

AMERICAN LAW INSTITUTE HOLDS FOURTH ANNUAL MEETING

Impressive Gathering of Leading Lawyers, Jurists and Legal Scholars at Washington—Tentative Drafts of Parts of the Restatement of the Law of Contracts, Torts, Conflict of Laws and Agency Presented and Discussed—The Proposed Code of Criminal Procedure—Presidential Address by Mr. Wickersham—Director Lewis' Report—Mr. Root and Chief Justice Taft Address Institute—Reception by President and Mrs. Coolidge at White House

THE American Law Institute held its fourth annual meeting at Washington on April 29 and 30 and May 1, in the assembly hall of the United States Chamber of Commerce Building. About three hundred leaders in the profession—State and Federal judges, practicing lawyers, legal scholars and teachers—were present and participated in the work. The sessions were all well attended and the greatest interest was manifested at all times. The immediate object of the meeting was to consider further tentative Restatements of the law of Contracts, Torts and Conflicts of Laws and the first tentative draft of the law of Agency. The Reporters in these respective subjects made preliminary statements as to the work submitted in their respective fields, after which the tentative drafts were read section by section from the platform by the presiding officer and then criticised by those present. Frequent suggestions for changes in the direction of further clarification were made from the floor. Notes were made by the Reporters of these suggestions and they will be given due consideration in the process of perfecting the drafts.

Bar's Aid Is Enlisted

Perhaps the outstanding feature of the meeting, apart from the work done, was the growing evidence that the project of the American Law Institute is rapidly enlisting the aid of the Bar of the Nation. The Institute largely grounds its hopes of ultimate success on the cooperation of the American Bench and Bar. Fortunately these expectations appear to be well founded. The Bar as a whole is realizing more and more the great part it is called on to play in this important business. The fact that about three hundred members of the profession are willing to leave their regular occupations and make an expensive journey to Washington at their own cost to help in the work of Restatement is in itself no insignificant indication of attitude. But to this is to be added the further fact, as brought out in Director Lewis' report, that the State and the larger local Bar Associations are manifesting an increasing interest in the project. Fourteen associations have appointed special committees to cooperate with the Institute. The Secretaries of a number of State Bar Associations, following a plan suggested by the Secretary of the Illinois organization, have distributed over three thousand copies of the tentative drafts of Restatements already printed to members applying for them. These drafts are furnished by the Secretaries at a price which simply covers the cost of printing and distribution.

Nor should the fact, mentioned both in President Wickersham's address and the report of Direc-

tor Lewis, that teachers of law are beginning to make use of the tentative drafts in class room work, be overlooked in this connection. Such use obviously offers a valuable opportunity to familiarize the Bar of the future with the undertaking. There should also come from the teachers using the drafts in this fashion many valuable suggestions, springing from the doubts and questions of bright pupils. Director Lewis remarked that many law professors had learned a great deal of law from just this source and there was no reason to assume that the American Law Institute's work might not also profit from it. This aspect of the undertaking merely illustrates the fact that the work of the Institute is to be hammered out on every available anvil, no matter how large or how small. And when it is hammered out, it will be the work of the profession as a whole, in the sense that the entire bar of the country will have helped make it what it is. Thus at the outset is removed the danger of having the Restatement presented as an unfamiliar and academic thing to the profession. It will come, on the contrary, as a friend and a familiar, in which each lawyer who takes the trouble to furnish comment or criticism of the tentative drafts as they are issued may properly feel he has had some part.

Restatements Presented and Discussed

Restatement No. 2 on Contracts, presented at this meeting, contained fifty-six sections with comment, and covered the subjects of Consideration, Formation of Formal Contracts and Joint Contractual Obligations and Rights. It was prepared by the Reporter, Samuel Williston, with the aid of the following advisers: Arthur L. Corbin, Dudley O. McGovney, Herman Oliphant, William H. Page and William E. McCurdy, Assistant. Restatement No. 2 on Conflict of Laws contained ninety-two sections, with comment, and was prepared by Joseph H. Beale, the Reporter, and Austin W. Scott, Associate Reporter, with the aid of the following advisers: Harry A. Bigelow, Joseph W. Bingham, John G. Buchanan, Amistead M. Dobie, Frederick F. Faville, Herbert F. Goodrich, Monte M. Lemann, Ernest G. Lorenzen, William E. Mikell and William H. Page. It was divided into the following parts: Introduction, Jurisdiction, and Jurisdiction of Courts. Restatement No. 2 of the Law of Torts contained thirty sections with comment, and was prepared by Francis H. Bohlen, Reporter, with the aid of the following advisers: Herbert F. Goodrich, Charles M. Hepburn, Warren A. Seavey, Young B. Smith and Edward S. Thurston. Restatement No. 1 on Agency contained 140 pages and 155 sections with comment, and was the work

