Journal of Criminal Law and Criminology

Volume 3 | Issue 4 Article 3

1913

Progressive Program for Procedural Reform

Nathan William MacChesney

A PROGRESSIVE PROGRAM FOR PROCEDURAL REFORM.[1]

NATHAN WILLIAM MACCHESNEY.

Member of the Chicago Bar.

Public Interest in Law Reform.—If the newspapers and magazines of the country are any criterion as to what the people are thinking about, aside from the exigencies of a political campaign, their chief concern at the present time is the courts and the administration of the law. I do not propose to go into a general discussion of this question at this time, but desire to confine my attention to particular problems connected with the criminal law and the underlying causes which create the condition that necessitates its constant application.

No one will deny that popular dissatisfaction with the administration of justice, civil as well as criminal, has grown alarmingly in the last decade. The attention of the people has been directed consistently to the enforcement of our criminal law and the demand has not been confined to any class or section of society nor to any particular section of the country. It has been universal in its scope.

The Criminal Law Problem and Some Suggested Remedies.—Before the Academy of Political Science in the city of New York last year, I summarized the demand as follows:

First: A general insistent demand for a simplified procedure.

Second: A widespread insistent belief that the courts shall be responsive to the enlightened social conscience of the day.

Third: A demand that higher standards shall prevail at the bar, in order that persons with anti-social tendencies may find it impossible to secure men of standing and training to promote violations of the law and to render their punishment impossible.

It is easier, however, to define the problem than it is to suggest any solution, for while the demand expressed in general terms is almost universal, when it is attempted to embody this desire in concrete reforms, difficulties at once arise. Among these are:

First: The fact that as usual when legislation is proposed, it is always desired that its application be limited. The general demand frequently invades what is regarded as the rights of a particular class in the name of the majority. Almost every portion of the community is now and then a class minority.

Second: The fact that in framing the new laws one of several methods must be selected, and the advocates of each are as bitterly

opposed to the particular methods suggested by other factions as they are in favor of a remedy for the evil at which all are aiming.

Third: The lack of political value in such legislation is another difficulty. Our legislators are prone to give time and attention to matters which attract public attention and are disinclined to give a proper amount of time to laws dealing with the minutia of criminal administration.

De Tocqueville in his Democracy in America (January, 1835), speaks of this difficulty of securing interest in the execution of the law and the conduct of public administration. He says:

"As the majority is the only power which it is important to court, all its projects are taken up with the greatest ardor, but no sooner is its attention distracted than all this ardor ceases; * * * * * *

"In America certain ameliorations are undertaken with much more zeal and activity than elsewhere; in Europe the same ends are promoted by much less social effort, more continuously applied."

Fourth: A fourth difficulty is the lack of proper standards for practice at the bar, which results in a type of lawyer, oftentimes, who regards the present chaotic condition of our criminal law and administration as a trade asset.

Fifth: The fear that any stiffening of the process of the criminal law may be an invasion of the rights of the individual, which is likely to lead to a great deal of sentimentality in the discussion of these questions.

In spite of these difficulties, however, men of training and energy must attack the problem, for the growing distrust on the part of large portions of the community of the efficacy of our entire system of dealing with the criminal law and the criminal, is apparent.

This distrust is an ominous symptom, particularly in as far as it is an endorsement of the saying of Solon of two thousand years ago that "laws are like spiders' webs which catch the small flies, but through which the great flies break." There are many of us who believe that this saying, applied to present conditions, is untrue. But whether true or not, it has some basis in fact, and as long as it is believed by any considerable number of the community, it lowers public respect for the law, affects the standing of the bar, and renders still more difficult the proper enforcement of the laws we already have.

We are told that the civil procedure of Kansas has solved most of the difficulties which beset us elsewhere,[1] and I hope that with this experience on the civil side that Kansas will attack the criminal side likewise, and furnish some model legislation as an example to the rest of the

country. It is to progressive states, such as Kansas, Oklahoma, Wisconsin, and even Massachusetts and New York to which we must look for suggestions as to the proper remedies. My own state of Illinois still has the procedure of England, at the time of George the First, the last vestiges of which were abandoned by England in 1873 by the passage of its Judicature Act.

