

1920

## Proceedings of the Eleventh Annual Meeting of the Institute of Criminal Law and Criminology

Charles A. De Courcy

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### Recommended Citation

Charles A. De Courcy, Proceedings of the Eleventh Annual Meeting of the Institute of Criminal Law and Criminology, 10 J. Am. Inst. Crim. L. & Criminology 423 (May 1919 to February 1920)

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PROCEEDINGS OF THE ELEVENTH ANNUAL  
MEETING OF THE INSTITUTE OF CRIM-  
INAL LAW AND CRIMINOLOGY

ADDRESS OF WELCOME

CHARLES A. DE COURCY<sup>1</sup>

Mr. President and Members of the Institute of Criminal Law and Criminology: By the courtesy of His Excellency the Governor in appointing me as a delegate, I have the great pleasure, in behalf of the Commonwealth of Massachusetts, of extending to you a cordial welcome. It seems almost unnecessary to express a formal welcome to the City of Boston or to the State of Massachusetts. Here are Plymouth Rock and the Old State House, Lexington and Concord and Bunker Hill. These are part of our common heritage, and whoever comes from any part of America, in coming here is coming home. So you need no formal words of welcome.

Massachusetts, however, is especially glad to welcome here a body of scientific men and women interested in the important problem of crime—one of the most serious questions confronting humanity from the beginning, and more serious and complicated in these complex days than ever before. And this Institute is entitled to a welcome, organized, as it is, "to further the scientific study of crime, criminal law and procedure, to formulate and promote measures for solving the problems connected therewith and co-ordinate the effort of individuals and of organizations interested in the administration of certain speedy justice."

You will find here in Massachusetts a congenial atmosphere for your deliberations. Without any undue boasting, I may say that in this Commonwealth an active interest has always existed in criminal law reform. It was here that the great system of probation was first inaugurated; and since the establishment of a State Board of Probation, there has grown up, I believe, a really excellent system for dealing with wrongdoers who can best be dealt with without being sent to prison. I recall that a committee, of which I was a member, made an elaborate report to the Institute upon the subject in 1910, based largely upon the experience of this Commonwealth. The reform of

<sup>1</sup>Justice of the Supreme Judicial Court of Massachusetts.

prisoners, as one of the elements at least to be considered in imposing sentence, found a fitting response here second only to that at Elmira, in New York; and the very name of our institution for juveniles, or at least persons from fourteen to forty years of age, "The Massachusetts Reformatory," indicates that even among our old institutions, the theory of the reform of the criminal was early adopted as part of the State policy, especially in dealing with juveniles.

One of the most important matters to be considered is the archaic method of procedure in the criminal court, which has obtained in some parts of the country. A member of this Institute and former president of the local branch, Judge Sheldon, was instrumental, with two others, in formulating, just twenty years ago, a bill which became embodied in our legislation, for the simplification of criminal procedure. How effective that bill became in its application as a law is best indicated by some of the results. I had occasion a short time ago, before the State Bar Association, to call attention to the fact that this matter of criminal law and its administration is necessarily a local question for each state, and that therefore the criticisms applicable to conditions in one state do not necessarily apply to others. Here we had in the old days, as in other states, some ground for the complaint of the multiplicity of appeals, or the granting of new trials after one full trial upon the facts. An examination of the figures for the six years between 1904 and 1910 shows there were new trials granted by our Supreme Court in only ten criminal cases, or less than two cases a year. In the year which ended September 30, 1909, with 1,432 jury trials, there were only thirteen cases actually argued before the Supreme Judicial Court, and only one of those thirteen cases was sent back for another trial. In the next year, ending September 30, 1910, seventeen cases were argued on law questions, and new trials were granted in not over three cases; while in 1916 there were twelve cases argued and exceptions were overruled in every case but two, and these were disposed of without requiring another trial. These results are due largely to the fact that we have here a perfectly simple, modern system of criminal pleading and procedure; and the adoption of that sort of procedure throughout the country is one of the purposes of this organization.

Nor have we been lacking in the more recent investigations of the mental status of the criminal. In some of our courts and institutions careful studies are being made on this subject. In the Reformatory at Concord there is an expert whose business it is to make ex-

amination of the mental condition of every inmate. We have such an expert connected with the Municipal Court in Boston, in which much the larger number of our criminal cases are tried. And in the Juvenile Court of this city, as many of you know, Dr. Healy, who is so well known for his work in Chicago, under the Baker Foundation, is attending to such examinations for that court. On the theoretical side, a course in criminology was established at Harvard University, I think, quite as soon as anywhere in the country. In other words, in saying that you meet here in an atmosphere that is congenial, I mean to say that while the old Commonwealth is proud of her history and traditions, she is not lacking in enterprise and progress in keeping step with the demands of changing conditions, and is seeking in every direction to avail herself of the best thought and methods on the great social and industrial problems.