of Floyd R. Mechem, Reporter, with the aid of the following advisers: Edwin R. Keedy, Richard R. Powell, Harry S. Richards and Warren Leavey. The Restatement was subdivided as follows: Definitions and Distinctions; Acts for which Agency May Be Created; Competency of Parties; Appointment of Agents and Servants and the Evidence thereof; Appointment of Agents by other Agents and the Delegation of Authority; Ratification.

As his subject was taken up each Reporter went to the platform, prepared to answer questions, discuss objections, note suggestions for future consideration, and justify the tentative draft section by section. To the layman the discussion might have seemed at times mere verbal quibbling. He would not have realized that the essence of the work is the choice of the right word and phrase, not to express some vague general idea, but to compress and hold within bounds at once slender and firm the results of long years and of many decisions of the law. An English statesman once said that he was never at a loss for "a" word but his great rival was never at a loss for "the" word. It is the search for "the" word, "the" phrase, "the" statement on which the Institute is engaged and not for mere words, phrases and sentences. The expert knows the difficulty. No wonder that Mr. Mechem, the Reporter for Agency, humorously exclaimed: "O, that mine enemy would write a definition!" or that Mr. Williston, Reporter for Contracts, was compelled to call the attention of critics at times to the fact that the change in definition suggested sounded well enough, but unfortunately left out certain cases which had to be gotten in. The character of the discussion renders a report difficult, even though there were space to present it. It is therefore necessary to content ourselves with the statement that the drafts, already carefully considered by various agencies, were again considered section by section as fully as the occasion permitted, and that doubtless as a result of the meeting there will come to many members valuable afterthoughts of which they will give the Reporters the benefit.

Two incidents of the meeting deserve special mention. During the first day's proceedings Mr. Root entered the Hall and took a seat in the rear. President Wickersham, however, spied him out and called him to the platform. The Institute rose to its feet and cheered the veteran leader of the Bar, who spoke briefly by way of acknowledging the tribute. He said that he felt that, since the meeting three years ago, there had been a favorable answer to what was then the great question as to the organization and work of the Institute—whether it could be gotten beyond the few who had a natural predisposition towards quasi-public service and be made to bite into the Bar as a whole. "I think that question has been definitely answered now," he said; "I think it has been carried to the point where it is biting into the body of the Bar of the United States. It is enlisting an interest and activity which is necessary for the accomplishment of this very serious and difficult work and which it was doubtful whether we could secure."

Mr. Root Speaks to Institute

Mr. Root then spoke of the necessity of organization as the only means of dealing with our modern complicated life, and added:

"Now, it seems to me that the Bar—which was so scattered and had so little cohesion, so little

common sentiment—that the Bar is getting itself into that kind of organization, with a common purpose, which is going immensely to increase its powers, both for the specific field of work we are undertaking here, and, hereafter, for the accomplishment of all the things necessary for the maintenance of our system of law, our free institutions and our order and liberty.

"I think the bearing of this institute goes far beyond the re-statement we are making here. I think it is the inauguration in America of a Bar as distinguished from a multitude of Bars. I think we are taking the early steps in the creation of a great power in the preservation of all we hold dearest and most valuable for our country; and I feel greatly cheered and pleased beyond expression at watching carefully the progress in this work, both from you members of this institute and the members of the Bar outside of the institute, in all parts of the country."

Chief Justice Taft Brings Greetings

On the following day Chief Justice Taft entered the hall and was also received with enthusiasm as he was called to the platform. He spoke briefly, as follows:

"I came just to register the presence of our court and to have you know that we are humbly waiting for your assistance as the body which probably needs that assistance most; merely to greet you in your good work, to felicitate you upon your very effective organization and plan of work; to felicitate you on the fact that you have here and have had here to give you his blessing and his real assistance, not only the leader, but the Nestor and the Ulysses of the American Bar.

