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Proceedings of the Fourth Annual Meeting of the Institute

Simeon E. Baldwin

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PROCEEDINGS OF THE FOURTH ANNUAL MEETING OF
THE INSTITUTE.

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The fourth annual meeting of the Institute of Criminal Law and Criminology was held in Milwaukee, Wisconsin, August 29-31, 1912. The headquarters of the Institute were in the Hotel Pfister, and the sessions were held in Walker Hall, at the Auditorium, and in Judge Turner's court room. The first session was called to order at 2 o'clock P. M., August 29, by the President, the Hon. John B. Winslow, who introduced the Governor of Wisconsin, the Hon. F. E. McGovern, who delivered the address of welcome. Gov. McGovern spoke in part as follows:

"The spirit of humanitarianism is in the air, and it is not strange that a new school of penology has arisen to study crime, not from the standard of the protection of society merely, but for the reformation and well being of convicts as well.

"To give effect to these tendencies I understand this Institute was founded, and it is gratifying at this its fourth annual session, to find the interest that created it still increasing.

"It is a pleasure also to see this work taken up with so much enthusiasm. Occasionally in the past, in listening to the proposals of the Wisconsin Branch of this Institute, I have thought that possibly there might be too much zeal. At the last session of the Wisconsin legislature your representatives in this state swept down upon us with demands for all sorts of new laws. The legislature adopted four of these suggestions and then balked. I fear that if it had not done so, as executive, I should; for it seemed at the time that the very foundations of criminal jurisprudence were to be swept away in Wisconsin. At any rate, we, in charge of affairs at the capital, felt that we had gone quite far enough.

"In saying this, there is implied no criticism whatever of the enthusiasm of any member of the local branch. Moral earnestness in the case of reform is always a good thing—the more of it the better. Education must always precede legislation, and both customarily wait all too long upon effective administration.

"I assume that I may say a word about our local conditions. Undoubtedly the social experts present have already applied their trained minds and their methods of research to the penological status of Wisconsin. Of course it will be of no avail for us to attempt to conceal our faults and our shortcomings from you—no more so than it would be for a patient to undertake to mislead his family physician. I shall not attempt to do so.

"We in Wisconsin realize that we have much to learn, much to correct, before we can afford to challenge investigation of experts.

"So far as the apprehension, the trial and the sentencing of criminals are concerned, however, I feel that we do very well. There may be room for im-

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provement even here, as there always is in human affairs, but I can think of nothing that should be revolutionized.

"It is to be regretted that the same cannot be said about our treatment of convicts. Of course, no one will claim that there is brutality practiced at Waupun. The sanitation of the buildings is good, the food is nourishing, the educational facilities are ample and excellent discipline is maintained. In a word, everything that pertains to the physical condition of prisoners is quite satisfactory. Not so, however, I fear, of economic conditions. The fundamental requirement of permanent reformation, is training and education, such as will enable the convict to earn an honest living when he leaves prison. Our penal and reformatory institutions are filled with ne'er-do-wells who are there largely because they have been unable to meet the competition of normal individuals in the ordinary walks of life. Present training and discipline should have for its prime object, putting these people on their feet. It should supply them not only with a motive and a disposition to obey the law, but it should give them confidence and ability to hold their own in the struggle for existence as it is carried on in this workday world of ours.

"Our present system of prison contract labor hardly measures up to this standard. Men go out of prison here with no trade or calling whatever, by which they may earn a living. Tending a knitting machine is girls' work, and however proficient in it able-bodied men may become, in the course of their life in prison, they will never resort to it after the expiration of their terms; and this, it seems to me is a very serious defect.

"The prison, moreover, should be self supporting. It appears to me that there is no reason in the world why the law-abiding citizens of Wisconsin who have been injured by the infraction of their laws, should in addition have imposed upon them the burden of sustaining criminals after they have been caught and sentenced. The very least that should be expected of a convict is that he should be self-supporting. Indeed he should not only earn enough to keep himself, but should be made to work hard enough—and what is more important—at employments productive enough, so that the management of the prison may be able to realize a considerable profit each year. Now, a portion of this profit may properly go to the state, but another portion, and a considerable one, should go to the prisoners themselves, to support their families; and when their sentences have expired, to enable them to go wherever they please, wherever they think they can make a new start in life. I can well understand that when the prison gates swing open a few hundred dollars looks good to the recent convict.

"Now, under this prison contract labor plan, as we have it, the state receives 65c a day for the labor of the prisoners. Under our present arrangements with the contractor, a knitting company, the public furnishes for this sum, buildings, light, heat and power in addition to the labor of the prisoners. Subtracting these items of rent, light, heat and power, there remains about 40c a day as compensation for the work of the convicts, many of whom at proper employments could earn all the way from \$1.50 to \$3.00 a day.

