Report of the Director

The American Law Institute

To the Members of the American Law Institute.

Ladies and Gentlemen:

THE TASK OF KEEPING PUBLICATIONS CURRENT

ONE OF THE EXCITING ASPECTS of the time in which we live is the dynamic quality of the entire legal process. The courts avow a broad, if indeterminate, commitment to that portion of the law that owes its life to their decisions and legislatures are increasingly concerned with the evaluation and reworking of the norms prescribed in many fields. The situation is in these respects quite different than it was in the days when the Institute began. The difference has, it seems to me, important bearing on the way we should envisage and perform our task.

In my report last year I noted one problem to which this change is relevant, namely, the old question of how far in the restatement of the law it is appropriate to take account of an opinion as to what the law should be. I pointed out that the official statements in our records always have affirmed some scope for such a judgment and suggested as a working formula that we should feel obliged in our deliberations to give weight to all of the considerations that the courts, under a proper view of the judicial function, deem it right to weigh in theirs. Whether this criterion will prove to be acceptable and viable can only be determined as the Institute is called upon to deal with situations that invoke its application. The statement of the principle has not, at least as yet, provoked dissent.

This year the Council gave consideration to another problem that the change of legal climate renders more acute, that of keeping our work and publications reasonably current. The Founders may have thought that when the Institute had spoken on an issue, its words would survive without requiring revision. Experience has shown the contrary, however; we have sometimes had the first word on the modern resolution of a legal problem, but it is rare when we have had the last. This is true not only in the older field of the Restatements but also in the case of our statutory work, especially the Model Codes. We have learned that anyone who seeks to play a part in the unfolding of the law must recognize that he is taking on a task that has no end.

Recognition of this fact was, of course, the genesis of the Restatement, Second, calling, as it does, for periodic review of the entire text of each of the Restatements. The method has, however, an important limitation, for it means that much of our published work lies unexamined for long years, while portions of it are reviewed. Moreover, after a Restatement, Second, is completed, a substantial time must necessarily elapse before that text yields place to a Restatement, Third.

It is important to surmount or mitigate this limitation as fully as we can. A possible approach was suggested last November by Edward B. Benjamin, Jr. of New Orleans in a thoughtful letter to the President. His proposal was, in essence, that the Institute assume responsibility for the continuous *ad hoc* revision of outstanding texts, as the need for change becomes apparent, issuing pocket parts containing for each published work such interstitial changes as the Institute from time to time approves. The Council, I am glad to say, approved this plan in principle at its March meeting. Its execution would, we think, require two main changes in our practice. Hereafter, when a new Restatement is completed, the Reporter or a successor would be charged with a continuing commission to keep up with its reception in the courts and to submit revisions necessary to adjust to new developments in the decisions. Proposed changes would, of course, be dealt with by the Council and the Institute in

accordance with our regular procedure. The same plan would be followed with respect to Agency, Trusts and Foreign Relations Law, where we have completed a Restatement, Second, and also in relation to the Model Penal Code. It would be followed with respect to the presently inactive subjects, such as Property, Restitution, Judgments and Security, to the extent that it seemed feasible to do so prior to a total reexamination of the texts, which, of course, must come in time. In the case of the Uniform Commercial Code, the Permanent Editorial Board already serves this function.

The Director was instructed to develop proposals to execute this plan, estimating its financial implications and the additional resources we would need. It is an assignment that I undertake with great enthusiasm, for I believe it vital that we hold a watching brief on the quality of our outstanding publications. The effort will, however, call for new financing, even if the Institute approves the proposed increase in annual dues. The income of the Mellon Fund does not quite support the work we are already doing on Restatements, Second. A source of added income, therefore, must be found. Needless to say, the President and I welcome assistance in the task of increasing our endowment for this purpose.

THE PROGRAM OF THE MEETING

1. *Pre-Arraignment Procedure.* In view of the attention given last year to the first submission of the Model Code of Pre-Arraignment Procedure, it is proper to explain why this challenging subject finds no place on the agenda of this meeting. The reason is, quite simply, that the decision of the Supreme Court in *Miranda v. Arizona,* 384 U.S. 436 (June 13, 1966) holding that the privilege against self-incrimination precludes station house interrogation of a person in custody, in the absence of counsel or an effective waiver of counsel, necessitated a total reconsideration of the draft provisions on interrogation, which were so fully debated a year ago.