It may be well for me, however, in passing, to say that I think that the enthusiasm of some of our students of English and continental systems has led them too far in their statements of the results of the Judicature Act in England. I have seen it stated in the public press that the criminal business of England was conducted by something like eighteen judges with entirely satisfactory results.

The fact of the case is that something like 20,000 men hear criminal cases in England, and the criticism of the administration there is almost as severe as here, showing that we have much more to do than merely to copy a system which is supposed to work satisfactorily elsewhere.

Those who are interested in this general question of the effect of the English procedure should refer to the report of Professors Lawson and Keedy to the American Institute of Criminal Law and Criminology, on the subject of Criminal Procedure in England, appearing in the Journal of Criminal Law and Criminology for November, 1910, and January, 1911, and for a less favorable view to the analysis of the English Procedure by Judge William N. Gemmill of the Municipal Court of Chicago, which appears in the Illinois Law Review for February and March, 1910, and a later address given by him before the Illinois Society of the American Institute of Criminal Law and Criminology on May 10th, 1912.[2]

From time to time various measures have been recommended to remedy the conditions, and of these I desire to call your attention particularly to the following:

First: No judgment should be set aside or reversed, and no new trial granted on the ground of misdirection of the jury, of improper admission or rejection of evidence, or of error in any matter of pleading or procedure, unless it shall appear to the examining court that such error has affected the substantial rights of the parties. The original suggestion for a provision of this kind was made by President Taft, was then recommended by the American Bar Association, and in 1911 was enacted by the Congress of the United States, so that it now applies to the Federal courts. In some states constitutional changes may be neces-

[1]Delivered before the first annual meeting of the Kansas State Society of

Criminal Law and Criminology, held under the auspices of the University of Kansas at Lawrence, Kansas, on May 17-18, 1912.

[2]Sometime President, American Institute of Criminal Law and Criminology. The Judge Advocate General of Illinois. Commissioner on Uniform State Laws. Sometime Vice-President, Illinois State Bar Association.

[1]Report of the committee of the Kansas Bar Association on Crimes and Criminal Procedure, by William E. Higgins in Journal of the American Institute of Criminal Law and Criminology III, 1, 12 ff.

[2]Procedure in Criminal Courts, by William N. Gemmill, Journal of the American Institute of Criminal Law and Criminology III, 2 (July, 1912, pp. 175 ff.)

sary to allow consideration of the facts by an appellate tribunal in order to make this provision effective.

Second: The right of the prosecution to comment upon the defendant's refusal to testify should be secured.

Third: The right to use private confessions obtained by officers of the law, (commonly called the "third degree") should be abolished. The doing away with the private confession and granting the prosecution the right to comment upon the defendant's refusal to testify should have important results. The defendant will testify more often than he does under the present rule and the prejudice aroused against the prosecution, due to the use of such private confession, will be eliminated. A resolution on the subject of third degree confessions was presented to the American Bar Association at its meeting in Boston in August, 1911, but was acted upon adversely. Nevertheless, such confessions are often obtained under conditions which ought to discredit them.

Fourth: The same right of change of venue should be given to the state as to the accused, and removals under proper restrictions, from one county to another should be allowed.

Fifth: The provision requiring a unanimous verdict should be done away with, and in all excepting capital cases, a three-quarters verdict should be allowed.

Sixth: The amendment of indictments should be allowed at any time, provided the character of the charge be not changed, and provided the accused be given the right to prepare any additional defense made necessary by such change. No substantial rights of the defendant would in any way be sacrificed by such a provision, and those disreputable and disgraceful cases in which convictions have been set aside on the ground of some trifling technical error in the indictment would be done away with.

Seventh: Instructions should be prepared by the court, with the assistance of counsel, who should thereafter be limited to objections

raised at such time. We are all familiar with the system of oral instructions used in the Federal Court (though I do not know what your Kansas practice is in such matters) and we have found in connection with our Municipal Court in Chicago, that the giving of oral instructions and the limiting of counsel to objections then and there raised has greatly facilitated the trial of cases without in any way sacrificing the legitimate rights of the defendant.

