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INDETERMINATE SENTENCE, RELEASE ON PAROLE AND PARDON

(Report of the Committee of the Institute)

EDWARD LINDSEY,¹ Chairman

One state, Georgia, has enacted an indeterminate sentence law since our last report. Of the states whose legislatures met during the past year the states of South Carolina and Mississippi still omit any provision for either indeterminate sentence or parole. In Mississippi a bill providing for a system of indeterminate sentence and parole was passed by the legislature at the last session, but was vetoed by the governor and was not passed over the veto. In Rhode Island, where the parole system is in force, but not the indeterminate sentence, a bill providing for the latter was introduced in the Senate and referred to the Committee on Judiciary, but was never reported out.

GEORGIA

Georgia has had a system of release on parole in effect since 1908. The legislature by act, approved August 18, 1919, has now provided that in all cases of felony not punishable by life imprisonment, the trial jury in its verdict shall prescribe a minimum and maximum term which shall be within the minimum and maximum prescribed by law as the punishment for the crime of which the defendant on trial is convicted and the judge in imposing sentence shall commit the convicted person to the penitentiary in accordance with the verdict of the jury; and that in case of pleas of guilty the judge shall have the right to prescribe such minimum and maximum term as he may see fit. The act further provides that the Prison Commission shall fix rules by which the said convict, after serving the minimum sentence, may be allowed to complete his term without the confines of the penitentiary upon complying with said rules.

KENTUCKY

There has been no change in the law upon indeterminate sentence and parole in Kentucky, but the State Board of Charities and Correc-

¹The personnel of the committee is as follows:

Edward Lindsey of the Warren, Pa., Bar, chairman.

Will Colvin, State Supt. Pardons and Parole, Springfield, Ill.

Amos W. Butler, Supt. Charities and Correction, Indianapolis.

E. C. R. Bagley, Supt. of Prisons, Boston.

tions, which administers the law, has made changes in its practices in administering the same which are worthy of notice. We are advised that up to April last it was necessary for prisoners to make formal application for parole consideration and to advertise for two months in some paper the fact that they were about to seek a parole. It was, moreover, the custom for the paroling authorities to receive petitions from interested parties, families, friends and others. This practice has now been changed and it is no longer necessary for prisoners to make formal application for parole, nor is it the policy of the board to receive petitions from outside, nor does it permit any personal pleading on behalf of the prisoner except on the part of the prisoner himself. The parole committee of the board assumes the duty of securing all available data concerning the prisoner, his life, habits, prison records, etc., and with these facts in hand offers opportunity for all persons who are eligible under the law to have parole consideration to appear in person before it. This applies to any prisoner eligible under the law for such consideration, even though his prison record may be so bad that favorable consideration is out of the question, as it is assumed that the person is entitled to know as definitely as possible why he cannot be considered favorably. No person is permitted to leave on parole until employment is secured, investigated and approved.

NEW JERSEY

New Jersey at the last session of its legislature repealed an act of 1919 which provided for an indeterminate sentence for persons convicted of the offense of fornication.

NEW YORK

An amendment to the indeterminate sentence law of the state of New York was effected by an act, passed at the 1919 session of the legislature, information in regard to which was received too late for inclusion in our last year's report. This act provides that "if it shall appear to said board of parole for state prisons, upon an application by a convict for release on parole as hereinbefore provided, that there is reasonable probability that such applicant will live and remain at liberty without violating the law, then said board may authorize the release of such applicant upon parole, and such applicant shall thereupon be allowed to go upon parole outside of said prison walls and inclosure upon such terms and conditions as said board shall prescribe, but to remain, while so on parole, in the legal custody and under

the control of the agent and warden of the state prison from which he is so paroled, until the expiration of the maximum term specified in his sentence as hereinbefore provided. Nothing herein contained shall prevent the parole board from paroling or discharging inmates subject to parole at any time, and as of any time after the expiration of any minimum term, upon such other conditions not incompatible with the welfare of society as they may deem advisable. The board of parole shall, in granting such parole, annex a condition to the effect that if any such convict shall, during the period between the date of his release by reason thereof and the date of the expiration of the maximum term for which he was sentenced, be convicted of any felony committed in the interval as aforesaid, he shall, in addition to the sentence which may be imposed for such felony and before beginning the service of such sentence, be compelled to serve in the prison or penitentiary in which he may be confined for the felony for which he is so convicted, the remainder of the maximum term of his sentence, without commutation, unless sooner released on parole or absolutely discharged by the board of parole of state prisons, but he may, however, earn compensation in reduction of the remainder of such term." This act further provides that in the case of a recaptured paroled prisoner who has violated his parole, "at the next meeting of the board of parole of state prisons, held at such prison, said board shall be notified thereof. If said prisoner shall have then been returned to said prison, he shall be given an opportunity to appear before said board, and the board may, after such opportunity has been given, or in case said prisoner has not yet been returned, declare said prisoner to be delinquent, and he shall whenever arrested be thereafter imprisoned in said prison for a period equal to the unexpired maximum term of sentence of such prisoner, at the time of such delinquency, unless sooner released on parole or absolutely discharged by the board of parole of state prisons."