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WHAT AUTHORITY SHOULD GRANT PAROLES?
IF A BOARD, HOW SHOULD IT BE
COMPOSED?¹

WILL COLVIN²

Convinced by experience that no human agency can determine accurately how long persons should be incarcerated before parole, it becomes rather difficult for me to tell this conference "What Authority Should Grant Paroles?" and "If a Board, How Should It Be Composed?"

In order to be brief, I have made notes of a few observations. These come also from experience.

It makes little difference whether you term the *paroling authority* a board, commission, department, division, or what not.

But it makes vast difference to the people and the public welfare of every state how you constitute that *authority*.

No man, or set of men, inexperienced in parole work, can be expected to do it intelligently or successfully.

An error once made with life or liberty can never be retrieved. With property and things it may be different.

No matter who the person and no matter what his qualifications may be, it must take from two to four years of intensive study and actual, daily experience before one knows or understands the real work of pardon and parole.

If entrusted with authority while gaining that experience, there can be but one result—the public welfare must suffer from the errors and mistakes that are bound to be made.

It is of extreme importance that those vested with paroling authority, whether in the larger or smaller states, give to the work their undivided attention. Part time service works irreparable injury to society and the parolee.

In the smaller states probably three persons are sufficient to do the parole work, but in the larger states no less than five, and possibly seven, persons should be entrusted with such important work.

¹Read at the thirteenth annual meeting of the Institute, Cincinnati, Ohio, November 19, 1921.

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One member of every paroling authority should bear an individual responsibility over the entire work.

Successful operation of parole laws and the indeterminate sentence can be obtained only in proper administration by the paroling authority.

Aftercare and supervision, which are matters of administration in all the states, furnish the real strength back of every parole.

Experience, ordinary human intelligence and integrity are the supreme tests which should govern before lives and liberties are placed in the hands of men.

Addressing this Institute last year, Governor Goodrich, of Indiana, described the pardoning power as the most sacred, the most difficult of all executive functions. It was my good fortune to read the text of his address in the *JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY*. I have no recollection of any one individual thing which made such a lasting impression upon me. I shall quote just one paragraph:

"When we realize that more than thirty-five per cent of criminal cases are reversed on appeal and how often innocent men suffer because of their poverty; when we know from the records that ninety-six and one-half per cent of first offenders paroled by the executive observe their parole and earn their discharge; when we see how often the great burden of the punishment, the shame, disgrace and suffering falls upon the innocent family, it will bring to us a clearer understanding of the responsibility that rests upon the executive in the exercise of the pardoning power."

Parole in many states is derived originally from the pardoning power contained in the state constitution. In many states the pardon board also functions as the parole authority. In Illinois executive clemency is extended by the Governor in about twenty-five cases each year. During the biennial period ending September 30th last year a total of 1,819 paroles were granted by the paroling authorities of Illinois. Prior to the legislative enactment of the parole law in Illinois, the time and attention of the Executive were taken up almost exclusively with pardon matters alone. Delegation of this vast work to another authority, which might represent the Governor, became a necessity. The same was true in other states, until at this time practically every state has parole in one form or another.

Despite the vast importance of the parole and pardon work, described by Governor Goodrich as "the most sacred, the most difficult of all executive functions," no uniformity of parole authority is found among the states.

In "A Study of Parole Laws and Methods in the United States,"

just printed by the Prison Association of New York, and distributed last month at the American Prison Congress, is found this language:

“These boards have been found to be made up of farmers, merchants, journalists, bankers, many of whom are unfamiliar with criminal jurisprudence, and usually without experience or any previous acquaintance with the principles of penology. The duties of the parole board are of infinite importance. The community looks to the parole board to decide upon the fitness of a man for release from prison. Therefore, there is every need of men of a high grade of intelligence, understanding and experience.”

In many states wardens and chaplains are a part of the parole authority. With all due respect to them I am firmly convinced this is a grave mistake. No warden or chaplain should be called upon to act as a part of the paroling authority, because of the destructiveness that results to their individual functions inside the institution.

With but few exceptions the various states send prisoners upon parole in the custody of the warden. More recent experience proves far better results can be obtained by sending the prisoner upon parole in the custody of the paroling authority, which in the public mind bears responsibility for the success or failure of every parolee. In the physical administration of every penal institution there is sufficient work to occupy the undivided attention of every warden without the added burden of custody while on parole.

Custody upon parole and the proper handling of the parolee is as great a problem as determining the time when the prisoner shall go *upon* parole. The real strength back of every parole lies in the care and supervision exercised over the parolee after release from incarceration. That being so, it seems only intelligent that those having the custody of parolees be trained by experience in that individual line of endeavor. Mistakes by paroling authorities in fixing the time for parole may be excused, but mistakes in the aftercare given to paroles are inexcusable.

Inexperience by paroling authorities produces two kinds of mistakes, each equally destructive to the public good. One keeps the prisoner incarcerated too long. It is the mistake we have heard little about during the past few years, because the pendulum of criticism has been swinging the other way—charging too much laxity in parole—but this is the mistake that can never be undone. The other mistake, a release upon parole too early, is the natural one. It is an injustice to the parolee, often resulting in return to an institution for broken parole or upon a new sentence. Then the harm is done both to the public welfare and the individual.

One man may suffer as greatly in the first hour of imprisonment as it is possible to suffer, or as another person may suffer in years of incarceration. Experience furnishes the only guide upon which to differentiate between the man who has had sufficient incarceration and the one who has not. Experience alone can teach how to deal with the multiplicity of different problems that daily come to those entrusted with the authority of parole in the various states.

While great strides have been made in the past decade, parole and administration of parole laws are in their infancy. There is room and opportunity for vast improvement and betterment. Let me congratulate the states of Ohio, New Jersey and Pennsylvania in their recent creation of Boards or Departments of Public Welfare. Legislation of this character meets the latest thought of those who are devoting their lives to a study of these problems.

I have deviated somewhat from the text, but all of these things bear close relation to the subject of how paroling authorities should be composed or constituted.

In conclusion, let me repeat—the supreme test should be experience, ordinary human intelligence and integrity.