Let me couple what I have said with a further statement, lest what I say might seem like boasting. We welcome you in order that we may get the benefit of your experience and studies and advice in determining what further can be done to bring about a lessening of the amount of crime in the Commonwealth. There is much to be done here yet. It is a matter of great satisfaction to find that this Institute has largely devoted its energies to practical methods of lessening crime, and is raising funds for an intensive investigation of such subjects as the indeterminate sentence, probation and parole. If I might somewhat extend my suggestions, in view of the flattering remarks of the chairman, beyond the mere matter of welcome, it would be to express the hope that the Institute might also consider as a matter of great importance, the question of a model prison system. Of course, this problem must be worked out by each state itself, but the assistance of a national body like this would be invaluable.

If there is in existence in this country a model prison system, I am not aware of it; but perhaps I ought to say that during the last eight years, since leaving the work of the trial court, it has been impossible for me to keep in touch with these questions as much as formerly. Within a few weeks a special commission appointed by the Governor, and consisting of some of the best qualified men in the Commonwealth, made a report to the Legislature on our prison system. We do not differ essentially from other states. We have here a state prison, a reformatory for young men, and a reformatory for young women, these three under the jurisdiction of the Bureau of Prisons. Under the statute coming into effect next year they will be under the control of the director of prisons. Then there are cer-

tain training schools for juveniles, boys and girls; two for boys before reaching the grade of Concord, and one for girls too young for the Women's Prison at Sherburn. These are under the charge of the Board of Trustees of the training schools, who in turn are subject to the State Board of Charities and not to the Bureau of Prisons. In our fourteen counties there are twenty-one jails and houses of correction under boards of county commissioners. And then there are certain reformatory institutions in the larger counties under the control of the county commissioners; and at least one reform school, that of Rainsford Island in Boston, under the control of a single city. In other words, there are some 34 different penal and correctional institutions without unity of control or direction. Of course anything like unity of treatment under that kind of a system is impossible. It is a perfectly simple proposition to say that an institution like a prison should send men out better than when they went in; and if a prison doesn't bring about that result it has failed in one of its most important purposes. You cannot have that result unless you have something in the way of a classification and grouping of the prisoners. Their past history, their age, disposition to reform, and other considerations will enable us to classify them into appropriate groups; and with an institution properly equipped and with proper men to treat the members of each group, we would be most certain to bring about good results. A business organization would determine that at a meeting of the board of directors and within twenty-four hours would start to carry it out; and yet for years we have been going along under a system which has long outlived its usefulness and is utterly out of touch with the requirements of today. And so I say that the matter of suggesting, after careful study, a model system of prisons for a state, is one of the most important practical questions of penal science today, and I hope that this Institute will consider this as one of the questions of which its members should make an intensive study.

Closely connected with the prison problem is the question of sentences. No subject has given rise to more complaint than the alleged inequality of sentences, certainly nothing has done more to embitter prisoners. When two men with the same criminal history have committed the same criminal offense, and one man's sentence is much greater than that of the other, the bitter sense of injustice in that man makes his reformation almost impossible. And yet under our system this is bound to go on unless something is done in the direction of standardizing sentences. Some years ago in our Superior

Court, a plan was suggested of having all the criminal work of that court done by five justices. These men were to try all criminal cases in the several counties, were to meet every Saturday, compare their experiences during the week, and, after consultation, arrive at a conclusion as to what kind of cases were proper for probation; what cases should be placed on file; what should be the standard sentence for the ordinary offenses, to be enlarged or lessened, according to the individual history of the prisoner, and the aggravating or mitigating facts of the particular case; and, in brief, to establish uniformity in the procedure of criminal trials. Unfortunately, that plan fell through and I regret to say has not been carried out since. Of course, after you once have classification of prisoners, and a suitable place to send them, with sentences more or less indeterminate, then the work of the judge will be simplified. He will send the convicted man to an institution suitable for his particular case, and the details of his punishment and his mental and industrial training will be largely left to the discretion of the persons in charge of the institution. But unless and until we do get such a system, something ought to be done in the line of establishing more uniformity of sentence and efficiency of punishment.

The introductory remarks of your president have tempted me to wander beyond my province, which is that of extending the welcome of the Commonwealth. Returning to that pleasant duty, let me say to you, Mr. President, and through you to each member of the Institute, in Portia's phrase:

"Sir, you are very welcome to our house:  
It must appear in other ways than words,  
Therefore I scant this breathing courtesy."

