

THE AMERICAN LAW INSTITUTE

Minutes of the **Twentieth** Meeting of the **Executive**
Committee of the Council

May 18, 1926.

The meeting was held at the Association of the Bar of the City of New York, at 10 A. M.; George W. Wickersham, President, presided, and William Draper Lewis, Director, acted as Secretary of the Meeting.

Present: James Byrne
Benjamin N. Cardozo
John G. Milburn
Victor Morawetz
George Welwood Murray
Elihu Root
George W. Wickersham
Also William Draper Lewis, Director

The Director submitted letters from James P. Hall and Andrew J. Montague regretting their inability to be present.

The Treasurer, Mr. Murray, submitted his Report, which was accepted to be placed on file. A summary of the report, follows :

CONDENSED STATEMENT OF RECEIPTS AND
PAYMENTS.

From April 30, 1926, to May 18, 1926.

Receipts.

Balance on hand April 30, 1926	\$27,502.97
Bank Interest to March 31, 1926	110.05
Total	\$27,613.02

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Payments.

Administration	\$610.83	
Traveling	1,209.86	
Printing	9 8 1 6 . 4 0	
Annual Meeting	223.00	
Restatement of:		
Agency	\$1,250.00	
Contracts	400.00	
Torts	179.16	
	<u>1,829.16</u>	
Preparation of Code of Criminal Procedure	58.33	
	<u>13,747.58</u>	
Total		13,747.58
Balance on hand May 18, 1926		<u>\$13,865.44</u>

Assets.

Cash in Bank (The Equitable Trust Company of New York) made up as follows:		
Balance : Carnegie Corporation Donation Account	\$13,517.81	
Balance: Laura Spelman Rockefeller Memorial Donation Account	347.63	
	<u>13,865.44</u>	
Total		\$13,865.44
\$25,000 U. S. 4¼% Treasury-Notes	24,945.31	
	<u>38810.75</u>	
Total Assets		<u>\$38810.75</u>

RECAPITULATION.

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Balance on hand in General Account on April 30, 1926	\$27,097.01	
Interest on Bank Deposits to March 31, 1926	1 10.05	
	<u>- \$27,207.06</u>	
Disbursements from April 30, 1926; to May 18, 1926	13,689.25	
	<u>\$13,517.81</u>	
Balance in General Account on May 18, 1926		\$13,517.81
Balance on hand in Code of Criminal Procedure Account on April 30, 1926	\$405.96	
Disbursements from April 30, 1926, to May 18, 1926	58.33	
	<u>\$ 347.63</u>	
Balance in 'Code of Criminal Procedure Account on May 18, 1926		\$ 347.63
Total Cash Balance on May 18, 1926		<u>\$13,865.44</u>

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The Director submitted a Report dealing with work done since the adjournment of the Annual Meeting and the resolutions which should be adopted in order to carry on work on the various Restatements and on the Code of Criminal Procedure during the summer. The following is a summary:

Summary of Director's Report.

The only conference which has taken place since the adjournment of the Annual Meeting is one in Torts, held at the Association of the Bar of the City of New York on the 13th, 14th and 15th of this month. This was what was designated as a "small conference" and was limited to Mr. Bohlen's special Advisers. The Topics dealt with were :

- (a) Privilege To Use Force To Regain Possession of Real Estate,
- (b) Privilege To Use Force to Obtain Chattels,
- (c) Privilege To Use Force In Family Discipline, etc.,
- (d) Privilege To Arrest With Or Without Warrant.

Those present besides your Director were Warren A. Seavey, Herbert F. Goodrich, Young B. Smith, and Edward S. Thurston. Edwin R. Keedy, Associate Reporter in Criminal Procedure, was present during part of the time when the Subject of Privilege To Arrest With Or Without Warrant was discussed. Mr. Bohlen had prepared for the meeting typewritten suggestions in regard to some of the sections in all of the Topics. Mr. Goodrich had prepared an elaborate Brief containing suggestions and tentative Sections on Privilege

To Arrest With Or Without Warrant. The conference, however, was in the nature of a preliminary discussion of the substantive law and a discussion of methods of approach and key-definitions such as the definitions of "Arrest " and "Warrant" in the Topic: "Privilege To Arrest With Or Without Warrant,." At the conclusion of the conference I went over very carefully with those present the steps which in their opinion should be taken to insure the presentation to the Council of the draft of the law pertaining to the privileges discussed at the conference. It was agreed that the Reporter prepare, before he goes to Europe in June, a draft dealing with the Subjects discussed at the conference; that this draft shall be gone over in conference during July by Messrs. Seavey and Thurston, so that on the return of the Reporter from Europe on August 1, they will be able to submit to him the results of their revision of his draft. The Reporter will then prepare and send to the printer a draft which will be distributed to all his Advisers. It was the opinion of all present that such distribution can be made by the 16th of August. It was decided to request the Executive Committee to authorize the Director to call a conference in Torts at Northeast Harbor, Maine, the last days of August and the first days of September. It was the desire of all present that Judge Cardozo, Judge Burch, Judge Wheeler and Messrs. Hall and Roberts of the Council be present at this conference.

