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# Report of the New Jersey Prison Inquiry Commission

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# REPORT OF THE NEW JERSEY PRISON INQUIRY COMMISSION[1]

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## POLICY OF THE STATE WITH REFERENCE TO CRIME

The earlier penal codes of New Jersey reflected the crude and harsh conceptions of the time regarding crime and its punishment. Except during the brief period of Quaker ascendancy in West Jersey (1675-1703) and for a shorter time in East Jersey, when a milder and more enlightened system was put into effect, offenses were many and punishments drastic. Twelve offenses, ranging from murder to witchcraft and conspiracy, were punishable by death. Branding on the hand or forehead was the penalty for burglary or robbery, and corporal punishment, banishment, the stocks and heavy fines were the punishments prescribed for most other offenses. Malefactors being thus summarily dealt with, there was no need of prisons except for debtors and as places of detention for those awaiting trial. It is to the Quaker influence that we owe the relatively humane method of punishment of offenders by imprisonment at hard labor. They took over the workhouse, employed in Europe for the repression of beggars and vagrants, and made it the basis of their penal system, substituting imprisonment for most of the more cruel punishments provided by the Puritan codes of the time.

By 1796, when the first criminal code of the State of New Jersey was enacted, imprisonment at hard labor had become the usual method of punishment, the terms prescribed ranging from 21 years for the crime of sodomy to six months for "personating Jesus Christ," though the death penalty was still exacted for treason, murder and petit treason and for the second offense of manslaughter, sodomy, rape, arson, burglary, robbery and forgery. It was this general substitution of imprisonment for other and more summary methods of punishment that called for the building of a State Prison (1797-1799), one of the first to be erected in the United States. It required another

[1] From the Report of the Prison Inquiry Commission of New Jersey, two volumes, pp. 168 and 654, 1917.

The personnel of the Commission is as follows: Dwight W. Morrow, Chairman; Seymour L. Cromwell, Henry F. Hilfers, John F. Murray and Ogden H. Hammond.

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half century to eliminate from the penal code of the State the practice of inflicting the death penalty on offenders guilty of a second offense of crimes ordinarily punishable by imprisonment. By the revised Code of 1846, the death penalty for a second conviction of any of the major crimes, which had been prescribed in the Codes of 1796 and 1829, was commuted to a sentence of imprisonment for not to exceed double the period of imprisonment exacted for the first offense. When, in 1916, the death penalty was left to be applied only to the rare case of high treason and to those exceptional cases of murder in the first degree where the trial jury deemed the alternative penalty of life imprisonment an inadequate punishment for a peculiarly atrocious crime of this sort, the process of substituting imprisonment for the severer penalties of an earlier day was practically complete.

As thus outlined, the penal history of the State has followed the traditional lines. It was only when the notion that criminals were not all equally incorrigible, but that some of them might be converted from the error of their ways, found its way into the criminal law that a new era of penal reform was inaugurated. It is to this new conception, which is still imperfectly apprehended, that we owe such provisions as the statutory distinction between first and second offenders and the more modern provisions of the suspended sentence, the placing of certain first offenders on probation, the indeterminate sentence and the reduction of sentences by good conduct in confinement.

As early as 1833 the Joint Committee of the Legislature on the erection of a new State Prison insisted upon the urgent necessity of providing a better system of prison discipline and expressed the conviction that the real object of punishment was the prevention of crime and that this was to be achieved by deterrence and reformation rather than by cruel punishment. The plan recommended to secure these ends was the adoption of the so-called "Pennsylvania System" of solitary confinement, and the reformatory purpose of the new system, which was put into effect by an act passed February 13, 1833, was clearly set forth in a congratulatory paragraph of Governor Vroom's message of October 29, 1834, as follows:

"The plan of solitary confinement, with labor, adopted by the State, is gaining friends among those who have devoted much attention to the subject. It is peculiarly fitted for that profitable meditation which tends to reform the unfortunate convict, reclaim him from vice and finally restore him to the bosom of society. This is the blessed end we

have principally in view; and if it shall be attained in any good degree, our best hopes will be realized."