After the president had acknowledged the welcome by Mr. Justice De Coursey, Professor Robert H. Gault stated that the governors of the following named states had appointed delegates to attend the conference: Arizona, Arkansas, Delaware, Florida, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Mexico, New York, North Dakota, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, Wyoming, and District of Columbia.

On motion of Professor Gault such delegates were granted the privilege of the floor throughout the sessions.

Mr. Thomas C. O'Brien, chairman of the local Committee on

Arrangements, then read the following communication from the Hon. Andrew J. Peters, Mayor of the City of Boston:

"Mr. Thomas C. O'Brien, Vice-President,  
Institute for Criminal Law,  
24 State House, Boston, Mass.

Dear Sir:

It is my privilege to extend the invitation of the City of Boston to the Institute for Criminal Law and Criminology to visit the House of Correction at Deer Island on Wednesday, September 3, 1919, as the guests of the city.

The city is arranging to hold a clam bake for the guests at 6:30 in the evening of that day and the return will be made to Boston early in the evening.

I sincerely hope it will be possible for the members of the Institute to accept this invitation, for we particularly desire them to see the Open Air School at Deer Island in operation.

Very truly yours,  
ANDREW J. PETERS, Mayor."

The invitation was accepted.

The report of the Committee on Insanity and Criminal Responsibility was then called for and read. (This report has been published in the last number of this JOURNAL.) The discussion that followed was participated in by Dr. Oliver, of Baltimore; Mr. Lindsey, of Warren, Pa.; Mr. Spalding, of Breton; Mr. Mansfield, of Illinois; Warden Hurlburt, of Michigan; Dr. Prince, of Boston; Commander Osborne, of Portsmouth; Mr. Bryan, of Virginia. The discussion turned chiefly upon the question of constitutionality suggested by recommendation number four in the report. The report was referred back to the committee.

Later in the course of the sessions the president expressed the judgment that in referring back to the committee, "We all had misconceived the resolution presented. There is nothing in the six points which precede the resolution which are carried by the resolution itself. Dr. Prince said yesterday that if he had realized that fact he would have favored the adoption of the resolution, and I see no reason why we couldn't adopt that resolution with perfect safety in order to put it before the community and secure legislation in many states on that subject. I think we got away on a tangent, thinking by the adoption of the resolution we were committing ourselves to the subject matter in that report."

The report of the Committee on Indeterminate Sentence, Release on Parole and Pardon was then presented by the chairman, Mr. Ed-

ward Lindsey, of Warren, Pa. It has been published in the last number of this JOURNAL. The purpose is to bring up to date information relating to legislation upon the subject matter of the committee. Chairman Lindsey said:

“The general tendency during the past two years has apparently been, among the legislators, to await the experience of the acts which have been passed, in their operation, and comparatively only minor changes have been made. There has been less legislation on this subject, fewer acts passed, in states which did not already have the system, than in some years previously. Possibly this may have been due to the abnormal situation of the country during the last two years.”

The report of the Committee on Drugs and Crime was then presented. It is published elsewhere in this number.

At this point the president called for a report from Professor Frederic B. Crossley, Business Manager of the JOURNAL of the Institute, for a statement of the financial condition of the JOURNAL. A summary of the report follows:

“If the Journal is to continue its existence, it must have more active financial support from the Institute than it has had at any time during the past. The report that will be placed on file gives in detail the accounts that I will only summarize here. It shows the financial condition for the year ending July 31. Our net receipts for the year, including cash on hand July 31, 1918, \$5,763.92; our disbursements for the year, \$4,706.31. That looks as though we have a cash balance, but we haven't. Our resources are as follows:

Unpaid subscriptions .....	\$1,086.30
Miscellaneous accounts .....	220.35
Advertising—	
Cash .....	82.50
Trade .....	156.50
	<hr/>
	\$1,545.65
Bond and cash on hand July 31, 1919..	1,057.61
	<hr/>
	\$2,603.26
	Liabilities
Notes payable .....	\$1,982.39
Accounts payable .....	937.07
	<hr/>
	\$2,919.46
Borrowed on bond.....	840.00
	<hr/>
	\$3,759.46
	2,603.26
	<hr/>
Deficit .....	\$1,156.20



"We have on hand 11,083 copies of past issues of the Journal at an estimated cost of ten cents each. That is a very slow asset and we can never realize anything like that from the sale of them. We had, for the year ending July 31, 1918, 1,000 subscribers; for the year ending July 31, 1919, 966 subscribers; a net loss of 34. This is not bad considering the showing that similar journals are making throughout the country, because of conditions brought about by the war.