The Reporters spent last summer in an agonized and agonizing reappraisal, extending to the question whether, in the light of the decision, it was useful to pursue the effort to devise a legislative formulation. Their conclusion, which was supported by most of the Advisers and the Council, was that the project should continue but proceed upon a somewhat different basis. Rather than moving at once to adapt the Code draft to *Miranda*, it was considered wiser to study the developments now taking place throughout the country. A number of empirical inquiries have been undertaken on the subject, including a substantial effort by the Vera Institute, financed by the Ford Foundation. An immediate arraignment plan, proposed by Presiding Justice Botein of the New York Supreme Court, Appellate Division, First Department, has been adopted in Manhattan. Other surveys of police adjustment to the requirements of the decision are being made or planned. The Reporters will follow very closely the procedures and the findings of these efforts and, if it proves necessary, may make surveys of their own.

While this work is going on the Reporters are engaged in formulating the main options that are open. When experience is thought to have been adequate, they will endeavor to propose a choice. In the interim, the drafting work is moving on in the area of search and seizure. Professor Telford Taylor of Columbia was appointed Reporter on this subject and began his work in January. If a new submission on interrogation is not ready by next year, we should, at least, have one on search and seizure.

The Ford Foundation, I may add, is cognizant of our change in program and quite satisfied with the decision we have made as to the way in which to use their grant.

2. *Division of Jurisdiction.* In Tentative Draft No. 4, considered by the Institute last year, the Reporters proposed a broad provision for removal of causes in state courts, when a dispositive defense or replication is asserted, based upon federal law. The Institute by a close vote withheld approval of this proposition, asking instead that the Reporters offer a more limited alternative, the details of which

they were commissioned to define (ALI, PROCEEDINGS, 1966, p. 309). They have labored manfully to satisfy this mandate and submit this year a narrower proposal, supported by a majority of their Advisers and the Council, though they themselves prefer a version closer to their original submission.

This issue has been fully canvassed and I call particular attention to the competing formulations of Section 1312(a), which appear at pp. 6-7 of the draft. The Reporters' statement in support of their position and a response from those of their Advisers who persist in disagreement will be found at pp. 98-104 of the booklet. The Institute ought to resolve this problem, which is as interesting as it is important, at this meeting.

There are other interesting issues raised by this submission, of which the most difficult is probably the question whether the extremely limited removal in state criminal proceedings, even though a civil rights abuse is claimed, should be enlarged. The Reporters' view is that there should be no such enlargement, but should be some relaxation of the bar to federal injunctions against state proceedings, when a sufficient showing of this kind is made. Careful consideration of this question, freighted as it is with deep emotion, may contribute to the sanity we are in danger of surrendering in this troubled area of the relation between States and Nation. The Institute does not involve itself in problems of this order as a missionary in the field of civil rights. It must, however, face the problem as an aspect of the general assignment that we undertook some years ago, acting on the suggestion of the Chief Justice that we concern ourselves with the division of jurisdiction between state and federal courts.

Much of the material on federal question embodied in this draft was presented in Tentative Draft No. 4 solely for the information of the Institute, since it had not at that time been considered by the Council. It now has been considered and is recommended for approval. There is, however, a new topic dealt with in this draft, the jurisdiction based upon the fact that the United States or a federal officer or agency is plaintiff or defendant. This submission (§§ 1321-

1327), though approved by the Advisers, has not yet been considered by the Council. It is printed only to invite criticisms or suggestions, prior to its submission next year, with such changes as the Council may demand. The Reporters will, of course, welcome any aid before they appear before the Council in December.