"It is not strange, therefore, that at the last session of the legislature, it was found necessary to appropriate \$50,000 a year for the maintenance of this state institution.

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"It seems to me it requires no elaboration of argument to show that this plan is wasteful and unjust to the taxpayers of the state, unfair to free labor and outside manufacturers, and discouraging to the prisoners. It is indeed very little that can be said in its favor, except that it provides steady employment for the inmates, and this is one of the problems that is now being studied by the Wisconsin Board of Public Affairs; and when the inquiry is concluded I trust that some action will be taken by our legislature respecting it.

"I realize that these matters cover only a very small part of the whole field that is embraced in your studies and investigation, and I mention them largely to illustrate the practical nature of these investigations you are conducting. By contributing to the proper solution of these and other like problems, you will make not only the convicts, but all society your debtors.

"And so I take great pleasure in welcoming you to Wisconsin. On behalf of the people of our state let me assure you of their interest in your labor, sympathy with your aims and their very best wishes for the success of the work in which you are engaged."

The President then introduced the representative of the mayor of Milwaukee, who, in welcoming the Institute to the city spoke in part as follows:

"Mr. President and Members of the Institute, Ladies and Gentlemen: I have the honor of conveying to you the mayor's message of welcome, and I take pleasure, as I represent him, in assuring you that you are welcome to the city of Milwaukee.

"We welcome this Institute to Milwaukee in the confident hope that the beauty and purity of our city, which has not even a vice district, may inspire the Institute to administer long distance absent treatment, as we might call it, to some of our neighbors across the lake and beyond.

"In mentioning the fact that the criminal law and the criminal procedure of Wisconsin is not entirely defective, briefly I call your attention to the fact that for the past six months on the Supreme Court calendar of the state of Wisconsin, there were some two hundred odd cases, six of them criminal, and not a single reversal; that for the ensuing six months there were 240 cases on the calendar of our Supreme Court, and only eight of these were criminal cases.

"In passing I may state that the criminal laws of the state of Wisconsin are so simple that a backwoodsman may conduct his own defense against the best legal talent of the state, without reversible error.

* * * *

"But my authority is not to make a speech, but to assure the Institute that it is welcome to the city of Milwaukee, and I wish to repeat it for the sake of emphasis. You are welcome."

Mr. W. O. Hart, the chairman of the committee on co-operation with other societies, then announced on behalf of the American Bar Association that the following delegates had been selected to represent the Association in this body: Gov. F. E. McGovern, Wisconsin; S. C. Eastman, New Hampshire; C. O. Baum, of Oklahoma. These represen-

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tatives were recognized and given all the privileges of the Institute during the meeting. The President then read his address, which is published in full elsewhere in this issue. On motion by Nathan William MacChesney, Esq., of Chicago, the Hon. Charles A. De Courcy in the chair, the address of the President was ordered printed as a bulletin of the Institute.

The next order on the program was the annual address, which was delivered by the Hon. Frank L. Randall, of Minnesota. The address, together with the general discussion which followed it, is published elsewhere in this issue.

Joseph B. David, of Chicago, was recognized and received permission to present a resolution which he had already offered to the American Bar Association. The resolution pertained to the furnishing of information to every person indicted for a criminal offense, as to jury, panel, witnesses, etc.

It had been referred to the Committee on Judicial Reform and Procedure in the Bar Association.

"It may not be generally known," Mr. David said, "that under the federal statute there is no right, neither is there under the federal constitution, to have the names of the witnesses upon whose testimony indictment is found, handed to counsel for accused, and as a matter of right the accused is not entitled even to a copy of the indictment; and I submit the matter for consideration."

The President then announced that the resolution would be referred to the Committee on Resolutions to be appointed before the close of the meeting.

After an announcement by the Secretary with respect to registration and entertainment, the report of the Committee on Co-operation with other Societies was presented by Mr. W. O. Hart, Chairman, of New Orleans. In substance the report was as follows:

The Committee on Co-operation with other Organizations reports that letters were addressed to the Governor of each state of the United States, and of Hawaii, Alaska and Porto Rico, the Commissioners of the District of Columbia, the Governor General of the Philippine Islands, the mayors of several leading cities, and the President and other executive officers of a number of organizations, which it was thought would be interested in our work, requesting that each of them should appoint delegates to this, our Fourth Annual Meeting.