As the History appended to this report clearly shows the experiment on which such transcendent hopes were based proved a tragic failure, but the new emphasis on reformation of the criminal as an important object of the punishment imposed on him did not grow less. In 1852 the recently organized New Jersey Prison Reform Association, of which Daniel Haines was president and ex-Governor Vroom vice-president, memorialized the Legislature on the great need for a House of Refuge for juvenile offenders, in order that these might be removed from the unsuitable environment and improper associations of the State Prison and be provided with special opportunities for reformation. At the same time the Board of Prison Inspectors, then, as now, the governing body of the institution, in its reports of 1852 and 1853, urged that minors and first termers should no longer be committed to the State Prison, which had no adequate provision for their reformation and education, but should rather be confined in the county jails and workhouses. These efforts bore no fruit until 1864, when they enlisted the vigorous support of Governor Joel Parker, who secured the passage of the act of April 6, 1865, to "Establish and Organize the State Reform School for Juvenile Offenders," now known as the State Home for Boys at Jamesburg. A similar institution for girls was created under the name of the "State Industrial School for Girls," now known as the State Home for Girls, at Trenton, pursuant to an act of the Legislature, passed April 4, 1871.

It required 24 years more of agitation to bring about the further differentiation in the treatment of offenders which was involved in the establishment of the State Reformatory at Rahway, authorized by the act of March 28, 1895, and not until 1910 was this phase of development completed by the institution of the Reformatory for Women at Clinton Farms.

That the newer conception of the reformatory purpose of punishment, even as regards the average prison population, was making its way in official circles is significantly shown by the enactment by the Legislature of a series of remedial statutes, beginning with the act of April 14, 1868, providing for the commutation of sentence by good behavior and faithful discharge of duty. This act made it possible for the convict to reduce his period of imprisonment by five days in each month. On May 13, 1889, a more sweeping measure of clemency was enacted as a part of the first parole law of the State. This provided that all first termers, except those convicted of one of the

seven major crimes—murder, manslaughter, sodomy, rape, arson, burglary and robbery—should become eligible to parole, on the recommendation of the prison authorities, after serving half the terms for which they had been sentenced. The Attorney-General, however, questioned the constitutionality of this act, and, accordingly, April 16, 1891, another act was passed, vesting in the Court of Pardons—then, as now, composed of the Governor, the Chancellor and the lay judges of the Court of Appeals, and which had theretofore been confined to the exercise of the pardoning power only—the authority to set any qualified convicts at large under such conditions as the court might see fit to impose. This act created a new parol authority in addition to that claimed and exercised since 1898 by the prison authorities.

The parole power was enlarged by an act of April 12, 1912, which provided that any inmate of the prison who had not previously been convicted of felony should become eligible to parole after serving two-thirds of the term for which he had been sentenced. Prisoners held under a life sentence were given the benefit of the act by a clause making 25 years the computed one-half of such a sentence. A later enactment, approved April 15, 1914, extended this clemency to convicts who had served one-third of the fixed sentence imposed, and, in the case of persons confined under a life sentence, after serving 15 years.

The revision of the Penal Code of the State in 1898 provided for the reduction of all crimes, except treason, murder, manslaughter and arson, to the two fundamental categories of misdemeanors and high misdemeanors, and prescribed penalties which, in many cases, were substantially less than those previously exacted. The limit prescribed for a misdemeanor was a fine of $1,000, or three years' imprisonment, or both; for a high misdemeanor, with a few exceptions, a fine of $2,000, or seven years' imprisonment, or both.

The opposition excited by the traditional mode of inflicting the death penalty by hanging, led in 1906 to the enactment of a law substituting the method of electrocution, which had previously been adopted in New York and several other States on the presumed ground that it was more humane and less obnoxious to public sentiment. The same bill, enacted April 4, 1906, transferred the authority and duty of inflicting the death penalty from the sheriffs of the several counties to the principal keeper of the State Prison.

Probation and the suspended sentence made their first appearance in New Jersey, April 2, 1906, when three acts were passed

authorizing courts and magistrates before whom any person should be convicted of a criminal offense, instead of imposing the penalty provided by law for such crime, to suspend sentence on the person so convicted and order him to be released on probation for such time and under such conditions as the court or magistrate should determine, and authorizing the judge of the Court of Quarter Sessions in each county to appoint a probation officer to exercise supervision over the convicts in such county who should be so released.

After many years of agitation for the indeterminate sentence, which had long been urged by prison reformers in this and other states as affording a means for detaining convicts in confinement until, and only until, such time as they should have demonstrated their fitness to be returned to society, the Legislature, on April 21, 1911, enacted the form of such law that has generally been adopted in this country, providing for a maximum and minimum term to be imposed on all persons sentenced to confinement in the State Prison. The act provided that the maximum should be the limit of imprisonment provided by the act of 1898, previously referred to, and the minimum not less than a year nor more than one-half of the maximum term, the minimum of a life sentence being fixed at 25 years; and it was further provided that, if deemed worthy to be set at large, prisoners who had served their minimum term should be released on parole by the Board of Inspectors. A subsequent act, approved April 15, 1914, enlarged the range of judicial discretion by fixing the minimum in general at from one year to two-thirds of the maximum term, but, in the case of persons whose sentence of death had been commuted to life imprisonment, reduced the minimum from 25 to 15 years.