Our work on the division of jurisdiction between state and federal courts is, of course, designed to be of aid to Congress in the exercise of its responsibility for the shaping of legislation in this field. We do not, on the other hand, engage in active efforts to promote enactment of the legislative recommendations of the Institute in any field. In the case of these proposals, their Congressional consideration depends largely on the conclusions of the Judicial Conference of the United States. It is, therefore, relevant to note that the 1966 report of the Proceedings of the Conference expressed the following conclusion:

> The Conference decided that consideration of the results of the American Law Institute study should be deferred until both parts of it have been completed and until the reactions of the bench and bar to it have been received. The Conference instructed the Director of the Administrative Office to request the bench and bar of the country to examine the final reports of the Institute's study promptly upon completion of this study and to request comment and suggestions for use of the Conference in its own study of the Institute's final reports.

This procedure has for us the virtue of permitting any integration of the work we are now doing with Official Draft, Part I, addressed to jurisdiction based upon diversity of citizenship, that may prove to be desirable as we proceed. On the other hand, it puts a pressure on us to complete our project, of which the Reporters are aware. Except for the separate issue of the admiralty jurisdiction, we are hopeful for completion by next year.

3. *Restatement of Contracts.* The material presented in this draft reworks Chapter 6 on Contract Beneficiaries and Chapter 7 on

Assignment of Contractual Rights and Delegation of Contractual Duties.

In Chapter 6, the Reporter, with the support of his Advisers and the Council, has adopted an important change in terminology, abandoning the terms "donee" and "creditor" beneficiary of the first Restatement, in favor of an analysis that draws its main distinction between the "intended" beneficiary, who acquires legal rights, and the "incidental" beneficiary, who does not. The Advisers and the Council are agreed that greater clarity has, thereby, been attained.

Other important changes are reflected in this draft, notably in Section 145, concerned with the difficult problem of when contracts with the government create private rights in those who will be benefited by performance. The increased scope and magnitude of government contracting obviously gives this problem a much greater practical importance than it had a generation past.

In Chapter 7, the Reporter has not only worked a great improvement in the organization of the material on Assignment of Contractual Rights and Delegation of Duties or Conditions but has also gone far to articulate how far, in view of common statutory changes, these propositions of the common law retain contemporary, practical significance. We should be grateful for this task, which the original Restatement did not assume to perform.

4. *Torts.* Last year the Institute had a great debate on Section 569, the formulation dealing with what the books call "libel per quod"—though the cases are not uniform in their conception of the category thus described. The result of the debate was to call on the Reporter to present a somewhat novel view of the criterion of resolution, a solution offered by Dean Wade and Judge Breitel. Acquiescing in the vote, the Reporter asked for leave to postpone his submission, in the view that the decision of the Supreme Court in *Time, Inc. v. Hill,* 385 U.S. 374 (January 1967) and possible determinations in some other pending cases ought to be considered before a new black letter is attempted in this area. The Council thought this an entirely reasonable view and granted its approval.

The postponement of this submission does not detract, however, from the interest of the current draft. Division Six presents the entire text of Chapter 28, formerly called "Invasions of Interests in the Vendibility of Property by Disparagement," now called "Injurious Falsehood." The change of title reflects the expansion of the subject of the chapter to falsehoods harmful to any legal interest of pecuniary value, as distinguished from slander of title or disparagement of property alone.

Division Six A is concerned with the important topic of tortious interference with privacy. The old Restatement dealt with this entire subject in a single section (867), which was included as an afterthought and hardly dealt with any of its major problems. The Reporter has remedied that defect in this submission. The decision of the Supreme Court in *Time, Inc. v. Hill,* 385 U.S. 374 (January 1967) makes clear that here, as in the case of libel, there are First Amendment safeguards to be kept in mind.

5. *Conflicts.* In this field we have arrived at the stage of consideration of Proposed Official Draft No. 1, embodying the first six chapters of Restatement, Second. It is the product of the careful reexamination and revision that began two years ago, after the Institute had spent some thirteen years in the consideration of tentative drafts.

The volume is intimidating in its size but not in the number of changes it proposes that require fresh consideration. Of these, attention should be called to the elimination of Chapter 3, which was entitled "Jurisdiction in General" in favor of § 9 of Chapter 1 (p. 40), treating "Limitations on Choice of Law"; the collection in a new Chapter 4 of material bearing on "Limitations on the Exercise of Jurisdiction"; the inclusion of § 6 in Chapter 1, a new provision enumerating in black letter "factors relevant to the choice of the applicable rule of law," absent a statutory directive of the State of the forum; the modified treatment of the domicil of a wife in § 21, jurisdiction based upon an act or an effect within the State in §§ 35 and 36, jurisdiction to grant divorce in § 72 or an annulment in § 76.