"There is no man in this country who, in a professional or other way, is more fertile in expedients for the good of the country and the good of the work which the Bar may do than Elihu Root.

"I have in my hands something that feels as heavy as an opinion from our court and I hope that in your consideration you may avoid the soporific effect that is sometimes trying in the tribunal with which I am somewhat familiar. But I do not intend to delay you in your deliberations, but only to renew my earnest greetings and to say that to those of us who live in Washington it is most helpful to have an infusion of real altruism in this atmosphere.

"My blessing goes with you. Good-bye."

Presidential Address Reviews Work of Institute

The Institute was called to order at 10 A. M. on Thursday by Hon. George W. Wickersham, who proceeded to deliver the presidential address. After paying a tribute to Judge Cardozo, who presided at the last annual meeting in his absence, and a mention of the reasons that had led to the formation of the Institute, he continued:

"The work of this Institute was planned with careful regard to the limitations of the problem we should undertake, and we have studiously refrained, except in one instance, to be referred to later, from being drawn outside of our chosen sphere of activity. There are many other things which must be done before the state of our law and its enforcement becomes what it should be. Much is being done by other agencies than ours. The Federal judicial forces have been mobilized and the administration

of Federal justice made more efficient through the operations of the Judicial Council presided over by the Chief Justice of the United States, under legislation largely promoted by him. In a number of States, Judicial Councils have been formed pursuant to law, following the suggestion which our honored Vice President, Judge Cardozo, made a few years ago in his now famous address. 'A Ministry of Justice': Councils charged by law with the duty of systematic study and criticism of the functioning of the judiciary of the respective states, and the recommendation of improvements which may be effected by legislation or rules of Court. The better expression of statutory law by means of official legislative drafting bureaus is evident in the improved clarity of some of our modern state legislation. Little progress unfortunately seems to have been made in the direction of improving the educational qualifications required for admission to the Bar. . . .

"In our own chosen field, the year past has been one of great activity, as you will readily perceive when you come to consider the volume of material which has been sent out for your consideration in advance of this meeting and which you will be invited to discuss. If, as Judge Cardozo said at the last annual meeting, there had then been 'at least a brave beginning,' of our undertaking, this year it may truthfully be said there has been a notable advance. The Director will give you the details of the number of meetings of the Reporters with their critics and of the extent and nature of the work done.

"When the Council assembled on December 16th last for a three-day session, it found itself confronted with an undertaking of no small magnitude, and of no easy despatch, in the consideration of the fruits of the labors of the scholars who for a twelve-month previously had been toiling in the field assigned to them by the Council's directions. During those three days, however, the members of the Council discussed with such fullness as time would permit, the reports in the fields of Contracts, Torts, Agency and Conflict of laws, respectively, and finally, in order that the work of the Reporters and their advisers might not unduly suffer from criticism of the moment, the Council referred each one of the reports under consideration back to the Reporter for discussion with a sub-committee of three members of the Council, with instructions to report to the Executive Committee, which was authorized to transmit the tentative drafts to the members of the Institute for consideration at this annual meeting, with a view to suggestion and criticism by them. Accordingly, a Committee on Torts was named, composed of the Honorable George W. Wheeler, as Chairman, and Messrs. Owen J. Roberts and James P. Hall, as members; a Committee on Agency, of which Major Edgar B. Tolman was Chairman, and Messrs. William Browne Hale and Henry M. Bates members; a Committee on Conflict of Laws, of which the Honorable George W. Alter was Chairman and the Honorable Benjamin N. Cardozo and Honorable Arthur P. Rugg members, and a Committee on Contracts, of which the Honorable Nathan Matthews was Chairman and the Honorable Learned Hand and James Byrne, Esq., members. The reports which have been sent to the members of the Institute for their considera-

tion and for discussion at this meeting have been transmitted through the Executive Committee after conferences between the Reporters and some of their advisers and these respective subcommittees. The material which is submitted to you therefore represents the combined efforts and the matured comment of a number of minds, and it is to be hoped that in their criticism members of the Institute will have in mind the fact that every sentence, indeed, every word in these various drafts is the result of careful, critical and analytical thought and deliberate studied expression.