While the halting and imperfect application of the indeterminate sentence, which this legislation embodies, has proved disappointing to the ardent advocates of the principle, it is fairly abreast of the legislation of other progressive states as applied to convicts sentenced to an institution which is primarily penal, rather than reformatory, in character. But here, as elsewhere, the principle has been more liberally applied to persons committed to more purely reformatory institutions. The law governing commitments to the State Home for Boys at Jamesburg (March 22, 1900) prescribes no term of imprisonment, providing merely that the trustees of the institution may hold the boy committed until he attains the age of 21, or may, in their discretion, at any time discharge him as reformed or parole him. A similar rule governs commitments to

the State Home for Girls at Trenton (March 23, 1900). Commitments to the State Reformatory at Rahway and to the State Reformatory for Women at Clinton Farms are for an indeterminate period extending to the maximum limit prescribed by law for the crime of which the offender was convicted. The governing boards of both institutions may in their discretion parole an inmate at any time prior to the expiration of such maximum period.

There is no surer index of the progress of a community in civilization than the treatment which it accords to its dependent and delinquent children. In her dealings with the former class New Jersey holds an honorable place, due mainly to the institution and management of her admirable State Board of Children's Guardians, created by act of the Legislature, March 24, 1899. But notwithstanding recent remedial legislation of a praiseworthy character, the delinquent children of the State are still criminals, triable by criminal process, and subject to punishment by imprisonment, with adult criminals, in the ordinary penal institutions. It is true that special institutions have been provided (the State Home for Boys at Jamesburg and the State Home for Girls at Trenton), to which child offenders between the ages of 8 and 16, in the case of boys, or of 9 and 18, in the case of girls, may be committed, but they may, if guilty of crime, in the discretion of the court, be sentenced to imprisonment in a jail, penitentiary or the State Prison; and, if convicted of murder or manslaughter, the punishment of a child over the age of seven takes the same course as that of an adult guilty of a similar offense.

As far back as 1845, a public-spirited woman, Dorothea L. Dix, stirred the public conscience by her appalling disclosures as to the size and the deplorable state of the insane and idiotic population of the State, and secured the passage of the act of 1848, providing for the establishment of the State Hospital for the Insane at Trenton, and for the transfer to that institution of the insane inmates of the State Prison and of the county jails and workhouses. But here the movement halted and many years were to elapse before the next inevitable step was taken. It was not until March 29, 1910, that the act of 1848 was made really effective by a law providing, by a somewhat cumbrous procedure, for the continuous transfer of insane inmates to the State Asylum. Similar provisions have been enacted for the transfer to the asylum of insane inmates of the State Reformatory at Rahway and of the State Reformatory for Women at Clinton Farms. A sweeping measure of April 20, 1914, providing for the transfer of epileptics from various institutions to the State Village for

Epileptics, and of the insane to a county asylum or to either of the State Hospitals for the Insane, was drawn so as to include the inmates of the State Home for Boys and the State Home for Girls, and the latter were also included in a provision for the transfer of feeble-minded inmates to the Home for Feeble-minded Women at Vineland, but none of the provisions of this law were made applicable to the State Prison or to either of the reformatories. Accordingly, as the law now stands, insane inmates of any of the State penal and correctional institutions may, though with considerable difficulty, be transferred to the State Hospital for the Insane or, in some cases, to a county asylum; epileptics in the Jamesburg and Trenton Homes may be transferred to the State Village for Epileptics, and feeble-minded girls in the Trenton Home may be put under suitable care at Vineland; but feeble-minded boys must still add to the weakness and degeneracy of the Home at Jamesburg, and epileptics and feeble-minded alike must seek, however vainly, to adjust themselves to the exacting conditions of the discipline of the State Prison and the two reformatories.

This summary of the penal legislation of the State would not be complete without some reference to the present state of our knowledge regarding crime, its causation and treatment. Recent studies in the personal and social history and the mental and physical condition of the inmates of prisons and reformatories have furnished a new basis for the understanding and classification of the criminal elements of our population. As an illustration of new facts so disclosed, the conclusions announced by Dr. Bernard Glueck, the eminent psychiatrist of Sing Sing Prison in the State of New York, as the result of his study of the population of that institution, may be cited, namely, that nearly 60 per cent of the men committed to the prison are clearly abnormal—29.1 per cent being imbecile, 18.9 per cent psychopathic, and 12 per cent insane. It can hardly be denied—as is asserted by the experts to whom we owe these conclusions—that such a defective element is harmed rather than benefited by much of the discipline that the ordinary prison or reformatory can supply, and that its members require a specialized treatment adapted to their several needs, such as can be furnished only in hospitals for the insane and homes for the epileptic and feeble-minded. New Jersey is well equipped with such institutions. What remains is to make them available for that part of our defective population that is classed as criminal or delinquent.