"I would call your attention to the economy practiced. Aside from the printer's charges there are only two items of expense, one is the salary of the editor in chief, \$600 a year, which is paid by a donation from the Northwestern University; the other is an annual item of \$600 for half time of the clerk in charge of the office. There is no charge for rent or light or heat. We can't cut our expenses and we must raise some money."

The secretary then made his annual report and moved a recommendation to the Executive Board that a special committee be appointed to co-operate with other organizations that are working toward the abolition of the county jail. The motion was carried.

After hearing the report of the treasurer, the Institute adjourned to meet in the evening at 8:30 o'clock.

#### EVENING SESSION, SEPTEMBER 2, 1919.

President Pam, after expressing regret because of the absence of Governor Coolidge, introduced the Secretary of the Commonwealth, Mr. A. P. Langtry, who spoke as follows:

Mr. Chairman and Ladies and Gentlemen: Governor Coolidge was exceedingly sorry he couldn't be here tonight, but there is a most important celebration in Westfield, which is 110 miles from here, today and tonight and he was practically compelled to go to that.

I am going to talk to you for a few minutes, ladies and gentlemen, about the Bolsheviki. I want to say at the outset that there is absolutely no room for the Bolsheviki in America, because the history of America proves that every boy can soon climb to the top of the ladder. The best illustration of that fact is Abraham Lincoln. You all know he was born in a log cabin. He went to school just three weeks in his entire career, and yet Abraham Lincoln became the greatest literary genius this country has produced. He overcame more obstacles than any other man in America because he started in the most lowly place a human being could start and he became the President of the United States. That shows what the boy can do in politics in this country.

Jay Gould, at one time the richest man in America, started life as a pack peddler, selling needles and pins from door to door. He illustrates what the boy can do in business in this country, and every one of you knows many, very many men who started in the most humble circumstances and who are the great men in America today. It is a fact that in our great

cities the great business men were the boys on the farms who drifted into the cities and became merchant kings. The whole history of America proves that anyone who has got the right kind of determination in this country can forge to the front. Lincoln's mother, when she was dying, called her son to her bedside and she said to her boy, what I wish every one of us could say to every human being who is tainted with this I. W. W. or Bolsheviki, she said, "Abe, be somebody!" If every one of us would follow her advice and strive to be somebody, not one of us would ever be an anarchist.

I wonder how many of us realize the situation of far off Russia, where the Bolsheviki are now in control. Do you know that over 90 per cent of the people in Russia can neither read or write? Do you know that the serfs live in one-room houses about as big as an ordinary parlor? Do you know that in one corner of the house they dig a cellar and put in there in the winter time the domestic animals, cows, pigs, goats, and that they live with them throughout the winter? Can you imagine a human being living in that condition? Is it surprising that when the Bolsheviki came along with their promises of Heaven, that these poor, ignorant people followed them? Moscow, at one time one of the most beautiful cities in Europe, has been completely despoiled by the Bolsheviki. They have spies all around and all they have to do is to take a man behind a building and shoot him. The same thing is true with women, the only difference is that the woman screams, and thousands and tens of thousands of people have been murdered in that way in the City of Moscow, and what is true of Moscow is true of the whole country. The Revolution in France cost ten thousand lives, the Revolution in Russia has cost hundreds of thousands of lives, and most of us sit back contented because we say the Bolsheviki is four or five thousand miles away, over there in Russia. I want to tell you, ladies and gentlemen, that the Bolsheviki is right here in America and it is mighty strong. A great detective said the other day that there are ten times as many Bolsheviki in America as most of us have any conception of whatever. In this City of Boston every Sunday afternoon there are thousands upon thousands of Bolsheviki who meet in the halls. One of the orators in a recent Sunday meeting said (and he was applauded vociferously), "Next Fourth of July is going to be our Independence Day. On that day we are going to kill the President of the United States, we are going to kill every one in the nation and we are going to kill every rich man in the nation." On May first last, in the City of Cleveland, there were 40,000 Bolsheviki in parade, almost 10 per cent of the population of that great city. The Bolsheviki are all among us. You know the situation down South where there are millions of colored people that are almost as ignorant as the people over in Russia. The I. W. W. (another name for the Bolsheviki) has been down South and secured hundreds of thousands of those colored men and have got them into their organization. And they are teaching them that it is their duty to kill the rich man, and the poor colored people think every white man is rich, and, consequently, if they kill the white man why they are getting rid of the rich man. The race war in Chicago and Washington attracted ten thousand colored people to the North, and that was the reason of the riots. And there were also

tens of thousands of poor white trash attracted to the North, and when the poor white trash and the negroes meet there is always bloodshed.