In Chapter 6, the initial section (122) no longer talks in terms of the traditional antithesis between "substance" and "procedure" but rather states the proposition that a court "normally applies its own local rules prescribing how litigation shall be conducted" even though other issues in the case are resolved by applying the law of another State.

The remaining chapters of the work will deal with Wrongs, Contracts, Property, Status, Agency, Partnerships and Corporations and Administration of Estates, in that order. We are hopeful that a substantial part of this material will be ready for consideration by next May and that in 1969 we shall complete Restatement, Second.

THE UNIFORM COMMERCIAL CODE

The great news about the Uniform Commercial Code is that it now has been enacted in every jurisdiction of the United States except Louisiana, Guam and Puerto Rico. The full list follows:

JURISDICTIONS IN WHICH THE UNIFORM COMMERCIAL CODE HAS BEEN ADOPTED IN THE ORDER OF ADOPTION AND THE EFFECTIVE DATES

State	*Adoption Date*	*Effective Date*
Pennsylvania	1953	July 1, 1954
Massachusetts	1957	October 1, 1958
Kentucky	1958	July 1, 1960
Connecticut	1959	October 1, 1961
New Hampshire	1959	July 1, 1961
Rhode Island	1960	January 2, 1962
Wyoming	1961	January 2, 1962
Arkansas	1961	January 1, 1962
New Mexico	1961	January 1, 1962
Ohio	1961	July 1, 1962
Oregon	1961	September 1, 1963
Oklahoma	1961	January 1, 1963
Illinois	1961	July 2, 1962

State	*Adoption Date*	*Effective Date*
New Jersey	1961	January 1, 1963
Georgia	1962	January 1, 1964
Alaska	1962	January 1, 1963
New York	1962	September 27, 1964
Michigan	1962	January 1, 1964
Indiana	1963	July 1, 1964
Tennessee	1963	July 1, 1964
West Virginia	1963	July 1, 1964
Montana	1963	January 2, 1965
Maryland	1963	February 1, 1964
California	1963	January 1, 1965
Wisconsin	1963	July 1, 1965
Maine	1963	December 31, 1964
Nebraska	1963	September 2, 1965
Missouri	1963	July 1, 1965
District of Columbia	1963	January 1, 1965
Virginia	1964	January 1, 1966
Virgin Islands	1965	July 1, 1965
Utah	1965	January 1, 1966
North Dakota	1965	July 1, 1966
Iowa	1965	July 1, 1966
Washington	1965	July 1, 1967
Nevada	1965	March 1, 1967
Hawaii	1965	January 1, 1967
Kansas	1965	January 1, 1966
Colorado	1965	July 1, 1966
Florida	1965	January 1, 1967
Texas	1965	July 1, 1966
North Carolina	1965	July 1, 1967
Minnesota	1965	July 1, 1966
Alabama	1965	January 1, 1967
South Dakota	1966	July 1, 1967
Vermont	1966	January 1, 1967
South Carolina	1966	January 1, 1968
Mississippi	1966	April 1, 1968
Delaware	1966	July 1, 1967
Idaho	1967	January 1, 1968
Arizona	1967	January 1, 1968

A Spanish translation of the Code, which may facilitate its enactment in Puerto Rico, was recently published and made available to the Committee on Commercial Law of the Inter-American Bar Association when it met in Costa Rica last April.