Council's Decision as to Treatises

"In connection with the consideration of the various draft restatements, the Council gave very careful thought to the question whether or not the restatements should be accompanied by 'treatises,' in the accepted sense of that term, or by such brief commentaries as might appear to be necessary for the elucidation of the text of the restatements. Bearing in mind that the great objective of the work is the clarification and simplification of the law, it would seem most undesirable that the restatement should be merely in the nature of a syllabus, to be accompanied by bulky treatises, or text books. On the other hand, we should recall the admonition given in the report of the Committee on the Establishment of a Permanent Organization for the Improvement of the Law,* that the statement of principles to be put forth should be much more complete than that found in European continental codes.

"The American courts, that report pointed out, 'though always in the position of being able to change and modify the common law, practically, because of the detail in which the law is set forth in prior decisions and its respect for such precedent, has usually a far narrower field' than the European courts 'for the exercise of discretion.' The authors of the report expressed the belief that 'any restatement of our law to be of practical use should follow this characteristic of our law, and, therefore, the principles of law should be set forth with a fullness made possible by the care with which rules pertaining to the application of more general principles have been considered in the decisions of our courts.' If this counsel as to the nature of the restatement be followed—as I believe it has been followed in the drafts before us—it would seem that to accompany the restatements with bulky text books, would to a large extent impair, if not wholly undo, one object of the restatement, namely, the reduction of the bulk of literature necessary to be consulted by the practicing lawyer. Without, however, determining this question as an ultimate matter, the Council did decide that in submitting the tentative drafts of restatements to the members of the Institute and the annual meetings, there should be transmitted with the restatements, or as nearly thereafter as practical, such Commentaries as may facilitate the consideration of the restatements, and that where there is a conflict in the decisions under a section of the Restatement, there shall be furnished with it an explanation showing where the actual difference exists in the authorities, and giving the reasons

*Committee on the Establishment of a Permanent Organization for the Improvement of the Law, in its report to the meeting in Washington on February 28, 1923, when the American Law Institute was formed.

for the adoption of the section as expressed in the Restatement.

Law Schools and Bar Associations

"Among the most interesting results of the work of the Institute up to the present time has been the increased interest in its progress on the part of the various State and local bar associations. Of equal, or perhaps even greater importance, is the increasing interest manifested in our efforts by the Law Schools. Drafts of the Restatements are being sent to the Law Schools for study by teachers and scholars. By these means we are securing the interest in our work on the part of the men to whom largely we must look for its future accomplishment. Coincidentally, some of our leading Law Schools are organizing for advanced study and research, and our Institute may anticipate greater and more valuable cooperation with them through such better, more scientific organization. One scarcely can exaggerate the value of such assistance. It is the logical development of the preliminary studies and action by the associated Law Schools, out of which came the inspiration for our work.

"Far sooner than the founders of the Institute had anticipated, an active, widespread, critical interest in our undertaking is being exhibited in all parts of the country, and from many sources are coming increasingly valuable suggestions which encourage and perhaps justify the hope that our accomplished work may meet with the uniform approval of the profession at large. At all events, it is presently true that it has greatly stimulated interest in the study of the common law and in the effort to unify its expression in the different jurisdictions.

Code of Criminal Procedure

In one respect only has the Institute ventured outside of the line of work to which it dedicated itself on its organization, and that is in undertaking the preparation of a model code of criminal procedure. Those of you who attended the last annual meeting will recall the report submitted to that meeting that the Laura Spelman Rockefeller Foundation had generously appropriated the sum of \$20,000 annually for three years to the Institute to meet the expenses of the preparation of a Code of laws and court rules relating to criminal procedure. You will recall the reports made to the Council by the Committee appointed to make a survey and statement of the defects of criminal justice, of which the Honorable Herbert S. Hadley was Chairman, and Messrs. William E. Mikell and John G. Milburn members. That report led to the appropriation just mentioned, and the action of the Council of the Institute regarding the matter reported to the Institute at its last annual meeting. The Council on May 2, 1925, authorized the Executive Committee to invite additional persons to act with them in preparing a plan of work for the preparation of the proposed model code, and action having been taken under this resolution, a further report was prepared by this Committee, which is printed in the third volume of the Proceedings of the Institute, at pages 499-524, which was unanimously adopted by the members of the Committee whose names are signed thereto. The resolutions recommended by that Committee, printed on pages 523-524 were adopted, a Committee on Criminal Procedure duly constituted, and Messrs. William