Ladies and gentlemen, I don't fear the Bolsheviki in America because I think our government is too strong, I think our people are too spirited, I think too many of our great leaders are men who have sprung from nothing and have become great by their own energy, and I don't believe the American people are ever going to bow to Anarchy.

Mr. Langtry was followed by the Honorable Hugo Pam, who delivered the annual address of the President of the Institute. The address is to be found elsewhere in this number.

When the president had concluded he introduced Mr. Justice John B. Winslow of the Supreme Court of Wisconsin and Mr. Justice Orrin N. Carter of the Supreme Court of Illinois, former presidents of the Institute. After each in turn had briefly greeted the Institute, the president introduced Lt. Commander Thomas Mott Osborne, who spoke at some length of his experiences in connection with the Naval Prison at Portsmouth, N. H., where he has had the opportunity to continue the studies in penology he began several years ago in Auburn, N. Y., and continued throughout his career as warden of Sing Sing prison.

#### BUSINESS SESSION, SEPTEMBER 3, 9. A. M.

The business meeting was called to order by the president. Professor Gault offered an amendment to Article V, Section 1, of the constitution the clause entitled, "Limited term." The proposed amendment, which was unanimously adopted, makes the clause referred to read as follows:

"The President and Vice Presidents shall be elected, each one, for a term of two years; the Secretary and Treasurer for one year. No officer excepting the Secretary and Treasurer shall be eligible to succeed himself for more than two consecutive terms."

The report of the Nominating Committee was then called for, and it was presented as follows:

For President, the Honorable Hugo Pam, Judge of the Superior Court of Cook County, Illinois; Vice Presidents, Hon. Charles A. De Courcy, Justice of the Supreme Judicial Court of Massachusetts; Mr. Burdette G. Lewis, Commissioner of Prisons, New Jersey; Mr. Joel D. Hunter, General Superintendent of the United Charities of Chicago; Treasurer, Bronson Winthrop; Secretary, Edwin M. Abbott; Executive Board, expiring 1922, Thomas C. O'Brien, Esq., Deputy Prison Commissioner of Massachusetts; Mr. August Vollmer, Chief of Police of Berkeley, California; Mr. Henry Barrett Chamberlain,

Director of the Crime Commission of the Chicago Association of Commerce; Colonel Robert W. Millar, Judge Advocate, Chicago, Illinois. For the Executive Board, to fill a vacancy, term expiring 1921, Edward Lindsey, Warren, Pennsylvania.

On motion by Professor Crossley, chairman of the committee, the secretary was instructed to cast the ballot for the above named nominees.

Dr. John R. Oliver of Baltimore was recognized, and urged that the Institute appoint a committee to follow up development in criminal law and procedure in Europe; to collect data relating to experiments in criminal law and procedure in Europe, and to keep the Institute informed thereon.

The recommendation was referred to the Executive Board for action.

Mr. Freeman of Detroit then presented an argument for his proposal that the Institute appoint two committees; one, a committee of five, on the ethical education of prisoners, the other, a committee of five, on mental analysis looking toward the prevention of delinquency, to consider the advisability of incorporating in our public school system departments of mental analysis—both committees to report in 1920.

The proposal followed the usual course and was referred to the Executive Board.

#### FOURTH SESSION

Copley-Plaza Hotel, September 3, 12 M.

Mr. Thomas C. O'Brien, Vice President of the Institute and Chairman of the local Committee on Arrangements, presided, and first introduced Mr. Chief Justice Rugg of the Supreme Court of the Commonwealth of Massachusetts, who spoke as follows:

"Mr. President, Ladies and Gentlemen: You will permit me, I am sure, to reiterate the words of welcome of our Commonwealth I am informed have been uttered by my associate and yours, Mr. Justice DeCourcy, yesterday. Massachusetts welcomes the members of this Institute; we welcome you to the study of our institutions and we welcome the light that will come from your deliberations. We esteem it an honor that you can meet in our capital city.

"There is much said in this state respecting the specialization of judicial work. In our court there is practically no opportunity for specialization, except that in this particular department, having very little of direct contact with that sort of work, we all depend upon Mr. Justice DeCourcy for light. He was a pioneer in the probation system when he was a mem-

ber of the great trial court of the Commonwealth and did very much to further the introduction of the probation system and the development of our knowledge in the Superior and other courts of the Commonwealth.