The Permanent Editorial Board, which last reported on October 31, 1964, met again in Philadelphia on November 11 and 12, 1966, at which time it completed work on Report No. 3, which has been published. The report approves three amendments to the Code for uniform adoption. Four optional amendments on points as to which uniformity is not believed to be essential also were approved. With respect to Article 9, the full title of which is "Secured Transactions; Sales of Accounts, Contract Rights and Chattel Paper," the Board noted that there had been more than 300 non-uniform amendments in the course of the enactments. Consideration of this problem led to the conclusion that, in Chairman Schnader's words, "the time had arrived for a restudy in depth." To that end a special Article 9 Review Committee was established, the members of which are:

Joe C. Barrett, Arkansas
Carl W. Funk, Pennsylvania
Chief Judge John S. Hastings, U.S. Court of Appeals, Seventh Circuit
Robert Haydock, Jr., Massachusetts
Ray D. Henson, Illinois
Harold Marsh, Jr., California
William Curtis Pierce, New York
Millard H. Ruud, Texas
Judge Sterry R. Waterman, U.S. Court of Appeals, Second Circuit
Herbert Wechsler, New York, Chairman.

With the aid of Professors Robert Braucher, Homer Kripke and Soia Mentschikoff as Reporter and Associate Reporters, and Professor Grant Gilmore and Peter F. Coogan as Consultants, the Committee has begun its work. It is hoped that it can report to the Permanent Editorial Board within two years.

WORK NOT YET SUBMITTED TO THE INSTITUTE

Federal Estate and Gift Tax Project. While Study Drafts No. 1 and No. 2 have been distributed to members of the Institute, the analysis and recommendations they embody have not yet been considered by the Council, as we have tried to emphasize in every way we can. The time is now approaching, however, when a submission to the Council will be made. The Tax Advisory Group, which is meeting here on May 17, 18 and 19, is expected to conclude its study of the draft at this session, reaching such conclusions as it may. The Consultants will then meet with the Reporter on June 8 to 11 and a special meeting of the Council to receive the ultimate submission has been called in October. The Council should, therefore, complete its examination of the work by next March, permitting a submission to the Institute in May 1968. That is, in any case, the program as we see it now.

Public Control of Land Use. The group of Consultants working with this project view the Reporters' work with a measured optimism that I share. The last meeting took place on April 27 and 28 and further sessions are envisaged in the summer and the fall. There will be a submission to the Council in December or in March and I am hopeful that the Institute will see a printed draft before another year.

PUBLICATIONS AND THEIR DISTRIBUTION

THE 1965 SUPPLEMENT to the Restatement in the Courts has just been published, noting decisions in the decade from January 1, 1954 to January 1964. These three volumes will be supplemented shortly by a fourth, reporting decisions after 1963. A volume of Pennsylvania Annotations to the Restatement of Trusts,

Second, prepared by Professor W. Foster Reeve, III, and sponsored by the Pennsylvania Bar Association Committee on the Work of the American Law Institute, also has appeared during the year.

As you know, the Official Drafts of the Restatements are published by the American Law Institute Publishers. The distribution of these books has been handled through the ordinary commercial channels, with large reliance on the salesmen of the Lawyers Co-operative Publishing Company and West Publishing Company and the established dealers. While this long-standing arrangement will be continued, there has been one recent change. Hereafter, we too shall engage in the distribution of our publications. We have no wish to disturb the relationship that many firms now have with dealers, but we are now convinced that our sales can be increased and that this step may be effective to that end.

CITATIONS AND ENACTMENTS

The Restatements were cited in 1877 opinions of the appellate courts during the year since April 1, 1966, in contrast to 1176 during the previous year. The cumulative total of such references now stands at 36,303, as the table on p. 18 shows. Similar references to the Codes are tabulated on p. 19, a computation that began in July 1959.

It is not feasible to give a qualitative picture of this data in detail, but it is pleasant to refer to such examples as the explicit adoption "as the law of Pennsylvania" of §§ 339 and 402A of Torts Restatement, Second, in *Jesko v. Turk,* 421 Pa. 434 (May 24, 1966) and *Webb v. Zern,* 422 Pa. 424 (June 24, 1966); the adoption "as the rule of law in Rhode Island" of § 357 of Torts, Second, in *Rampone v. Wanskuck Buildings, Inc.,* R.I. , 227 A.2d 586 (March 27, 1967), prospectively overruling an earlier decision; and the reference to the Study of Division of Jurisdiction Between State and Federal Courts in the opinion of Mr. Justice Fortas in *State Farm Fire & Casualty Co. v. Tashire,* U.S.