## Jurisdiction and Procedure of the Criminal Courts

The ordinary criminal court system of New Jersey, comprehending the Supreme Court, the Court of Oyer and Terminer, the Court of Quarter Sessions, the Court of Special Sessions and the courts for the trial of juvenile offenders, can best be understood when it is realized that most of these courts are merely different functions of two independent but interlocking tribunals and that they are all administered by judges drawn from these two groups, acting separately or in combination. The two tribunals which exercise these varied functions are the Supreme Court of Judicature, commonly known simply as the Supreme Court, which consists of a chief justice and eight associate justices, and which exercises jurisdiction throughout the State, and the Court of Common Pleas, consisting of a judge in and for each of the counties of the State. Both these courts have a wide, general jurisdiction, civil as well as criminal, but it is only in the exercise of the latter that they assume the various forms which find expression in the criminal courts above enumerated.

Sitting alone, the Supreme Court exercises only an appellate jurisdiction in criminal cases, except in the rare case of treason against the State of New Jersey, in which it exercises original jurisdiction. But it is the justices of the Supreme Court, alone or in conjunction with the judges of the Court of Common Pleas, or the Common Pleas judges alone, who constitute and hold all the courts having a general criminal jurisdiction. Thus the Court of Oyer and Terminer is regularly held by a justice of the Supreme Court with or without the assistance, as may be more convenient, of the judge of the Court of Common Pleas of the county in which there is criminal business to be done, though in counties having 300,000 inhabitants the judge of the Court of Common Pleas may, in the absence of the justice of the Supreme Court, hold such Court of Oyer and Terminer alone. The Court of Quarter Sessions is held by a Common Pleas judge sitting alone, but with a jury to try the facts. The Court of Special Sessions is similarly held by a Common Pleas judge, sitting without a jury. The Juvenile Courts are, except in counties of the first class (Hudson and Essex), also held by the resident judges of the Court of Common Pleas. The jurisdiction of all these courts is the same, i. e., extends to the same class of cases, except that only the Supreme Court and the Court of Oyer and Terminer can try cases of treason or murder, and that cases of manslaughter cannot be tried in the Juvenile Courts. In practice, to avoid duplication of jurisdiction, the

Supreme Court tries no criminal cases but treason, and the Court of Oyer and Terminer none excepting murder, leaving all other indictable crimes to be disposed of by the Courts of Sessions, with or without a jury, and by the Juvenile Courts. In Hudson and Essex Counties special Juvenile Courts, held by specially appointed judges, have been instituted. The jurisdiction of all Juvenile Courts, ordinary and special, is peculiar in this respect that, while nearly co-extensive with that of the Courts of Sessions, it reaches down into the jurisdiction of the inferior courts, like those held by justices of the peace, police magistrates and recorders of certain cities, which deal with petty offenses, such as disorderly conduct, vagrancy and the like.

All of these courts, with the exception of the Juvenile Courts, go back to the beginnings of New Jersey history, the Supreme Court having been instituted by an ordinance of Lord Cornbury, the first governor of the United Province of New Jersey, in 1704, and the Court of Oyer and Terminer by an act of the Council of West Jersey in 1693; while the Court of Quarter Sessions (of which, as has been noted, the Court of Special Sessions is really a part, rather than a distinct court) was recognized as already in existence in the ordinance of Lord Cornbury above referred to.

Moreover, the procedure of all these courts is substantially identical, excepting that, where a juvenile offender, i. e., one from 8 to 16 years of age, is charged with an offense less than murder or manslaughter, a somewhat simplified procedure has been adopted. In all of them, with the exception just noted, the formal charge is submitted in the form of an indictment or presentment by the grand jury, following a preliminary hearing by a police or other magistrate, and the trial of the charge is conducted in open court, with the prosecuting attorney of the county representing the State and a paid or assigned counsel representing the accused. The verdict of guilty or not guilty is found by the jury, unless the accused has elected to be tried without a jury (in Special Sessions, or, being a juvenile delinquent, in the Juvenile Court), in which case the judge decides the question of his guilt or innocence. In case a boy or girl over seven years of age is accused of murder or manslaughter, the case takes the usual course (indictment by the grand jury, trial in open court by jury, etc.) just as though he or she had been an adult accused of the same crime.