In response thereto, letters making appointments were received from the Governors of Alabama, Arizona, Hawaii, Michigan, Illinois, Mississippi, Montana, New Mexico, Pennsylvania, South Carolina, and the Commissioners of the District of Columbia. From the mayor of the city of New Orleans, from the Municipal League, the International Association of Chiefs of Police, the Medico-Legal Society, the Methodist Episcopal Church South, the American Psychopathic Association, the American Probation Society, the American Civic

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Federation, the American Bar Association, and the National Committee on Prison Labor.

It was recommended and ordered that all delegates present from the foregoing societies and organizations, and any others, that might be present be recognized as entitled to all the privileges of the meeting.

The report of Committee G, on Crime and Immigration, was next in order. The chairman, Mr. Speranza, of New York, was not present. The report as printed was accepted on motion by Mr. MacChesney, of Illinois, and referred to the Executive Board with power to re-refer to the committee, if considered advisable, and to instruct it to investigate the subject of the proposals suggested by the committee in its report. The proposals are as follows:

First: "Let us strengthen our ridiculously weak methods of exclusion of alien criminals; let us ask for a passport showing the criminal record, if any, of the arriving alien, and let us insist that the alien's photograph accompany the passport lest a common trick of alien criminals nullify our efforts to bar them.

Second: "Let us enlarge the power of deportation both as to the time within which this government may exercise it and as to the acts for which it may be exercised. To my mind nothing would be so effective as a provision making alien criminals deportable for any crime committed here within five years of their arrival, such deportation to take place at the expiration of their sentence.

Third: "Let us profit by the experience of older countries in the war of the state against crime by overcoming our national prejudice against a secret police. The benefits resulting to the law-abiding citizens of large cities like New York and Chicago by a corps of secret detectives on their police force would be incalculable.

Fourth: "Let us learn to give full faith and credit to the efforts of foreign governments to apprehend criminals. We are too apt to imagine either that foreign governments are happy and anxious to dump their criminals upon us, or that when, by extradition proceedings, they attempt to get some of their criminals back that such proceedings are only a mask for vindictive political action. But countries like Italy which derive an immense benefit by the emigration of their honest citizens are very much interested that the criminal element, small at best, should not affect the preponderatingly honest and useful migratory current. On the other hand, our attitude is unjustified in viewing every extradition proceeding as an attempt to get back a political offender. There are some very dangerous foreign criminals at large today in this country whom we have declined to surrender because technically the proof against them of murder, for instance, would not come up to the finest Anglo-Saxon probative grade! Surely we should welcome for our own interest such modifications of existing extradition conventions as would substitute for the present uncertain and expensive method of surrendering fugitives a simple and inexpensive one.

"Lastly, let us bear in mind that nowadays crime in many cases can be effectively handled only by international action. No country is more vitally

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interested in this than our own, made up, as it is, of so many foreign elements. In our battle against crime we must and should welcome international co-operation. We must act on the assumption that nobody loves a criminal and that the only safe way against him is to segregate him not only from one country, but from all countries. Let us, therefore, encourage international conferences on this subject and welcome the efforts of other countries in this respect."

The following questions also were proposed by the committee and they will be subjects of investigation during the coming year:

First: "Do existing treaty provisions directly or by implication and interpretation sufficiently protect the alien's rights and remedies in the United States?"

Second: "Do existing legal provisions, either in our statutes or in our treaties sufficiently protect the United States from alien criminals?"

Third: "Is it advisable to settle the status of the immigrant by international agreement?"

The President then named the following committees:

Nominating Committee: Mr. MacChesney of Illinois, Mr. Gemmill of Illinois, Mr. Abbott of Pennsylvania, Prof. Gault of Illinois, and Mr. Stevens of Wisconsin.

Committee on Resolutions: Judge De Courcy of Massachusetts, Mr. Higgins of Kansas, Mr. Harper of Illinois, Mr. Fowler of Wisconsin, Mr. William R. Vance of Minnesota.

Second Session, August 30, 9:45 A. M.

The meeting was called to order by the Hon. Alexander H. Reid, of Wausau, Wisconsin, President of the Wisconsin Branch, who delivered an address. This was followed by the reports of State Committees A, B, and C, which it is hoped, together with President Reid's address may receive attention later in this Journal.

The report of Committee D of the Institute, on the Organization of Courts was in order. The chairman, Prof. Pound, of Cambridge, was not present, and no report had been filed. The Institute therefore adjourned to meet at 3 o'clock P. M.

Third Session, Friday, August 30, 1912, 3 P. M.

The meeting called to order by Chief Justice John B. Winslow, of Wisconsin.

