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## West Virginia Bar Association--Report of the Committee on Criminal Law

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should not be handicapped in its work by the fact that it cannot know with any certainty before the end of the year just how much money it will have to spend or the possible sources of its money.

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WEST VIRGINIA BAR ASSOCIATION—REPORT OF COMMITTEE ON CRIMINAL LAW.—A discussion of the Report of the Committee on Criminal Law of the West Virginia Bar Association centered mostly upon the recommendation in that report that the prosecuting attorney should be permitted in a criminal trial to comment on the failure of the accused to take the stand in his own behalf. The members of the bar who spoke on this proposal looked upon it with unanimous disfavor on the ground that it had a tendency to relieve the state of the burden of proving its case.

In as much as most of the comment which was offered was not in favor of this recommendation, we think it only fair to point out that the recommendation has very substantial support behind it. In fact Dean Pound of the Harvard Law School would go further and take away from the criminal his immunity from being put on the stand and compelled to testify. It is thought by many jurists that the inability of the prosecution to elicit testimony from the party who knows most about the crime, i. e., the defendant, results in illicit attempts to do the same thing by the third degree and that much of the temptation toward subjecting criminals to third degree methods would be removed if the prosecution could put them through a legitimate cross-examination. While we reserve ourselves a doubt on this, we realize it is only fair to the writers of the report to indicate that there is much more support in favor of this recommendation in this respect than appeared upon the floor at the Association meeting.

While we lay no claim to being criminologists, nevertheless, we entertain an unauthoritative opinion to the effect that more protection should be thrown around the criminal prior to his actual trial in court in the matter of searches, seizures, third degree investigations and similar investigating methods and that less is necessary in an open court where a competent judge is on the bench to protect him from the abuse of power by the prosecution.