E. Mikell and Edwin R. Keedy were appointed Reporter and Associate Reporter, respectively, for Criminal Procedure, for the remainder of the current year and for the year 1926. This work is now going forward, and the Council hopes it may result in a useful contribution towards the simplification of our criminal procedure, the necessity for which is widely recognized.

"We hardly could have escaped undertaking this work. Popular thought at the present time is more immediately concerned with the criminal law and its enforcement than with the civil law. The reports in the daily Press of crimes of violence against the person and against property have inflamed the popular imagination to a point which has compelled action in many directions. More drastic penal laws are being enacted by legislatures; increases are being made in the number of judges of our Criminal Courts; some increases in police forces. "Surveys" or Studies of the conditions responsible for this menace to the peace, quiet and safety of our communities are being made; Crime Commissions, National and local, have been formed. Our own contribution to the effort to meet this great fundamental problem of conserving the peace and security of the people, may be slight, but it will be our endeavor to make it valuable so far as it goes.

"The maintenance of justice, the ensuring of domestic tranquility and of the blessings of liberty, can be realized through the efforts of no one agency alone; they depend upon the mental and moral attitude of the People. We can perform our part, and make a great and valuable contribution to the common welfare, but those 'unalienable rights,' among which are 'life, liberty and the pursuit of happiness,' to secure which our governments, National and State, were instituted, can be preserved only so long as our people continue to love liberty, to respect the rights of each other, and to realize that upon themselves, and not only upon their neighbors, rests the duty of that vigilant watchfulness of the public interest without which liberty must perish."

Director Lewis Presents Report

At the conclusion of President Wickersham's remarks, Treasurer George Welwood Murray presented his report. Director Lewis's Report followed. It began with a brief account of the progress of the work of Restatement to date. "The Council submitted to your Annual Meeting last year," it began, "three tentative drafts dealing respectively with parts of the Conflict of Laws, Contracts and Torts. They have submitted to this meeting tentative drafts of additional parts of these subjects containing in all 167 sections and a tentative draft of the first part of the law of agency containing 155 sections. The preliminary drafts completed by the respective groups last fall were submitted to the members of the Council in November and considered at a meeting of that body in New York City on December 16, 17, 18 and 19. The drafts before you are the preliminary drafts so submitted as amended by the Council and by the special committees of the Council to which I shall presently refer.

"Thus, except in Agency where the tentative draft before you represents two years of work, the tentative drafts you will consider at this meeting represent a year's work on the part of the respective

editorial groups covering the period from the fall of 1924 to the fall of 1925. While, therefore, there have been since the last annual meeting nineteen conferences covering in all seventy-five days, the eight conferences which have been held since last October have been devoted to the discussion of preliminary drafts of parts of the respective subjects which will be considered not at this but at your next annual meeting. Already the sections relating to Termination in Agency and Contractual Rights of Persons not Parties to the Contract are almost ready for submission to the Council.

"The work on the Restatement of the Law of Business Associations which began more than a year ago has proceeded somewhat more slowly than that on other subjects mainly due to the fact that your Director, who is also Reporter for that subject, must necessarily give first claim on his time to his work as Executive Officer of the Council and chief of the editorial staff. There is a reasonable expectation, however, that a part of the Restatement of Corporations for Profit can be submitted for your consideration at the next annual meeting."