The report of Institute Committee C on Judicial Probation and Suspended Sentence was in order. The chairman, Judge Wilfred Bolster, of Massachusetts, was not present, and his report was not on file. Judge De Courcy explained that the chairman of the committee, since the report of a year ago, had sent out invitations for suggestions bearing upon improvements in the probation law. The results of these communications have not yet been compiled.

For the benefit of those delegates who came from states where a

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probation law is not in effect, Judge Backus, of Milwaukee, gave to the convention an account of the working of the probation law as he has seen it in the state of Wisconsin and especially in Milwaukee, as follows:

"The probation law of Wisconsin deals with the first offender, both with the minor and with the adult. Five years ago we petitioned the legislature to pass an adult probation law, but at that time it failed because public sentiment had not been sufficiently aroused, and the question was new in this state. The legislature of 1909 did pass such a law, under which sentence can be suspended in any case, provided the penalty does not exceed a maximum of 15 years, and the prisoner can be placed on probation in charge of a probation officer.

"When I took the bench, this law had just been passed, giving to the courts the power to place on probation all adult offenders who have committed their first state prison offense. The very first man who came before me was a young man, whom I placed on probation. His time expired on the first day of July last, and when he was discharged I took him over to the bank and gave him his bank account pass book, which showed a balance of \$433, and I dismissed him. Since I have been on the bench, a little over two years, I have placed on probation 212 offenders who have committed a state's prison offense. I have disposed in the same way of about 100 more whose charges were reduced, or against whom no information had been filed—for the purpose of finding out whether or not the information should be filed, so as to avoid that stigma, if possible.

"We have now, therefore, under our jurisdiction and control something over 300 persons who have committed a state prison offense who are now out on probation. In the two years but eight of that 300 have been returned to the court.

"But it is the following up of the probation that is important. The judge is the important part of the machinery. He must labor with his probationers day in and day out. Now, the way we work our system here and the reason why it is so successful is because of the way we handle the future probationer who comes before the court. A young man charged with a criminal offense appears at the bar; if he is a minor the court will appoint an attorney for him, if he is unable otherwise to get counsel. It is a rule of court here that no minor shall be informed against unless he is represented first by counsel. Attorneys are promptly appointed; they look into the case; the police officers and the detectives work with the attorneys; the case is adjourned for a few days, and then the court will sit and listen to the facts. The entire history of the individual is laid before the court from the time he entered school, and not until then will the court act.

"If it is a first offense the court will place him in charge of the probation officer, who will assume complete control of the individual. The offender is taken with the probation officer into his room for a heart to heart talk; he will go with the probation officer to his home, if his home is in the city, for an interview with the parents.

"Thus we obtain a complete record. Then if the boy or the young man has no employment, work is found for him. We assume control of his earn-

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ings, and dispose of them to his family, to his bank account, or to himself personally, as needs may dictate.

"No one at the place where he is employed excepting the employer, knows that the young man is on probation. When he returns to the community, therefore, he has a complete opportunity to take advantage of the situation just as if he had not been before the court at all.

"We require monthly reports from the probationer, which are filed; the probation officers make regular visits at the place where the young man works, without the knowledge of the probationer, and finds out how he is doing. In all these ways the system in vogue here has been made successful.

When we were at the legislature in 1909 and urged the passage of a probation law, one of the members of the committee told me that if 10% of those placed on probation could be saved, the full intent of the law would be carried out. In the past two years in this county and city we have saved about 93% of those who have been placed on probation.

"If you will follow out the probation system as it is carried out in this city, you can, with rare exceptions, redeem every normal person who comes before your court."

Judge Gemmill of Illinois, declared himself a thorough convert to the probation system. He said in part that in the last year and a half since the law went into operation more people have been placed upon probation in Illinois than in any other state. "I have," he said, "reports of all the states where probation laws are in operation; and I have particularly the reports from Massachusetts, and they are not altogether creditable. They do not bear out the figures of Judge Backus.

"It is all well enough for us to say that we have saved young offenders; that we have saved a fellow that has gone out and committed some serious crime, when we have put him on probation; that we have made a good citizen of him; no such miraculous saving is ever done.

"I am not attempting to dispute the figures here that Judge Backus has given, and it may be that 97% of those put upon probation did not afterwards come back into court within a limited time, charged with some other offense. That does not mean that they have been saved by any sort of means.

"In 75% of the cases the same evil tendencies are in those men that were there before; you have not transformed the man at all, though he may never commit the same offense again.