Eighth: The power of the trial judge should be rehabilitated, so that he can exercise his common law powers with the right to summarize and comment upon the evidence as in the Federal Courts. He should not, however, in my judgment, have the right to express his opinion upon the weight of the evidence.

Ninth: The same number of challenges should be allowed to the state as to the accused, and both sides should be placed, as far as possible, upon the same footing, without undue hardship to the accused.

Tenth: The state should be allowed an appeal to a certain extent upon questions of law. The verdict of the jury, however, should stand, and I do not believe in the right of appeal on the part of the state in such a way as to affect the acquittal or conviction of the particular defendant, and I do not believe the "twice in jeopardy" principle under our constitution will, or should, ever be changed.

The expense, notoriety and worry incident to a properly conducted, single trial for a criminal offence, is all any person accused of crime should have to face, and if technicalities are eliminated, and the state has a fair opportunity to convict it should be limited to the single trial without appeal. It has been advocated that neither the state nor the defense should be allowed appeal, and we have been pointed to England as an example of the beneficial results of such a system. However, the English Criminal Appeal Act of 1907 provided for an appeal on the part of the defense, and it is shown that their previous system often led to great injustice. George Gordon Battle, Esq'r. of the New York Bar, in an address recently commented upon in the Journal of Criminal Law and Criminology (II, 3, 334 ff), speaking of "The Administration of the Criminal Law in England and in the United States of America," says:

"With all its crudities and defects, I think it is very seldom that an innocent man is convicted under our administration of the criminal law. I am, however, irresistibly led to the conviction that many innocent men must have been convicted under the English system."

Mr. Battle attributes this result to the fact that judges hearing

criminal cases continuously come to have a bias against the defendant, and where the judge charged controls the procedure as under the English procedure, that bias is more or less entirely reflected in the verdict of the jury.

Upon this question I took occasion to say in my Annual Address as President of the American Institute of Criminal Law and Criminology, last year, that

"There are, of course, two sides to the question, but in our zeal to achieve the efficiency of the English system we must not overlook the fact that there is much to be said on the other side, and that the prejudice of our bar, very general throughout the country, against the undue influence of the judge over the deliberations of the jury, in the light of the experience of our bar is not altogether unjustified on their part in view of the facts."

Eleventh: The accused should be subject to cross-examination when he takes the stand in his own behalf and should be taken to have waived his constitutional privilege against self-incrimination.

Twelfth: The principle of second jeopardy should not apply in case of mistrial or retrial.

Thirteenth: An indictment should be sufficient if it specifies the crime, its time and location with sufficient particularity to prevent a second prosecution. *Res adjudicata* should be, after all, the only test to which a plea should be subjected and if it is sufficient to raise that plea it should be sufficient for all purposes. This principle applies to criminal as well as civil procedure.

Fourteenth: Press comment should be stringently limited to actual report of the proceedings, without comment, editorial or otherwise, and without comment from the state's or district attorney. We have grown all too accustomed to a statement in the daily paper as to what the prosecuting attorney expects to prove in a particular case. A statement which all too plainly shows that the information could have been secured only from the office of the prosecuting attorney himself.

Fifteenth: Jurors should not be disqualified because of the reading of accounts or hearing of rumors regarding alleged crimes, but only when they cannot give a fair verdict because of fixed opinion. We have a statute in Illinois on this subject which provides as follows:

"It shall not be a cause of challenge that a juror has read in the newspapers an account of the commission of the crime with which the prisoner is charged, if such juror shall state, on oath, that he believes he can render an impartial verdict, according to the law and the evi-

dence. And provided, further, that in the trial of any criminal cause, the fact that a person called as a juror has formed an opinion or impression, based upon rumor or upon newspaper statement, about the truth of which he has expressed no opinion, shall not disqualify him to serve as a juror in such case. He shall state upon oath, however, that he believes he can fairly and impartially render a verdict therein, in accordance with the law and the evidence, and must satisfy the court of the truth of such statement." (Hurd Rev. Stat., Chap. 78, Sec. 14.)