RESTATEMENT OF THE LAW
CITATION PARAGRAPHS UP TO APRIL 1, 1967

	Agency	Conflict of Laws	Contracts	Foreign Relations Law	Judgments	Property	Restitution	Security	Torts	Trusts	Totals
Alabama	23	6	21	—	3	11	7	—	37	21	129
Alaska	4	3	16	—	4	—	—	—	23	2	52
Arizona	59	40	81	—	9	6	20	—	159	37	411
Arkansas	24	14	55	—	10	26	18	2	55	48	252
California	348	159	621	—	107	169	120	7	1125	311	2967
Colorado	16	11	41	—	4	13	8	—	56	14	163
Connecticut	35	48	145	—	13	24	26	1	176	61	529
Delaware	41	75	67	—	16	47	22	7	71	71	417
Dist. of Columbia	27	4	72	—	6	—	8	1	36	2	156
Florida	31	17	62	—	16	8	8	8	128	25	303
Georgia	51	22	43	—	2	7	4	—	119	15	263
Hawaii	1	1	7	—	—	2	3	—	7	9	30
Idaho	18	10	29	—	3	2	5	1	50	2	120
Illinois	45	33	93	—	14	13	9	1	103	83	394
Indiana	31	14	39	—	8	12	7	10	70	40	231
Iowa	54	55	81	—	14	61	24	—	155	109	553
Kansas	61	25	147	—	1	55	32	3	103	84	511
Kentucky	64	37	89	—	18	56	19	1	132	63	479
Louisiana	22	29	18	—	3	—	1	—	94	3	170
Maine	5	18	14	—	1	12	4	—	24	18	96
Maryland	129	89	246	—	31	60	42	6	255	104	962
Massachusetts	190	173	320	—	29	128	80	14	356	225	1515
Michigan	24	32	51	—	11	11	26	1	95	29	280
Minnesota	90	73	200	—	31	36	50	5	291	79	855
Mississippi	82	22	82	—	10	24	6	4	152	55	437
Missouri	163	112	152	—	43	94	55	6	377	179	1181
Montana	24	11	34	—	—	3	6	—	43	30	151
Nebraska	73	19	99	—	10	46	17	1	65	89	419
Nevada	9	6	18	—	12	6	3	1	27	6	88
New Hampshire	55	63	84	—	21	38	23	5	148	101	538
New Jersey	147	120	267	—	90	71	50	14	406	227	1392
New Mexico	59	14	65	—	6	3	13	3	90	7	260
New York	206	373	593	—	111	169	108	28	717	506	2811
North Carolina	35	20	33	—	4	5	13	1	81	14	206
North Dakota	9	18	23	—	5	3	2	—	30	10	100
Ohio	75	72	127	—	12	52	27	4	247	173	795
Oklahoma	36	8	25	—	5	10	6	—	59	32	181
Oregon	83	58	213	2	27	44	64	9	244	95	839
Pennsylvania	300	245	643	2	28	100	125	16	858	520	2837
Rhode Island	4	5	28	—	—	9	3	—	16	17	82
South Carolina	15	17	22	—	7	17	9	—	47	13	147
South Dakota	22	7	30	—	5	12	8	—	51	11	146
Tennessee	47	24	45	—	7	9	7	2	82	28	251
Texas	88	46	153	—	8	52	42	1	263	117	770
Utah	27	13	52	—	7	15	11	3	113	13	254
Vermont	6	11	25	—	3	11	5	3	39	18	121
Virginia	21	7	40	—	1	12	9	—	40	26	156
Washington	108	40	232	—	10	35	28	2	185	67	707
West Virginia	10	6	39	—	1	8	—	—	31	11	106
Wisconsin	136	59	152	—	22	35	37	10	222	139	812
Wyoming	24	13	48	—	6	9	3	—	56	27	186
Federal	1013	1190	1855	19	532	180	460	88	2377	563	8277
United States	24	45	49	2	8	—	1	—	33	52	215
Totals	4294	3633	7786	25	1361	1831	1684	269	10819	4601	36303