Modifications in Plan of Work

The report next pointed out certain "modifications in the plan of work as originally adopted." It was, incidentally, not to be wondered at that there had been certain minor changes in the plan of work adopted by the Council three years ago, when the absolute novelty of the undertaking was considered. The preparation of the preliminary drafts by the respective Reporters, the consideration of one preliminary draft after another by groups of experts until a draft is produced which the group is satisfied to submit to the Council, still remain the cornerstones of the method employed. However, the relative share taken by the Advisers in the work was constantly increasing. This was shown not so much by the increase in the number of conferences as in the average length of each conference, and "more especially by the development in each group of one or more Advisers who devote to the work almost as much time as the Reporter himself." Further, the Council has adopted the plan of having preliminary drafts which are prepared by the Reporter and his Advisers submitted to the scrutiny of special committees of the Council before being presented for consideration to the Council as a whole. This change in method was due to the realization that the Council could not adequately consider the increasing amount of matter submitted to it in the time allotted to a single meeting without assistance of this character.

Benefits of Public Discussion of Drafts

On the very pertinent question of the benefits resulting from the public discussion of the tentative drafts at the annual meetings, the Report said:

"Some members of the Council as well as many other members of the Institute were doubtful whether much improvement in the tentative drafts of the Restatement could result from their consideration at a meeting of several hundred judges and lawyers no matter how high the level of their professional attainments.

"I find, however, that these doubts and fears have been dispelled in the minds of almost everyone who attended the meeting last year to whom I have spoken. The discussions at that meeting of

the drafts, while not extended, were for the most part pertinent, and the Reporters feel, though some more strongly than others, that many of the criticisms made and suggestions expressed were distinctly helpful. Besides this, we have found that as a result of last year's meeting and the discussions many members and guests were led to make a careful examination of matters in which they were especially interested, with the result that we have received since the meeting written criticisms of value which would not otherwise have been received. It may surprise some Thomas, still doubtful of the value of discussions and written criticisms by those who do not pretend to have made an exhaustive study of the subject on which they speak or write, to know that more than one of the Reporters have, from the criticisms and suggestions received, been led to note a not inconsiderable number of changes which they think should be made in the tentative drafts under discussion at last year's meeting."

The Report then explained why there have been no revisions of the tentative drafts already issued. "In the first place," it said, "we are still receiving written criticisms and suggestions of real value from our members. In the second place, as the result of the resolution adopted at your last meeting inviting the cooperation of Bar Associations and the Bar generally in the work of improving the drafts, we have worked out a plan (described later) under which Committees of State Bar Associations have been appointed to examine and criticize the drafts. Furthermore, many law schools next winter will begin using the drafts in their classes. From both of these sources in the next two or three years we shall doubtless receive considerable light on the defects of the first tentative drafts which should be corrected in the revised drafts." There were also important questions of terminology which could not be settled in advance but must await the further progress of the work, and this furnished another reason for delay in proceeding to the revised drafts. A large part of the Report was devoted to this aspect of the work, the discussion concluding with the following statement:

Problems of Terminology

"That there is much work yet to be done before a consistent and adequate terminology can be had is the most compelling of all the reasons I have given why the preparation of a revision of the tentative drafts considered last year, or to be considered this year, should be postponed. It is, I submit, clear that prior to the issuance of a revision of these tentative drafts agreement must be had on the proper analysis of fundamental legal concepts, and that a much nearer approach must be made to uniformity in the words used to express our statements of law. To reach such an agreement is not a simple matter. It can be done only by a clear understanding on the part of the members of each group of the peculiar problems and points of view of the members of other groups. This will take time. It will involve a very careful, critical, comparative examination of the use of words and expressions in the different tentative drafts in all the subjects, not merely by your Director or by some special committee appointed for the purpose, but by all of those now devoting the best that is in

them to the proper production of a Restatement of the law."

The Report gave in detail the reasons for the decision of the Council not to attempt to transmit complete paralleling Treatises with each part of the Restatement, but only such Commentaries as may facilitate consideration of the Restatement. It then gave an account of the steps that have been taken to secure cooperation of the Bar Associations, beginning with the resolution on this subject adopted at the third annual meeting of the Institute. It continued:

"The Executive Committee read this resolution as a commission from you to work out a plan that would stimulate interest and secure suggestions and criticisms, not only from State Bar Associations, but from the principal local Bar Associations. During the summer letters were sent to the presidents and secretaries of Bar Associations throughout the country and committees have been appointed by fourteen associations. Though we have not as yet received from these committees formal suggestions for the improvement of the respective drafts, the appointment of the committees has undoubtedly stimulated individual members to send suggestions.