Sixteenth: Expert testimony should be rigidly regulated, and if experts are not furnished by the state their qualifications should be passed upon, their fees limited, and contingent fees absolutely prohibited.

Seventeenth: The state should have the right, under proper restrictions, to compel accused persons to produce any paper or thing of importance in connection with the trial.

Eighteenth: Jury service should be compelled on the part of practically every citizen. To that end the time of such service should be so fixed as to give the least possible inconvenience to those called for such jury service. In our state we have endeavored to get a law passed giving the judge before whom a juror is called the right to excuse to a certain day at any time within six months. So far we have been unable to get such a law passed, though it has been introduced at three separate sessions of the legislature. It has the general support of the bench and the bar in Chicago, but where the jurors are better known, as in the country, the bar so far has refused to endorse the plan.

Nineteenth: A transcript of the evidence of a witness on a former trial, whom it is impossible to produce, should be competent evidence in a second trial.

These are all well considered reforms, many of which have already been tested in other jurisdictions; some of them are now laws in your own state. The enactment of all of them in any one jurisdiction would go far to meet the present demand for reform. In securing such reforms, however, a beginning would have to be made and if I were to pick or choose I should especially urge, among the measures which I have named, (1) the abolition of the unanimous verdict by providing for a three-quarters verdict in all except capital cases, and (2) the abolition of the principle of second jeopardy so far as it is applied to cases of mistrial or retrial.

The Responsibility of the Bar.—While the interest in these problems is community-wide, if a satisfactory solution is to be found for them, men who are peculiarly trained for the task must give it their at-

tention. This means the bar, and upon them should be placed the responsibility for the remedies. No one should know better the present abuses. No one is in a better position to see what is needed or to frame the remedy and no one should be so eager to secure the proper solution as the lawyer of standing and repute. The knowledge of the conditions, together with the knowledge of the proper remedy, is practically his exclusive property; the responsibility is fairly his, therefore, and should not be shirked.

It has been reasonable to anticipate that in a great movement for criminal law reform the prosecuting attorneys of the country generally would be the most vitally interested. Such, however, has not seemed to be the case, and an attempt to get their co-operation in connection with certain movements has been most discouraging. The bench has responded. Those interested in the problem outside the bar have responded; many of the leading members of the bar have taken a keen interest in the whole subject, but so far, the average prosecuting attorney or criminal lawyer for the defense has shown but little interest in the problems, or desire for their solution.

This is all wrong, of course, and must be changed in some way. Unfortunately, in my own state, for instance, the practice of the criminal law has degenerated until it is conducted almost exclusively, so far as the defense is concerned, by men without professional or social standing, men who have either failed or have never been able to get into the general practice of law, either because of lack of professional skill or of personal character, each of which is essential to any great success.

In our state we elect the states attorney, and most of them are either young men just starting out, who have no vital interest in the problems connected with the administration of criminal law, or older men who regard it merely as a source of income. In England, where the members of the bar try cases for the Crown and then for the defense, and where they have no system of regular prosecuting attorneys as we have here, men of the best standing try on either side, which in itself solves many problems such as we meet here. In Connecticut the prosecuting attorneys are appointed by the judges, which has some advantages over our elective system, but I am not sufficiently familiar with the working of the plan there to express a decisive opinion on it one way or another.

In trying to interest members of the bar other than those connected in criminal practice, we are sometimes informed that the particular lawyer does not practice criminal law and so is not interested. Surely he has at least the interest of the general citizen in the subject, which in-

terest should be intensified by his professional knowledge and desire to increase the standing and repute of the administration and the practice of the law as a whole.

The Need of a Scientific Body to Formulate Reforms, to Secure Co-operation of Those Interested and to Promote Legislation.—The bar is, however, not the only professional body interested. Many other groups of men have given far more attention to the causes and conditions underlying our entire criminal problem than has the bar. But much of this work has been done without an understanding on the part of the lay scientists, and on the other hand the bar has neither been familiar with nor willing to accept suggestions made in connection with the administration of criminal law coming from other than legal sources.