"My own experience with criminology dates back now many years ago when I was connected with the office of district attorney. In those days the probation system was a voluntary system. Whatever there was of it resulted from the interest of philanthropic women and men who gave their time freely to the study of the individual charged with crime and the solution of the individual problem. That was a grouping towards what has become the fuller development of these more recent years in treating the individual charged with crime as a human being and undertaking the study of the individual need, and protects society by dealing with the individual rather than undertaking to classify the criminal according to the statutory offense which had been committed. And the advance in the subject of criminology is the fruit of early disinterested philanthropic interests which have challenged public attention and set in motion the forces of the state towards the development of this great advance in the administration of the criminal law. And so it is a peculiar pleasure to join with you as an observer, merely, in the accomplishment of what has been so great a factor in the civilizing and humanizing influence of the criminal law. I wish this association many years of useful and progressive work along the admirable lines upon which it has been conducted."

Mrs. Mary E. Paddon of the Committee on Criminal Courts of the Charity Organization Society of New York was then introduced. She presented her paper, which will be published in our next number.

Before introducing the next speaker, Mrs. Jessie Hodder of the Women's Reformatory at Framingham, Mass., Mr. O'Brien spoke briefly in urgent support of the reorganization of the Massachusetts branch of the Institute. Mrs. Hodder then presented her paper, which will be found in our next number.

At the conclusion of this paper, Mr. E. C. R. Bagley, Director of the Men's Bureau of Prisons of Massachusetts was introduced, and he spoke as follows:

"It would take more than eight minutes to tell you what we are trying to do in Massachusetts for the prisoners. I want to call your attention particularly to the work we are doing in the camps. To those of you who are not familiar with the fact, I will say, that we have at the present time three out-door camps and these camps are far different to some I have seen in different parts of the country. No officer carries a revolver, there are no blood hounds connected with the institution at all, there is absolutely nothing in the way of firearms connected with our work.

"Last night, the statement was made by one of the speakers that he was saving four out of five, and I assume he means by that four out of five of the men never came back. This morning I took a few figures from the records as to what had happened in our camps in that same line of work since 1916. During 1916, there were 110 men released and only 6

returned; in 1917 there were 213 paroled from the camps and 11 returned; in 1918 there were 318 paroled and only 11 returned. We place the man upon his own word, upon his own honor, and it is up to him to do the rest. There is hardly a man in our camps today who has been there at least a month but what has gained seven or eight pounds, yes, up to thirty pounds. I saw one fellow gain thirty pounds in three months' time. We have one man who has given his own explanation to a committee from Boston, which was there upon a tour of investigation. He said he was a drug addict, he didn't want to go back to it, and after he had been in there three months his weight had increased twenty-eight pounds.

"I want to speak of the tuberculosis hospital connected with our prison camps. Every tubercular prisoner in the state, when he is examined and found to be in that condition, must be transferred to the tuberculosis hospital. At the present time there are 31 patients there who receive the treatment; every possible care medical experience can give they receive to make them morally and physically fit. It is an enormous expense, but we feel it is a good expense, we feel that every dollar which is expended in that particular line of work is going a great way toward making that man much better when he comes out of the institution.

"We place these men on the grounds of the tuberculosis hospitals in the state, on the grounds of one of the insane institutions and on the grounds of the State Infirmity. And in the report of the Consumptive Trustees last year it said that were it not for the fact that we had helped them by placing prison camps on the grounds of the tuberculosis hospital it would have been absolutely necessary for them to close last year for lack of help. We have an understanding and agreement with the heads of each institution that they will clothe, house and feed the men and pay the state one dollar a day. We regret we are unable at the present time to pay the men a compensation. We are fighting for it continuously, and we here in Massachusetts are never able to say we are dying until we are dead, and rest assured we will try every avenue seeking for compensation for the inmates, because we believe the state has no right or authority to take every penny the men have made for the institution, to keep it entirely for themselves, and then leave the dependents of the man outside to do what they can.

"And I want to say we have established a department which we call the Home Department of the Bureau of Prisons, and that department is to lend aid and every possible assistance to the dependents of the man or woman who is now serving time in the institutions of this state. We are receiving contributions in that line, doing everything we can, putting the little children in the country where they have never been in their lives. We started a few months ago with practically nothing and I am in hopes in another year we may be able to get a little more money contributed, which will enable us to extend the work still further."

Adjourned to meet at 2:30 P. M., at 525 Boylston street.

In the course of the afternoon session, papers were read by Dr. Thomas W. Salmon and Dr. Katharine B. Davis of New York City,

and by the Honorable Charles M. Hoffman of Cincinnati, and they are published elsewhere in this number. Drs. Healy, Southard and Stearns of Boston participated in discussion of the papers.

