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Briefer Contributions: Report of the Medico-Legal Committee

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REPORT OF THE MEDICO-
LEGAL COMMITTEE*

OF THE SECTION ON CRIMINAL LAW
AND CRIMINOLOGY OF THE AMER-
ICAN BAR ASSOCIATION

In its statement a year ago this Committee reported that it had made a survey of topics which presented problems for study within its field. Among those mentioned were the following: Narcotic Addiction, Crime and Psychic Inferiority, Medical Evidence, Eugenic Sterilization, Euthanasia, the Coroner, and Medico-Legal or, as the Committee prefers to call them, Criminologic Institutes. After a brief discussion of those topics the Committee designated the Criminologic Institute for immediate study. In its work the Committee has had helpful suggestions from the Committee on Medico-Legal Problems of the American Medical Association. The members of that Committee are Doctors H. Douglas Singer, Winfred Overholser, William C. Woodward, Ludvig Hektoen and William J. Stapleton, Jr. Acting on the recommendation of that Committee, the American Medical Association, through its Board of Trustees, has approved of the establishment of Criminologic Institutes, and has authorized the Committee on Medico-Legal Problems to take action to promote their establishment.

In the United States, as well as in other English-speaking countries, investigations into the cause of death are generally conducted through the office of the coroner. In most juris-

dictions of this country coroners are elective officers. In some only physicians are eligible to the office but no knowledge which would specially equip the incumbent for his office is required. Only in a few jurisdictions, notably in Massachusetts and in the City of New York, where the medical examiner system prevails, have the laws been sufficiently changed to make modern institutions of that office. But even in those jurisdictions the investigatory work performed by the examiner is narrow in scope and there is need for institutions which would give scientific aid to investigations and studies in various fields.

Detection of crime and conviction of criminals is one of the major problems of the day. Yet in many cases we are compelled in meeting it to go into action with antiquated and rusty weapons. One has but to study the personnel and the *modus operandi* of the coroner's office and then to read and compare the illuminating chapter by Hans Gross on "The Expert and How to Make Use of Him," in his work "Criminal Investigation" (Adam's transl., 1924, pp. 103-196) vividly to perceive what a gulf there exists in crime detection between what is and what might be. Experiences abroad, as well as a more limited experience in this country, show what science can do to aid in criminal investigations.

When a dead body is found many complicated questions are likely to arise. How came the person to his death? Whose corpse is it? Does the case involve suicide, accident or homicide? Immediate investigations by experts are necessary to the end that intelligent and efficient use be made of what clues there are. This can be done only by individuals specially trained. The job may call

*Report made by Albert J. Harno, Chairman of Medico-Legal Committee of section on Criminal Law and Criminology before American Bar Association.

for pathologists, toxicologists, microscopists, chemists, bacteriologists, pharmacologists, and others. The case may require an analysis of stains, or an investigation of the presence or the absence of poison or a study to determine whether pre-existing disease or injury caused the death, or a comparison of the relation between a given bullet and a given wound. It is needless to state that, with note-worthy exceptions, the coroner's office is not equipped to take over these tasks. What is more, the coroner investigates only into causes of death where it has occurred under suspicious circumstances. Science, when properly called into action, can give aid, not only in this field, but also in cases involving rape, abortion, attempted poisoning, assaults, sodomy, sexual perversion, forgery, arson, burglary, bombing, and, in fact, in most all cases where problems of criminal investigation are involved. For scientific investigations of this sort the state ordinarily has made no provision.

The question presented is how to change and improve the existing order so as to make use of science and of expert knowledge. The problem is two-fold. It involves, first, providing technical staffs to aid the criminal investigator, and secondly, giving the investigator sufficient training so that he will know what expert to call and when to call him. As to the latter Gross has well said (*loc. cit.* p. 103) it is "important for the investigating officer to know just whom he ought to apply to; i. e., what kind of expert he ought to select"; and moreover, Gross goes on to say, the investigator "must know what the expert is capable of telling him in each case, that is to say, where his knowledge begins and what are the natural limits to

it." He cites a case where an officer desired to know whether a blood stain on a piece of cloth was that of a boy or a girl, and another where an officer took a stove to pieces and sent it, carefully packed, to a chemical examiner with a request to know whether bank notes had been burned in it or not. Finally, the investigator must know the value of evidential material, and what to preserve and what to hand to the scientist for examination.

As to staffs of experts to aid the investigator, experience has shown that these can best be provided if they are parts of an institution. If such institutions were to be established in this country they could offer scientific aid of great value to coroners, medical examiners, prosecutors, courts and police. To function best they probably should become part of the machinery of criminal justice. It would be preferable to establish here, as they have been founded abroad, institutes supported and controlled by the state. An institute so organized could serve the various law enforcing agencies throughout the state. Such an agency established by the state would in no way interfere with similar organizations established by such municipalities as can afford them. The equipment and staff of a state institute would be available alike to the municipalities and counties of the state.

A state Criminologic Institute could thus serve the whole state in its criminal investigations. When properly conducted it could be a factor in the prevention as well as the detection of crime. It likewise could aid in contributing toward the training of the police and other investigating officers to the end that they would be able to deal more efficiently with evidential material.

In recommending that steps be taken to establish such institutes in each of the several states, the Medico-Legal Committee of the American Medical Association stated that such action "would be in the interest of good government."

Believing that the establishment of such institutes would be a most important step leading to improved methods in the detection of crime and in the punishment of criminals, your Committee *recommends* that the Section on Criminal Law and Criminology recommend to the

American Bar Association that the Section be authorized to take action to promote the establishment of Criminologic Institutes under state supervision, and that it be authorized to cooperate in this work with the Committee on Medico-Legal Problems of the American Medical Association. Further it recommends that the Committee be continued for one year.

ARTHUR V. LASHLY,
HERBERT G. COCHRAN,
ALBERT J. HARNO, Chairman.

September 2, 1931.