"An important indirect result of your resolution has been the establishment of a system by which individual members of State Bar Associations can obtain copies of the tentative drafts at manufacturing plus distribution costs. The system was started by the energetic and efficient secretary of the Illinois State Bar Association, Mr. R. Allan Stephens."

Plan of Work on Criminal Procedure

The use of the tentative drafts in Law Schools, and the advantages to be expected therefrom, were next touched upon, and the Report concluded with the following interesting statement as to the Institute's work on Criminal Procedure:

"The Council at its meeting on May 1 last, after determining that work on Criminal Procedure should take the form of a Code of laws and court rules and should begin as early as practicable, authorized the Executive Committee to invite Herbert S. Hadley, Hon. Henry L. Stimson, Judge Chas. C. Nott, Jr., Judge Harry Olson and William E. Mikell to act with members of the Executive Committee as a Special Committee to prepare a plan of work to be followed in the preparation of the Code. The Special Committee thus authorized began work at once. Their Report, submitted to the Council last December, embodies a detailed examination of the scope of the proposed work and a tentative outline of the Code, a plan of work, and a preliminary draft of an Indictment Act and matters pertaining thereto.

"William E. Mikell and Edwin R. Keedy have been appointed Reporter and Associate Reporter, respectively.

"It is the opinion of the members of the Special Committee and the Reporters that the topics first undertaken should be those in which serious defects in existing procedure are believed to exist. Consequently, the preparation of the tentative drafts may occasionally depart from strictly logical order, though the preliminary drafts on which the Reporters are now at work do relate to what is logically the first part of the completed Code,

namely, Arrest, Preliminary Hearing and Bail. A preliminary draft of a substantial portion of these subjects will be discussed at a conference between the Reporters and their Advisers in June. The Advisers will include those members of the Special Committee who are especially cognizant of the subjects to be discussed. It is too early yet to determine whether any parts of the Code will be submitted to the Council next December, though there is much reason to believe from the amount of work already done that this may be the case.

"There is one misapprehension in regard to this Code of Criminal Procedure to which I wish to revert. The Code should not be thought of as a single statute, but rather as a series of model statutes dealing with the different topics properly included under the term Criminal Procedure. Defects in Criminal Procedure are not uniform throughout the several States. For instance, the outworn technicalities connected with indictment, while serious in one group of States, in another already have been largely rectified. It is, therefore, unlikely that any State, at least, for some time after the final official publication of the Code, will desire to adopt it as a whole; it is much more likely that each State will be interested in those suggested reforms which attempt to remedy serious defects in its existing procedure."

After the report of the Committee on Membership and the election of certain nominees, the election of Council Members to fill the vacancies caused by the expiration of the terms of eleven members of the Council and the vacancy caused by the death of Hon. Cordenio A. Severance was taken up. The members whose terms had expired were all re-elected except Hon. Alexander C. King of Georgia, who declined to stand for re-election on account of ill health. Hon. Henry Upson Sims of Birmingham was elected to fill this vacancy and Hon. William D. Mitchell was chosen to fill the vacancy caused by the death of Mr. Severance. At noon the Institute began the consideration and discussion of Restatement No. 2 of Contracts, which lasted during the remaining of the morning and the afternoon session. Friday's sessions were devoted to Restatement No. 1 of Agency and Restatement No. 2 on Torts. Saturday morning was given to the discussion and consideration of Restatement No. 2 on the Conflict of Laws.

Reception by President and Mrs. Coolidge

Social functions in connection with the meeting were the informal reception by the Council of the Institute to members and guests in the ball room of the Hotel Mayflower Wednesday evening; reception and tea to the ladies accompanying members and guests, by a committee of ladies appointed by the Executive Committee of the Institute Council, on Thursday afternoon; reception at the White House by President and Mrs. Coolidge at 4:30 P. M. on Friday; and dinner at the Mayflower Hotel Saturday evening at which President Wickersham presided and talks were made by Hon. Frederick Evan Crane, of the New York Court of Appeals, Dean Roscoe Pound of the Harvard Law School, and Justice Floyd E. Thompson of the Illinois Supreme Court. A dinner Friday evening at the Hotel Mayflower by the pilgrims to London in 1924 was another enjoyable event in which a number of the members of the Institute participated.