The medical profession has given much attention and has contributed largely to the solution of some of the problems connected with this evil.

The present movement for the reform of the criminal law has advanced by leaps and bounds in the last two or three generations. The extent of this advance can be realized only when one compares the conditions in our prisons and the treatment of criminals existing at the beginning of the nineteenth century with those at the present time.

Sociology, too, with its wide survey of the facts of life, has culled and classified a great mass of evidence bearing upon these problems which has hardly been considered at all by our law makers. The whole movement concerned with improving the condition of the criminal which finds its center and its object in *the individualization of punishment;* which takes into consideration all the underlying causes of crime and administers the penalty with the view to the reclamation of the offender rather than as revenge for a wrong to society, is new to the present generation of lawyers.

When only the criminal act itself is considered, detached from the person committing it, the punishment should be uniform no matter by whom the offense is committed. When that is the view of crime the lawyer need only consult the statutes. A knowledge of the sciences concerned with criminal conditions becomes necessary only when crime is viewed in a subjective aspect and the contributing or palliating circumstances connected with the offender and the commission of the crime are taken into account.

The great slogan of the whole modern criminal law reform movement, particularly of that larger movement comprehended under the science of criminology, is *the individualization of punishment,* which

considers the act committed as an offense against society, and protects society, yet, notwithstanding, with an eye always on the offender, his motives, his environment, his limitations, and his possibilities. It applies the remedy and applies it in such a way as to reclaim the individual for further usefulness in his community without sacrificing the real demands of society.

The bar has taken little or no interest in the movements that go to make up the modern criminological reform. Much of the criticism against the bar for its unprogressive attitude is justified, but the explanation is at hand. However much the philosophy underlying penal administration may have changed during the last century, such change is known only to the scientific student of the subject, and while it has affected the practices of the administration of the criminal law, it has to a very limited extent affected only the actual enactments concerning it with which in the first instance the bar is more largely, if not exclusively, concerned.

As long as crime is regarded as an objective fact, a definite violation of the rules of society, for which a definite penalty is prescribed, regardless of the individual, or of the environmental conditions which produce the individual, or the act in him, our courts are always exclusively concerned with this prescribed penalty, and the bar feels little or no need of an understanding of or acquaintance with the great underlying movements of the contributory sciences, such as psychology, sociology, penology and the like, which go to make up the whole of the science of criminology. Just so soon, however, as there is an awakening to the fact that much else is involved; that, after all, granted the necessary protection to society, the important factor is the individual, the bar awakes to the realization of the necessity of scientific study of, and a thorough knowledge concerning all the contributory factors to crime. Such an awakening has been going on for many years in Europe, but has only just begun in America. Unfortunately, too, the results of the European experimentation in this field were and are hardly known to our bar, because of the lack of adequate translations of the scientific treatises dealing with these subjects.

These facts made imperative the organization of a scientific body, which would include not merely the bar, but all those other bodies of men who have special knowledge of any of the problems connected with the administration of criminal justice. This need has been fully met by the organization of the American Institute of Criminal Law and Criminology.

The American Institute of Criminal Law and Criminology.—The American Institute of Criminal Law and Criminology is an outgrowth of the National Conference on Criminal Law and Criminology held in Chicago in June, 1909. The conference was composed of nearly two hundred delegates, representing the various professions and occupations concerned directly or indirectly with the administration of criminal law, and the punishment of criminals. It included members of the bench and bar, professors of law in universities, alienists, criminologists, penologists, superintendents of penal and reformatory institutions, psychologists, police officers, probation officers, and many others with a like special interest in the problems to be discussed. Delegates attended from every section of the country. In short, it was a representative gathering of those either actually concerned with the application of criminal law, or who, as students, were interested in its problems. Entirely without precedent in the history of America, either in character or purpose, it represented the first instance of co-operative effort among those interested in a better system of criminal justice, and marked the beginning of a new era in the history of American criminal jurisprudence.