"Take, for instance, the matter of petit larceny or larceny up to the value of \$100 or \$200, and sometimes much larger amounts; we never send those cases of first offenders to jail at all. Hundreds of them are simply put on probation because petit larceny grows out of so many different circumstances in the environment of the individual in many cases. We have from 10 to 20 cases a day of women who go into the department stores in Chicago, women from as fine families as there are in the city, women whom you would never suspect of being criminals, who have no criminal tendencies at all, who go into the department stores and see something they want and have not the money to buy it; they do not think anybody is looking; they pick it up from the counter, put it in their clothes, and think they are walking out without being discovered. But a hand is laid on their shoulders, they are arrested and brought into court.

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They have perhaps stolen \$15 worth of goods, sometimes \$50, and although petit larceny in our state is limited to \$15, we stretch the law constantly and have them plead guilty to stealing \$15, and put them on probation. We send none of them to prison at all; and I believe that the law is applicable in just that class of cases. These people are not criminals; they are simply weak; they have been tempted and have not the moral backbone to resist the temptation, and so they are put on probation, and they are followed up. We have probation officers whose whole time is given to the following up of these people. The head probation officer tells me that very many of the people whom we are putting on probation are constantly being lost in the crowd. It is impossible to trace them. I will not undertake to give the number who go out and commit other offenses.

"But as to the boy of 15 or 18 years, who uses a gun. Don't allow the community to take too large risks. I say we are taking too great chances on this question of probation. Let us use it to guard and protect only those people who have no criminal intent; let us not throw its protection about the criminal who goes into the home with a gun loaded ready to commit murder. That man should not be put on probation; he is likely to commit murder, and when you parole him you give him another opportunity for crime. So we have got to be sane on this probation business."

The report of Institute Committee F. on Indeterminate Sentence and Release on Parole was next in order. It was presented by the chairman, Mr. Edwin M. Abbott of Philadelphia. The report is published in full elsewhere in this issue.

Fourth Session, Friday, August 30, 1912, 8 P. M., at Judge Turner's Court Room, Milwaukee.

The meeting was called to order by the presiding officer, Judge Alexander H. Reid, of Wausau, President of the Wisconsin Branch.

The order for the evening was the presentation of the reports of the Wisconsin Branch Committees, D, on the Sterilization of Criminals and Defectives; F, on Prison Labor; and I, on the Treatment of Recidivists. These reports were presented by the chairman, Dr. A. W. Wilmarth, A. F. Belitz, and R. E. Smith, respectively, of Wisconsin. A special report on Prison Labor was presented by Dr. E. Stagg Whitin of New York, Secretary of the National Committee on Prison Labor. It is hoped that the reports may receive full attention in these pages later.

Fifth Session, Saturday, August 31, 1912, at 9 A. M.

The fifth session was called to order in Judge Turner's Court Room by President Winslow. The report of Committee A of the Institute on Recording Data Concerning Criminals was called for. The report as adopted by the committee and distributed at the meeting was a slight modification of that of two years ago. The items of most importance in

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the original report were selected and marked in the copies as distributed. Section VII of the original report was amended to read as follows:

VII. Psychological Examination.

"In addition to the psychiatric examination contained in the medical examination, the psychological examination should be directed towards the determination of the following points.

- (a) "Native ability, apart from school training or environmental factors.
- (b) "Sub-normality. If aberrant, the type and degree of deviation. Both should be particularly estimated with reference to the educability and the possibility of the individual's being a source of danger to the community.
- (c) "The mental content.

"Native ability may be estimated by the determination of the reaction time and by discrimination tests for the pitch of tones and for lifted weights. With the progress that is being made in the study of sub-normality certain tests devised for this purpose should be available in the case of adolescent offenders or adults of a marked degree of backwardness. The association reaction experiment gives knowledge not only of the rate at which ideas are received in response to a word stimulus but also of the quality of the mental content. The stereotyped character of the ideas of insane patients has been very clearly revealed by this method. A similar study of the criminal classes would doubtless also be of value. Emotional traits of criminals could probably be studied by the method of expression with a view to determining their sensitiveness to impressions.

"In the judgment of the committee there should be connected with the court a competent scientific medical man, or if not a doctor of medicine, then a man whose training makes him proficient in the recognition of nervous and sensory disorders, with psychological training to execute the anthropometrical, medical and psychological examinations. This official should be a man of recognized scientific repute, a man whose publications have already established his standing, and his tenure should be made entirely independent of political issue."

Judge Olson of Chicago, chairman, discussed the report as follows:

"I wanted to say a word about the difficulty of establishing such a department even in a large city. In Chicago two years ago, we attempted to institute a system similar to that recommended by the committee, in 1909. We found that the most likely candidate for the position of chief medical examiner was an ex-policeman, who had had ten months' night schooling in medicine and none in psychology except what he got on the beat. If we had created the department he would have got the position, and we abandoned the enterprise for that year. For two years we have been on the lookout for a man capable of holding that position with credit to the court, the city and his profession. We located such a man and found he wanted \$5,000 a year, and a contract for five years before he would undertake the work. We thought it possible to get the aldermen to make that appropriation, until an accident happened to the appropriation of the city under a decision of the Supreme Court, by which they were compelled to reduce their expenditures 30 per cent. for the balance of the year, which of course, took away our system of recording data in Chicago.