At the conclusion of the conference at Northeast Harbor it will be necessary to call another conference to go over a further draft of the same matter, the second conference taking place some time in October. It is hoped that at the conclusion of

this conference there can be sent to the Council a draft. which will complete all matters relating to Interference In Interests Of Personality.

Resolutions Adopted Pertaining To Current Work.

Resolution No. 279. On motion,

RESOLVED: We authorize the payment, on the request of Francis H. Bohlen, Reporter for Torts, and the approval of the Director, of the following honorariums to Warren A. Seavey for work on Torts: On June first, \$100, this payment to be in lieu of the honorarium of the same amount authorized to be paid him on April first, under Resolution No. 271—Executive Committee, nothing having been paid under that resolution; and \$150 on August first ; these payments to be charged to the allotment in the Budget to the item “Legal Advisory Assistance,” account “Torts. ”

Resolution No. 280. On motion,

RESOLVED: We authorize the payment, on the request, of Francis H. Bohlen, Reporter for Torts, and the approval of the Director, of additional honorariums to Edward S. Thurston, under Resolution No. 288—Council, as follows : \$50, payable on August first, and \$50, payable on October first ; these payments to be charged to the allotment in the Budget to the item “Legal Advisory Assistance,” account “Torts.”

Resolution No. 281. On motion,

RESOLVED : Harry Schulman is appointed Legal Assistant in Torts, the appointment to date from July 1 to December 31, 1926, at a salary of \$125 per month ; the payments to be charged to the allot-

ment in the Budget to the item "Legal Assistants," account "Torts."

Resolution No. 282. On motion,

RESOLVED: In addition to the conference authorized under Resolution No. 280—Council, to be held in either August or September, the Director is instructed to arrange for a conference of the legal staff working on Torts, persons invited for legal advisory assistance, and such members of the Council as care to attend, on such days during the latter part of September, or such days in October, and at such place as will be found convenient. The Director is authorized to invite the following persons, or any of them, and any one additional person, to attend the conference:

Herbert F. Goodrich, University of Michigan
Law School
Warren A. Seavey, University of Nebraska
College of Law
Young B. Smith, Columbia University School
of Law
Edward S. Thurston, Yale University School
of Law.

The following members of the Council are especially requested to attend such conference: Judge Burch, Judge Cardozo, Judge Wheeler, and Messrs. Hall and Roberts.

Resolution No. 283. On motion,

RESOLVED: The Director is instructed to arrange for a conference of the legal staff: working on Contracts, persons invited for legal advisory assistance and such members of the Council as care to attend on such days in September or October, and at such place as will be found convenient.

The Director is authorized to invite the following persons, or any of them, and any one additional person, to attend the conference :

Arthur L. Corbin, Yale University School of Law

Dudley O. McGovney, University of California Law School

Herman Oliphant, Columbia University School of Law

William H. Page, University of Wisconsin Law School.

Resolution No. 284. On motion,

RESOLVED: The Director is instructed to arrange for a conference of the legal staff working on Conflict of Laws, persons invited for legal advisory assistance, and such members of the Council as care to attend, on such days in September or October, and at such place as will be found convenient. The Director is authorized to invite the following persons, or any of them, and any two additional persons, to attend the conference :

Harry A. Bigelow, University of Chicago Law School

Joseph W. Bingham, Stanford University Law School

John G. Buchanan, Pittsburgh, Pa.

Armistead M. Dobie, University of Virginia Law School

Herbert F. Goodrich, University of Michigan Law School

Monte M. Lemann, New Orleans, La.

William E. Mikell, University of Pennsylvania Law School

William H. Page, University of Wisconsin Law School.

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The following members of the Council are especially requested to attend this conference—Messrs. Byrne and Morawetz and Judge Cardozo.

Resolution No. 285. On motion,

RESOLVED: The Director is authorized on the request of Joseph H. Beale, Reporter for Conflict of Laws and with the approval of the President, to appoint a Legal Assistant in Conflict of Laws, the appointment to date from October 1 to December 31, 1926, at a salary not to exceed the balance in the item "Legal Assistant," account "Conflict of Laws."

Resolution No. 286. On motion,

RESOLVED: We authorize the payment on the request of Floyd R. Mechem, Reporter for Agency, and the approval of the Director, of honorariums to Warren A. Searey, for work on Agency, as follows :

June 1	\$250.
July 1	125.
Sept. 1	125.
October 1	125.

the payments to be charged to the allotment in the Budget to the item "Legal Advisory Assistance," account "Agency."

Resolution No. 287. On motion,

RESOLVED: We authorize the payment on the request of Floyd R. Mechem, Reporter for Agency, and the approval of the Director, of honorariums to a total not exceeding \$400, for legal advisory assistance, from April 1 to August 1, 1926, to Frederick Green, H. Claude Horack, Richard R. Powell,

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Harry S. Richards; the payments to be charged to the allotment in the Budget to the item "Legal Advisory Assistance," account "Agency."