The conference afforded an excellent opportunity for the exchange of ideas among lay scientists and lawyers, and a sincere effort was made to reach a common understanding on certain points concerning which there had been a widespread divergence of opinion. Although, as I have said, the idea of such a gathering was a new one in America, it was an old one in Europe, where congresses of criminologists have frequently been held for the promotion of criminal science and the consideration of practical problems connected with the administration of criminal justice. In England, for instance, the value of co-operation among lawyers and scientists in promoting improvement in criminal law and in methods of criminal procedure, has long been recognized.

An elaborate program, covering almost every problem of criminal science, was prepared for the Chicago conference, mainly from the list of topics suggested by the delegates. Although it constituted a remarkable program of constructive effort looking toward judicial and penal reform. For the systemization and despatch of the work of the conference, the delegates were divided into three sections. To the first of these were referred all topics referring to the treatment (penal and remedial) of criminals; to the second, those relating to the organization, appointment and training of officials concerned with the administration of punitive justice; and to the third, those having to do with criminal

law and procedure. To the conference as thus organized, one hundred and thirty-five topics were submitted for its consideration. They included such subjects as, the indeterminate sentence, rehabilitation, procedure of juvenile courts, treatment of accused persons under detention, indemnification for wrongful detention, the employment of prisoners, bureaus of identification, probation and parole, the insanity plea, public offenders, the selection and treatment of jurors, means of increasing the effectiveness of the jury system, the unnecessary multiplication of criminal laws, the examination of accused persons, the simplification of pleading, the need of efficient agencies for collecting and publishing criminal and judicial statistics, restrictions on the right of appeal, reversals for technical errors, the enlargement of the power of the judge, the organization of procedure of municipal courts, laboratories for the scientific study of criminals, the use of medical expert testimony, and many others, including the all inclusive topics, so far as the individual is concerned, of the individualization of punishment.

Realizing the impossibility of dealing adequately with such a variety of questions, the conference wisely decided to restrict itself to a small number of topics which were to be made the subjects of investigation by committees, and upon which reports were to be presented at future conferences.

A committee was appointed, also, to investigate and report on the methods of criminal procedure in Europe, and particularly in Great Britain, where the administration of justice is frequently asserted to be a model of efficiency and despatch. Dean John D. Lawson of the University of Missouri School of Law, and editor of the American Law Review, and Professor Edwin R. Keedy of Northwestern University Law School, as members of this committee spent several months in England on this mission, and embodied the results of their research in a report which attracted wide attention, and has already proven of value.

The conference adopted resolutions calling attention to the popular dissatisfaction with the results of our present methods of administering justice; declared that reliable and accurate information regarding the actual administration of the criminal law was necessary to efficient legislation and administration; that appeal to Congress should be made through the agency of the Census Bureau for the collection of full and accurate judicial statistics covering the entire country, and urged the enactment of legislation by the states, requiring prosecuting attorneys and magistrates to report to some officer full information regarding crime committed within their jurisdiction, and the punishment of offenders.

The conference also clearly recognized that if America was to come abreast of the present thought in Europe on these questions, the students of the subject in this country must be familiar with the literature on the subject there, and recognizing the desirability, if not the absolute necessity of making readily accessible in English the more important treatises on criminology published in foreign languages, steps were taken looking toward the translation and publication of such treatises, to the end that the principles of criminal science would be more generally studied, and the criminal law improved.

Finally, impressed with the advantages of uniting the efforts of lawyers, criminologists, sociologists and all others interested in this cause of a better criminal law, the conference resolved to perfect a permanent national association, to be known as the American Institute of Criminal Law and Criminology, whose purpose should be "to further the scientific" study of crime, criminal law and procedure; to formulate and promote measures for solving the problems connected therewith, and to co-ordinate the effort of individuals and of organizations interested in the administration of certain and speedy justice."