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When the next appropriation comes in December we will try to get support for such a man. We think that in a large city especially, very little will be accomplished in this line unless the man at the head of the department be exceptionally well qualified for that kind of work. It seems easy to get such men, but apparently it is not. The work must be done on a scientific basis; it must be intensive work. We thought we could require less; but we found that most of the committee were opposed to that, and were of opinion that we would have to make a rather extended investigation in particular cases any way in order to get any results."

The report was referred to the executive board.

The report of Committee number 3 on Criminal Statistics was next in order. The chairman, Mr. Koren of New York, was absent. The report as filed was a record of progress. The committee announced that it would complete its work a year later. No action was taken.

The report of Committee E of the Institute on Criminal Procedure was next in order. As presented, together with the dissenting report of Professor Higgins, of the committee, it is published elsewhere in this issue. The report after discussion by Judge Gemmill, Chairman, Professor Higgins, Judge De Courcy, Judge Russell, Mr. Abbott, and Mr. Hart, was received and referred to the executive board.

The next in order was the report of Committee B of the Wisconsin Branch on Testimony of Non-Residents and Incriminating Evidence, C. A. Fowler, Esq. of Wisconsin, chairman. The report was presented and was followed by that of Committee E on the Wisconsin Branch on Affidavits of Prejudice, B. R. Goggins, Esq., of Wisconsin, chairman.

The report of Institute Committee number 4 on State Societies and Membership, was next presented by Secretary Gilmore, in the absence of the chairman.

Committee B of the Institute, whose report was not ready, requested that it be continued for another year. There being no objection, the request was granted and the committee continued.

The Committee on Resolutions, Judge De Courcy, chairman, next reported as follows:

"There were two resolutions submitted to this committee, one dealing with a proposed amendment to a federal statute, entitling persons charged with the commission of an offense, to a copy of the indictment, and a list of jurors and witnesses. Another suggests that we take some action in the way of approval of particular forms of electing district attorneys. After consultation, the committee are of opinion that both these matters may well be referred to the new executive committee for their consideration or recommendation. I move such reference."

The motion was seconded and unanimously carried.

President: "The following resolutions are referred to the new executive

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board, pursuant to the motion just carried. They were offered by Joseph B David, of Chicago:

(1) "That prosecuting attorneys should be appointed, if possible, by some non-partisan method; and if they are elected, that it should be without regard to political affiliations.

(2) "Whereas, every person indicted for a criminal offense or against whom is filed an information charging the commission of a crime, should be entitled as a matter of right, to a copy of the accusation without cost and also the names and addresses of the witnesses on whose testimony the indictment was found or information filed, and also to a list of the jury which may be called upon to try the accused;

"And whereas Section 1033 of the Revised Statutes of the United States provides:

"When any person is indicted of treason, a copy of the indictment and a list of the jury, and of the witnesses to be produced on the trial of the indictment for proving the indictment, stating the place of abode of each juror and witness, shall be delivered to him at least three entire days before he is tried for the same. When any person is indicted of any other capital offense, such copy of the indictment and list of the jurors and witnesses shall be delivered to him at least two entire days before the trial.

"Now, therefore, be it and it is hereby resolved, by the American Bar Association that Section 1033 ought to be amended by adding thereto the following:

"When any person is indicted for any criminal offense or against whom has been filed an information charging a crime or misdemeanor, a copy of the indictment or information shall be furnished him without cost at the time or before his arraignment or before he is called on to plead to such indictment or information, and the names and addresses of the witnesses, appearing before the grand jury (in case of an indictment) shall be endorsed on the back of such indictment, and in case of an information the names of the witnesses so far as known to the district attorney at the time of the filing of such information shall be endorsed on the back thereof. Every person charged with a criminal offense other than capital, shall be furnished with a list of the jury and witnesses to be produced on the trial so far as the same may be known to the district attorney at least one entire day before trial.

"And be it further resolved that a bill substantially embodying the foregoing amendments be presented to Congress by and through the proper committee of this Association at the earliest reasonable opportunity, and that such committee use all necessary and proper effort to secure the passage of such bill."

The Secretary then presented his report, which was read, received and placed on file.

The report of the Treasurer was then presented by the Secretary. It was received and filed.