CITATIONS TO STATUTORY WORK
UP TO APRIL 1, 1967*

	Code of Criminal Procedure	Income Tax	Model Code of Evidence	Model Penal Code	Uniform Commercial Code	Totals
Alabama	—	—	—	—	1	1
Alaska	1	—	—	—	2	3
Arizona	—	—	1	9	—	10
Arkansas	—	—	—	—	10	10
California	2	—	—	23	11	36
Colorado	—	—	—	—	1	1
Connecticut	—	—	—	—	4	4
Dist. of Columbia	—	—	—	—	5	5
Florida	—	—	—	1	2	3
Georgia	—	—	—	—	14	14
Hawaii	—	—	1	—	—	1
Idaho	—	—	1	—	—	1
Illinois	—	—	—	1	8	9
Iowa	—	—	1	—	1	2
Kansas	—	—	—	1	—	1
Kentucky	—	—	—	2	9	11
Louisiana	—	—	1	—	—	1
Maine	—	—	—	1	3	4
Maryland	—	—	1	5	5	11
Massachusetts	—	—	—	7	25	32
Michigan	—	—	—	—	3	3
Minnesota	—	—	1	—	—	1
Mississippi	—	—	—	—	1	1
Missouri	—	—	1	1	3	5
Montana	—	—	—	—	1	1
Nevada	—	—	—	—	1	1
New Hampshire	—	—	1	4	1	6
New Jersey	—	—	—	18	17	35
New Mexico	—	—	—	—	3	3
New York	—	—	1	12	83	96
North Carolina	—	—	—	—	2	2
Ohio	—	—	—	—	5	5
Oklahoma	—	—	1	—	5	6
Oregon	—	—	—	1	8	9
Pennsylvania	—	—	1	4	45	50
Rhode Island	—	—	—	—	6	6
South Dakota	—	—	1	—	1	2
Tennessee	—	—	—	1	3	4
Utah	—	—	—	1	—	1
Virginia	—	—	—	—	1	1
Washington	—	—	2	3	2	7
West Virginia	—	—	—	—	2	2
Wisconsin	—	—	—	7	2	9
Wyoming	—	—	—	—	4	4
Federal	—	1	20	46	99	166
United States	—	—	—	12	1	13
Totals	3	1	35	160	400	599

* Count from July, 1959.

, 87 S. Ct. 1199 (April 10, 1967), sustaining the constitutional sufficiency of minimal diversity of citizenship to establish federal jurisdiction in interpleader.

The provisions of the Model Penal Code dealing with responsibility were enacted this year in Maryland and, with minor changes, in Montana. The provisions delineating a conservative alleviation of the rigor of the prohibition of abortion received consideration in a number of States and were passed in Colorado and North Carolina. The proposed Crimes Code of Pennsylvania is now pending in the legislature. A similar project has been completed in Delaware and another is expected to be finished next month in Michigan. A new Georgia Code is being studied in Committee; one in Kansas is in draft for submission in 1969; and the Joint Legislative Committee for Revision of the Penal Code of California has distributed a number of preliminary drafts for comments and suggestions. General revisions are also under way, according to our latest information, in Connecticut, Colorado, Hawaii, Iowa, Maryland, Montana, Ohio, South Carolina and Texas. The National Commission on Reform of Federal Criminal Laws, established by Public Law 89-801 to review and recommend the revision and recodification of "the federal system of criminal justice" was recently appointed and will shortly start its work.

Professional discussion of the work of the Institute maintained the gratifying level it has held in recent years. A bibliography of the most interesting items, reflecting the usual predominance of discussion of the Uniform Commercial Code, is set forth as an Appendix.

INTEREST IN THE INSTITUTE

THE INSTITUTE receives during the year a constant flow of inquiry concerning the Restatements and the Codes, our membership and methods of procedure, the work that we are doing and the work we plan to do. All of this attests to the concern of modern

man for the quality of law as a safeguard against anarchy and tyranny and even against sheer absurdity in social norms. To minister to that concern, even as modestly as we attempt to do, should give us satisfaction. By performing and improving our work, we render an important service to our country and our time.

Respectfully submitted,

HERBERT WECHSLER,
Director