This was done; officers were elected and committees appointed. There have now been held three annual conferences, the last at Boston in connection with the annual meeting of the American Bar Association, which, at its thirty-second annual meeting voted to recognize the American Institute of Criminal Law and Criminology as an affiliated organization, carrying on the work of its particular field in connection with the American Bar Association, and made arrangements for the annual meeting of the American Institute and for the publication of the annual program with that of the American Bar Association, and for the publication of the proceedings of the American Institute conferences with the annual reports of the American Bar Association. Proceedings of the third annual conference of the American Institute appear in the annual volume of the American Bar Association, XXXVI. 1911.

The fourth annual meeting of the American Institute will be held at Milwaukee, Wisconsin, on August 29-31, 1912, immediately following the American Bar Association meeting.

The organization of the American Institute provided for the formation of state organizations to be known as State Societies of the American Institute of Criminal Law and Criminology. Such organizations are now in operation in Wisconsin, Minnesota, Massachusetts, New York, Pennsylvania and Illinois, while plans are being made for their organization in Missouri, Vermont, Michigan, and California.[3]

The American Institute publishes the Journal of Criminal Law and Criminology, which is now entering upon its third volume, and which has received general recognition in this country and abroad. When it was established there was not throughout the length and breadth of this land, or, indeed, in any English speaking country, a journal devoted to the promotion of criminal science, though most other civilized nations already had such publications—three of them in South America—there being some thirty-five in all.

Such, briefly, has been the history of the American Institute and of the idea for which it stands. The need of it to any one who gives even the most hasty consideration to the subject must indeed be apparent. The vast number of problems suggested in connection with this whole subject of crime, the formulation and administration of the criminal law and the contributory sciences which may be properly included under the term of criminology, show to any observer the necessity for an organization composed of scientifically trained men with public spirit, who are capable and willing to devote themselves tirelessly to a consideration of the problems involved. Such an organization is the American Institute. It formulates for discussion the various problems, as no isolated group of men can do. It puts them before the country, thoughtfully, scientifically, forcefully, and attracts to them the attention of the courts and the bar. It brings together groups of scientific men, students whose conclusions will receive respect, both from the bench and from the bar, to both of which the country as a whole must look for guidance in these matters, if progress is to be made.

The method of work pursued by our committees make sure that whatever is undertaken by the Institute will be considered from every point; that the results will be worth publication, and the Journal of Criminal Law and Criminology makes the results of this work available to the general reading public, through its columns. Judges, lawyers, penologists, alienists, sociologists, psychologists and social reformers, all before the organization of the Institute, considered each topic of interest in their particular field only from their own standpoint. The result was that conflicting ideas were announced by men of eminent standing, the public was confused and no progress was made. The massing of students in each of these fields of work in a single organization and having each of the problems considered by committees composed of representatives from several fields bring to bear upon a given topic the combined knowledge of all of them on the problem under consideration, and results in definite proposals, so that the public, recognizing what-

ever evil is to be corrected, sees the remedy, and takes some step to bring about the needed reform.

The importance of the work of the American Institute and of the dissemination of the results of the researches and conferences carried on under its direction through the instrumentality of the Journal can not be overestimated. But all this would result in comparatively little unless in each state there is a body of men and of women, scientific in training, devoted to the cause, who will endeavor to have the results of our labors embodied in concrete legislation and in the administration of the courts of their own state and of their own penal institutions.

The highest function which either the American Institute or the Journal can perform is the stimulation of a body of highly trained and interested men and women, to form a state society such as I hope you will become and so in closing I wish, on behalf of the American Institute, to thank you for holding these meetings, and to bid you success in solving your present problems, not only for your own benefit, but with the larger view of helping to solve these problems for the country as a whole, to which you may well become an example in criminal, as well as in civil law reform.

You can accomplish much, of course, in the solution of your own problem, you can accomplish more as an ideal to be held before similar bodies in states where oftentimes the need is greater, and I know of no more effective way to do this than as a part of that greater movement which has brought together men from every state in the Union, and which today draws the attention and centers the effort in the line of criminal law reform as has never been done before, the American Institute of Criminal Law and Criminology.

[3]At the close of this meeting there was organized a Kansas State Society of Criminal Law and Criminology and voted to affiliate with the American Institute.