The Committee on Resolutions, composed of Mr. James Bronson Reynolds and Professor Robert H. Gault, presented the following resolution, which was unanimously adopted and ordered to be printed and spread upon the minutes:

"WHEREAS: The American Institute of Criminal Law and Criminology, at the conclusion of an unusually successful meeting in Boston on September 2 and 3, 1919, recognizes its high obligation to the Governor of the Commonwealth of Massachusetts for his co-operation in its program; to the Mayor and citizens of the municipality for their hospitality, their courtesy and their instructive and suggestive participation in the deliberations of the Institute; to the press of the city for the discriminating reports upon our proceedings; and to the Local Committee on Arrangements, under the chairmanship of Mr. Thomas C. O'Brien, for their painstaking preparation for the accommodation of our sessions; therefore, be it

"RESOLVED: That the American Institute of Criminal Law and Criminology formally acknowledge its indebtedness and express its gratitude to the Governor of the Commonwealth, the Mayor and citizens of the municipality, the press and the Local Committee on Arrangements for the advantages it has enjoyed in connection with the Eleventh Annual Meeting of the organization in Boston."

In the course of the sessions in Boston, resolutions and recommendations were presented for consideration and action by the Executive Board of the Institute, as follows:

1. By Dr. Thomas W. Salmon of New York City, proposing that the Institute urge the War Department to make provision for the psychiatric examination of military offenders.
2. By Mr. Freeman of Detroit, proposing the appointment of two committees: (a) On the Ethical Education of Prisoners; (b) on Mental Analysis, Look Toward the Prevention of Delinquency.
3. By the Secretary, proposing co-operation with other organizations to the end of abolishing the county jail.
4. By Dr. John R. Oliver of Baltimore, proposing the appointment of a committee to report upon European Tendencies in the Modification of Criminal Procedure.
5. By Dr. Katharine Bement Davis of New York City, proposing that the Institute take action favoring the prohibition of fines for common prostitution.

6. By Mrs. Andrews and Committee of Boston, proposing action by the Institute to urge adoption of probation laws and creation of probation commissions in states in which such laws and commissions are not now in existence.

Since adjournment of the annual meeting the following resolutions and recommendations have been presented to the Executive Board:

7. By Mr. James Bronson Reynolds of New York City, relating to the constitution of the Board of the Institute and quorum for regular meetings of the Board.

8. By Robert H. Gault, proposing the appointment of a Committee on Penal Organization and invitation to the American Judicative Society to act as such a committee of the Institute.

MINUTES OF THE MEETING OF THE EXECUTIVE BOARD OF THE  
INSTITUTE ON OCTOBER 6, 1919

The Executive Board of the Institute met at the University Club, Chicago, at 12:30 o'clock on October 6, 1919. President Hugo Pam presided. There were present in addition to the President, the following:

Dean John H. Wigmore, Dr. Thomas W. Salmon, Mr. Henry Barrett Chamberlain, Professor James H. Tufts, Professor Frederic B. Crossley, Professor Robert W. Millar, Dr. Herman Adler, Senator James J. Barbour, Mr. Joel D. Hunter, Dr. F. Emory Lyon, Professor Robert H. Gault. Dean John H. Wigmore was re-elected Chairman of the Board.

Thereafter, the next order of business was consideration of Dr. Salmon's proposal relating to psychiatric examination of military offenders. The proposal was adopted in the form published below:

(1) "Except in time of war or with an army in the field unless otherwise directed by the Secretary of War, when any officer or soldier is to be recommended for trial by a G. C. M. or when a soldier is to be recommended for trial by a S. C. M. or Sp. C. M. for the third time within one year, or in any case when charges of any kind are pending in which there is doubt as to the physical, mental or moral fitness of the soldier to remain in the service, the immediate C. O. (Post C. O. or equivalent) will, prior to forwarding charges (to Dept. C. O. or Court as case may be), include the following procedure as a part of the investigation (M. C. M., 1917):

"A medical officer will be designated to make a thorough physical and mental examination of the accused and to secure and record, so far as



possible, his previous history. (Character of investigation and report indicated in 219, M. C. M.)

(2) "Report rendered to C. O. include the following:

- a—History.
- b—Results of physical and mental examination.
- c—Diagnosis and findings.
- d—Recommendations and reasons therefor.

(3) "On receipt of this report it shall be considered as part of the facts on which the C. O. bases his opinion as to whether or not the accused shall be recommended for trial or trial directed. The report shall be forwarded with the charges if the case be one for G. C. M. or with the record of the trial if trial be had by inferior court (S. C. M. or Sp. C. M.) under jurisdiction of Post or equivalent C.O.

(4) "This examination should be made by a medical officer with special training in mental and nervous diseases when such an officer is available at or within a reasonable distance of soldier's station. When it is impracticable to obtain the services of such an officer the examination will be made by the medical officer available who is considered best qualified for the task.