The report of the Managing Editor of the Journal was then received. It detailed the means by which all the leading journals of criminology are being reviewed by the aid of associates and thus placed at the disposal of members of the Institute and others who are interested.

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It contained also a special appeal for co-operation on the part of professors of criminal law in our universities and law schools, which is emphasized editorially in this issue.

In commenting upon this report the President said:

"The Journal is perhaps the greatest single means by which the purposes of the Institute come before the people and get to the people. It is accomplishing its purposes."

The report was received and filed. The secretary then read the report of the Managing Director of the Journal, Frederick B. Crossley of Chicago, who was not present. It is made the subject of editorial comment in this number.

Judge Carter: "Would it not be well to state the terms upon which one can join the Institute and get the magazine?"

Secretary: "The regular subscription price of the Journal is \$3 a year. The constitution provides that wherever there is a state society, membership in the Institute shall come through the state society. We leave to the local society the fixing of its own fee or dues for its local work; the Institute must have \$1.50 for each member coming from the state society, so that membership in a state society and in the Institute, and subscription to the Journal, may be combined in some such manner as follows: (Using Wisconsin as an illustration.) The annual dues of the Wisconsin Branch are \$3; the subscription price to the Journal is \$3; if they are taken together, \$5.50. Of the \$3 received by the Wisconsin Branch, \$1.50 is transmitted to the Institute, \$2.50 to the Journal, and \$1.50 is kept for local work. The state society may make the amount needed for its own work as large as it sees fit, always adding \$1.50 for the Institute and \$2.50 for the Journal.

"In this connection I want to make a statement in regard to Sub-Committee E, on Criminal Procedure. Sub-Committee E is in charge of Professor Mikel of the University of Pennsylvania, who is specially charged with drafting a code of Criminal Procedure. The committee was appointed at the request of the Legislative Drafting Association of New York, and in effect is a committee under the direction of the Association and the Institute. That Association is fortunate in having funds to carry on its work, and has appropriated for the expense of making a tentative draft of a code of criminal procedure, the sum of \$2500 for the ensuing year, and a tentative report will be made at the next annual meeting."

The report of the Managing Director was then received and filed.

The next order was the report of the Nominating Committee, which, in the absence of the chairman was presented by Judge Stevens of Wisconsin. The following named persons were placed in nomination as officers and members of the executive board for the ensuing year:

President: Orrin N. Carter, Chicago, Chief Justice of the Supreme Court of Illinois.

Vice-Presidents: Charles A. De Courcy, Boston, Mass., Justice of the Supreme Judicial Court.

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Frank L. Randall, St. Cloud, Minn., General Superintendent, State Reformatory.

Charles R. Henderson, Chicago, Ill., Member for the United States of the International Prison Commission; former President International Prison Congress; Professor of Sociology, University of Chicago.

Robert W. McClaughry, Fort Leavenworth, Kansas, Warden of the Federal Penitentiary.

Miss Jane Addams, Chicago, Illinois, Head of Hull House.

Treasurer: Bronson Winthrop, Esq., New York, N. Y., of the New York Bar.

Secretary: Eugene A. Gilmore, Madison, Wisconsin, Professor of Law, University of Wisconsin.

Executive Board: (Ex Officio) John B. Winslow, Madison, Wisconsin, Chief Justice of the Supreme Court.

(For three year term, expiring 1915):

William N. Gemmill, Chicago, Illinois, Judge of the Municipal Court of Chicago.

Edward J. McDermott, Louisville, Kentucky, of the Kentucky Bar, Lieutenant Governor of Kentucky.

George W. Kirchwey, New York, N. Y., Professor of Law, Columbia University; President, New York Society of Criminal Law and Criminology.

Edwin M. Abbott, Philadelphia, Pennsylvania, of the Philadelphia Bar, Chairman Executive Council Pennsylvania State Society of Criminal Law and Criminology.

Respectfully submitted. (Signed) Nathan William MacChesney, E. M. Abbott, E. Ray Stevens, Wm. N. Gemmill, Robert H. Gault, Committee.

On motion by Judge Reid of Wisconsin the nominees were unanimously elected.

The newly elected president was called for and he responded as follows:

"This honor comes to me unexpectedly, and I have little to say. While I have accepted this office with great reluctance, I appreciate your confidence in bestowing it where you have. My reluctance grew out of two considerations, and I am not going to discuss them: one is the fear that my public duties may prevent me from devoting the time to this office that it requires; and the other, the feeling that the office should go to some other section of the country than to Illinois. But those who have had most to do with the work endeavored to persuade me—and under the leadership of Justices De Courcy and Winslow they have done so—that it is my duty to accept it for the coming year.