Resolution No. 288. On motion,

RESOLVED: The Director is instructed to arrange for a conference of the legal staff working on Business Associations, persons invited for legal advisory assistance, and such members of the Council as care to attend, on such days in July, August, September, or October, and at such place as will be found convenient. The Director is authorized to invite the following persons, or any of them, and any two additional persons, to attend the conference :

Edward Hopkinson, Jr., Philadelphia
 Henry S. Drinker, Philadelphia
 Cadmus Z. Gordon, Philadelphia
 George F. Canfield, New York City
 Austin T. Wright, University of Pennsylvania Law School
 D. O. McGovney, University of California School of Law
 Thomas W. Swan, Yale University School of Law
 H. S. Richards, University of Wisconsin Law School.

Messrs. Morawetz, Alter and Roberts of the Council are especially requested to attend this conference.

* *Resolution No. 289.* On motion,

RESOLVED: The Director is instructed to arrange for a conference in New York City, on Business Associations, on such days in June or July as may be convenient. The Director is authorized

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to invite to this conference Robert S. Stevens, Cornell University School of Law, and any four or five lawyers resident in New York City that the Director may wish to invite.

Resolution No. 290. On motion,

RESOLVED: The Director is authorized, at his discretion and with the approval of the President, to appoint Legal Assistants in Business Associations for the remainder of the current year at a salary not exceeding the unexpended and unappropriated allotment to the item "Legal Assistant," in the account "Business Associations."

Resolution No. 291. On motion,

RESOLVED: The Director is authorized, at his discretion and with the approval of the President, to call a conference, or conferences, of the legal staff working on the Code of Criminal Procedure, persons invited for legal advisory assistance, and such members of the Council as care to attend, on such days between July 1 and November 1, 1926, and at such places as will be found convenient. The Director is authorized to invite the following persons, or any of them, and any two additional persons, to attend the conference:

Henry L. Stimson, New York City

Charles C. Nott, New York City

Harry Olson, Chicago, Illinois

William S. Forrest, Chicago, Illinois

Justin Miller, University of Minnesota Law School

John Barker Waite, University of Michigan Law School

Robert W. Millar, Northwestern University Law School.

Chancellor Herbert S. Hadley of the Council is also especially requested to attend.

Resolution No. 292. On motion,

RESOLVED: The sum of \$300 is transferred from account "Code of Criminal Procedure," item "Executive Committee Discretionary Fund" to a new item "Special Consultations between Reporters and Assistants" in the same account: the Director is authorized to draw warrants against the new item with the approval of the President.

Special Subject Considered.

The Director made a Statement in regard to the present and prospective financial condition of the Institute and the desirability of beginning work on the Restatement of the Law of Property at the earliest possible moment.

At the request of the Officers of the Institute he had prepared for the consideration of the meeting a draft of a Statement to the Carnegie Corporation setting forth the work which had been done in the past three years on the Restatement of the Law, the Subjects, or parts of Subjects, which could be completed in the next four or five years and the arrangement for the payment of the balance of the appropriation of the Carnegie Corporation which would enable the Institute to make the most effective use of the appropriation. The Draft was discussed and amended, and the meeting also prepared a formal letter to the Carnegie Corporation. At the conclusion of the discussion the following resolution was adopted :

Resolution No. 293. On motion,

RESOLVED: The President and Director are directed to transmit on our behalf to the Carnegie Corporation the following letter; the letter to be accompanied by the more detailed Statement considered and amended at this Meeting:

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“ To the Carnegie Corporation,

“ Gentlemen :

“ The Executive Committee of The American Law Institute beg to present to the Carnegie Corporation the following for consideration and to suggest as desirable a re-arrangement of the installments of the fund so generously granted by the Corporation.

“ We find as our work goes on

“ (1) that the wide and active interest in the Restatement of the Law has given an intensive character to the work which ought not to be checked and which if continued will result in covering the Subjects already undertaken for restatement in a shorter time and in concentrating the expenses for that work in that shorter time;

“ (2) that before the Restatements now going on can have their final revision and be given to the public as official publications of the Institute certain other Subjects must also be brought to such a point that the very difficult matter of terminology in all the Restatements may be settled for all the principal related Subjects at the same time and each with reference to the others;

“ (3) that this bringing forward of other Subjects instead of leaving them to follow will result in an earlier expenditure of the fund applicable.

“ We are now receiving on account of this fund \$110,000. annually in quarterly payments of \$27,500 each. We ask that beginning January 1, 1927 the balance of the fund be paid over at “the rate of \$140,000 per annum in quarterly payments of \$35,000 each.

“ We submit herewith a Statement of the progress of our work on the Restatement of the Law and the reasons which lead us to believe that the arrangement suggested in regard to the pay-

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ment of the balance of your appropriation would enable us to use your generous gift in the most effective manner.

“By direction of the Executive Committee,

“ (Signed) GEORGE W. WICKERSHAM,
President

“ (Signed) WILLIAM DRAPER LEWIS,
“Director,”

The meeting adjourned at 1 P. M.

William Draper Lewis,
Secretary.