(5) "To put this principle into force. The War Department can do so by issuing the necessary *orders* and *instructions* and providing the personnel through the normal administrative channels."

After informal discussion of other business the meeting adjourned.

MEETING OF THE EXECUTIVE BOARD OF THE INSTITUTE,  
NORTHWESTERN UNIVERSITY LAW SCHOOL,  
4:30 P. M., OCTOBER 15, 1919

President Pam presided, and there were present the following in addition to him:

Dean John H. Wigmore, Professor Frederic B. Crossley, Professor Robert W. Millar, Mr. F. Emory Lyon, Mr. Joel D. Hunter, Senator James J. Barbour, Mr. Henry Barrett Chamberlain, and Professor Robert H. Gault.

Further consideration was given to the appointment of committees. No final action was taken, but a Committee on Committees, consisting of the President of the Institute, the Chairman of the Executive Board and the Executive Secretary was appointed, with instructions to proceed at once to the naming and appointment of committees. The meeting then adjourned without a day.

Resolutions presented at the Boston meeting and referred to the Executive Board of the Institute were adopted in the form published below:

*By Mr. James Bronson Reynolds.*

1. I recommend that with the approval of the Executive Board a resolution be presented at the next annual meeting, or at any meeting where the matter may be properly acted upon, eliminating vice-presidents and retired presidents from the Executive Board, and that in view of such reduction the number needed for a quorum of the Executive Board be reduced from eleven to seven. (Received favorable action excepting as to vice-presidents. It was ordered that the executive secretary prepare a draft for the necessary amendment to the constitution to put this into effect; to provide that the treasurer be eliminated from the Board and that a retiring president remain upon the Board during his successor's term.)

2. I recommend that a Committee on Criminal Law and Procedure be asked to present a definite program of activity for the year, and that it be especially requested to consider taking up the standardization of the criminal law and procedure on certain points or matters where an agreement between the members of the committee and of the Institute is practically assured and the present condition is recognized to be undesirable. (Approved.)

3. I recommend, as suggested by Dr. Oliver in Boston, that a Committee on Criminal Law and Procedure in Foreign Countries be constituted, to be distinguished from the existing committee, which is handling so fully and satisfactorily the quite different question of publication of standard works on criminal law and procedure by distinguished writers of foreign countries. The new committee should be distinctly and particularly a committee seeking to present to the public information of value to the Institute. I may add that such a committee should be in touch with the editors of the Journal and might prove an interesting means of obtaining very readable and helpful contributions for the Journal. (Approved.)

*By Dr. Katharine Bement Davis.*

*Resolved,* That the Institute of Criminal Law and Criminology recommend the adoption in the several states of legislation prohibiting the imposition of fines in cases of conviction for common prostitution, soliciting, loitering, and similar offenses, and the substitution therefor of probation in cases where imprisonment in appropriate institutions does not seem desirable.

*By Mrs. Julius Andrews and Committee.*

*Resolved,* That the American Institute of Criminal Law and Criminology endorses and urges the adoption in all states which are now without probation laws, or in which the application of probation is limited to minors or lesser offenders, the adoption of adequate probation laws. Such laws should permit judges to exercise wide discretion in releasing offenders on probation, and should provide for salaried probation officers in all courts; be it also

*Resolved,* That we urge all judges, or the authorized officials, to provide sufficient number of probation officers in all districts, so that the probation system may be used to the fullest extent compatible with the protection of society and the reformation and rehabilitation of the offender.

That adequate salaries be appropriated for probation officers in order to secure the entire time of able men and women.

That in every state we favor and urge the establishment of a State Probation Commission or Bureau to supervise probation work, both adult and juvenile (and to urge its extension in all parts of the respective states).

That we acknowledge that the system of probation is bound to fail unless it is protected by vigorous and honest administration and that we urge all judges to grant or deny probation without fear or favor.

*Presented by Robert H. Gault.*

*Resolved,* That the Institute appoint a Committee on Penal Organization, with instructions to report at the next annual meeting a model bill for a law looking toward a suitable co-ordination and centralization of criminal courts, district attorneys, police and prison and reformatory officials; and be it further

*Resolved,* That in case the above resolution carries, the American Judicative Society be requested to accept appointment as a committee of this organization, to carry the above resolution into effect.

The above resolutions were adopted and by unanimous vote, Dean John H. Wigmore was designated to make the proper representations to the Judicature Society.

The resolutions are intended to cover one presented by Mr. Edwin Abbott in Boston for the appointment of a Committee on County Jails.