"I do not know of any more important work that can be performed in the

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interests of justice and criminal law than can be performed by this organization, if rightly conducted.

"It would not be proper here to make lengthy suggestions. Indeed if I were to attempt to state them, I could not do so in as clear and forceful a manner as has been done by my illustrious predecessor. I agree almost entirely with the recommendations contained in his annual address.

"I want to emphasize the importance of your backing up the Journal of this organization. I believe in that way we can accomplish more than by any other method toward educating the public. I think there is more mis-information even among lawyers on these questions than one would imagine, and I wonder sometimes why we are so impatient with laymen for criticising courts, the legal profession and criminal procedure, when we ourselves have so much mis-information on the subject. We have this morning had a discussion on instructions on which we do not agree. We had a voluminous report yesterday on probation and indeterminate sentence, and yet we find in the various states of the country, that one plan is being tried here and another there. And if you go into the various states, I suppose you will find the people of each state insistent on enforcing their particular law, claiming that it is better than any other law in any other state in the country.

"It seems to me the thing we want especially to do with this organization, is to bring the student, the theorist and the practical man together, and see if we cannot get some better result, something more nearly ideal than we have. Of course we will never have ideal justice or laws by fallible humanity, but we can approximate it. We must try to do so, because if idealists alone draft the law, we will find perhaps the safety valve is not there, or that the airbrake is missing. It is charged that if only the lawyers and judges draft the laws, we will have them archaic on the plan of the stage coach instead of on the plan of modern conveyances. So we want to bring all these forces together, harmonize them, and see if we cannot get better results, and satisfy the public that we are doing the best possible under all the circumstances.

"After all it is not so much a problem of law as a problem of humanity. * * * But you cannot take one problem alone and say, this solved in the right way is going to bring right results. It is a broad field, a great subject. Sometimes we try to make the field too broad in state organizations. Let us take one thing at a time.

"I thank you for this honor, and I hope we may have in the future what I know you have given in the past: the co-operation of the workers all over the country; and this as my parting thought:

They serve truth best who to themselves are true;
And what they dare to dream of, dare to do."

The report of the Committee on Resolutions was then called for and Judge De Courcy responded:

"The committee recommends that the thanks of the Institute be extended to Frank L. Randall, representing the American Prison Association, for his annual address, and Dr. E. Stagg Whitin for his special report on Prison Labor."

Unanimously adopted.

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"The committee desires also to suggest a vote of thanks to the Milwaukee Committee of Arrangements; to Judge Backus, and to Judge Turner, for the hospitality extended to the Institute, and for the use of Judge Turner's court room."

Unanimously adopted.

"Arbitrarily exercising the power of recall, temporarily, and substituting as temporary chairman the Secretary of the Association, I know I speak on behalf not only of those present, but of all the members of the Institute, when I say that we desire to have it appear on record, that this Institute gratefully appreciates the admirable and efficient work of the President during the past year, and the courteous and able manner in which he has presided over our meetings; and I now move that this Institute tender its vote of thanks to the retiring President, Chief Justice Winslow."

Seconded by Judge Carter.

The motion was unanimously carried.

President Winslow: "Perhaps a word from me ought to be said. When I received the telegram last year asking me to become President of the Institute for the year, it seemed to me that I had no qualification for the office; but on the representation that a large part of the labor, or the principal part would be performed by Mr. Gilmore, as Secretary, I accepted. I wish to assure you that Mr. Gilmore has more than performed his duty. Had it not been for him, surely the business of the Institute would not have been arranged and could not have been carried forward. If there be any credit it is practically all due to Mr. Gilmore. At the same time, gentlemen, it has been a pleasure and joy to me to feel that in whatever way I could, I have assisted in the work which this Institute hopes to carry on.

"I want to say just one thing, and it is simply a repetition of a thought suggested by Judge Carter. I feel that we judges and lawyers should all be actively interested in this work, and I say this knowing of course that some of us here are not judges and lawyers, but these particular remarks are made to those who are. We have to meet the practical side. Our friends, the professors, do not meet that side. They perhaps are inclined more to the investigation of the moral aspects of our problems. They need the help of the lawyer and the judge with their experience, it seems to me, to broaden their theories and balance them, so to speak. I have felt it one of the greatest privileges of my life to be able to act as President of this Institute for a year. I shall of course keep my connection with the organization and I hope to meet you all at the next annual meeting."

The Institute was then adjourned *sine die*.

The Wisconsin Branch then held its final meeting for the transaction of business and adopted a resolution to the effect that hereafter it should hold its meetings biennially. The Branch then adjourned to meet in 1914.