Professor Robert W. Millar, Northwestern University.

The Secretary was instructed to transmit a copy of the report of this Committee on Resolutions to the family of Judge Winslow, to the Supreme Court of the State of Wisconsin, and to publish the same in the JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY.

There being no further business, the meeting adjourned.

MEMORIAL

John Bradley Winslow was born in Livingston County, New York, Oct. 4, 1851, and died July 12, 1920. His family early removed to Racine, Wisconsin. He became Judge of the First District of Wisconsin in 1884 and served upon that bench until 1891, when he became Justice of the Supreme Court of Wisconsin and continued in that service until his death. Since May, 1894, he served as Chief Justice of that court. He was the third president of this institute, vitally interested in its purposes and efficient in advancing its interests. He

was one of the ablest men of his generation, a profound lawyer, a distinguished jurist, a most genial gentleman, and a whole-souled American. Notwithstanding his politics, a Democrat, he was repeatedly chosen to public place by a strong Republican electorate. We shall miss his kindly and humorous reflections, always pointed, and this Institute loses a sincere and efficient advocate; his state and the nation a great judge; his family a kind and affectionate husband and father. Judge Winslow always had opinions and expressed them with vigor and influencing argument, and we present this memorial, a wreath of mignonette, as of a savor of sweet memory of him.

QUINCEY A. MYERS,
EDWARD LINDSEY,
HERBERT HARLEY,
Committee on Memorial.

September 18, 1920.