The range of judicial discretion in determining punishments has been greatly enlarged in recent years. The judge may now, after a verdict of guilty has been rendered, make any one of the following

dispositions of the case: He may, in exceptional cases, suspend sentence and set the offender free to resume his normal life, without let or hindrance, subject, however, to be recalled at any time and given such sentence as the judge may see fit to impose within the statutory limits; or he may release the offender on probation, under the supervision of the probation officer of the county; or he may, within certain defined limits, sentence him to an indeterminate term of imprisonment in the State Prison, or, if he is a first offender under 30 years of age, in the Reformatory, or, if he is a juvenile delinquent, in the State Home. If committed to any of these institutions, the actual term of the offender's detention will be fixed by the board of managers of the institution or by the Court of Pardons, unless the judge who sentenced him should, before he is otherwise released, exercise the power to recall him and, by imposing a new and shorter sentence, effect his release.

But the judicial discretion is not exhausted by the three alternatives set forth. Instead of sending the offender to one of the State institutions, the judge may, in his discretion, if the proposed sentence does not exceed six months, commit him to the county jail, or, if the sentence does not exceed 18 months, to the county penitentiary or workhouse, where such institutions have been established; and this is as true of youthful offenders who are eligible for the Reformatory and delinquent children eligible for the State Home as of older offenders whose only alternative is the State Prison. Likewise the judge may, if he sees fit, commit to the State Prison youthful offenders and delinquent children convicted of prison offenses instead of to the institutions specially set apart for them.

Thus far the consideration of the criminal jurisdiction has dealt only with what are sometimes called the superior criminal courts. But there are, in addition to these, in all counties, inferior courts—courts of justices of the peace, and, in many municipalities, recorder's and police courts—which, besides their function of holding a preliminary examination of all charges of crime, have also the power to try petty offenders and to commit them, adults and children alike, for short terms of imprisonment to the county jails and workhouses.

As has been stated above, the courts of Quarter Sessions and Special Sessions may, after conviction, release the offender on probation instead of imposing the penalty of imprisonment. Release on probation depends entirely on the impression made upon the mind of the judge by the reputation of the offender and his past record, and lies wholly within the discretion of the judge. At the time of

release on probation the court fixes the probationary term, which may be just as long or as short as the court see fit to make it. The number of probation officers in the several counties varies. In any county of the first class there may be one probation officer and as many assistant probation officers as may be needed, not exceeding five, in addition to those already authorized by law, two or more of whom may be women. In any county of the second class there may be one probation officer and not more than three assistants, one of whom may be a woman; while in other counties there is but one probation officer. The rules and regulations governing probation are established by the Court of Quarter Sessions, and in general they provide for periodic reports in person, sometimes by letter, and make certain requirements as to employment and for the payment of fines or costs. The probation officers are supposed to supervise and observe the conduct of the probationer and assist him in his reformation. For violation of the terms of probation or return to criminal practices, the probationer may be rearrested, the probation revoked and he be sentenced in the same manner and to the same extent as though no order of probation had been made. In the case of juvenile delinquents, the court may, in its discretion, place the youthful offender on probation in the custody of his parents or guardian, and, where the home is a good one and the offender is still controllable, it is the practice of judges of the juvenile courts to make this disposition.

The organization and procedure of the criminal courts of New Jersey, while not entirely free from the inherited defects characteristic of American criminal procedure in general, enjoy an exceptional reputation as compared with those of her sister commonwealths. "Jersey justice" has become a synonym for a clean, impartial and speedy administration of criminal justice. But with the advance of science and of humanitarian sentiment, new conceptions of delinquency and of criminal responsibility arise, and these, from time to time, call for corresponding changes in judicial organization and procedure.

The reformatory element in punishment, recognized by the Legislature in the case of commitments of delinquents for indefinite terms to the reformatories for men and women and the State Homes for boys and girls—limited, in the case of reformatories, only by the maximum period of imprisonment prescribed by law, and, in the case of the State Homes, to the attainment by the inmates of the age of 21 years—still finds inadequate expression in the fixed term imposed on persons committed to the county penitentiaries and in the maximum

and minimum form of sentence under which convicts are committed to the State Prison. It is the opinion of the Commission that the form of indeterminate sentence employed in commitments to the reformatories might well be extended to all adults convicted of crime in the State of New Jersey, with the exception of those convicted of murder. But the Commission does not believe that a change of this importance, affecting the sentencing power of the courts, should be proposed without full consultation with the judges experienced in the administration of the criminal law, and it refrains, therefore, from making any recommendation on the subject.

### Places of Detention Not Directly Controlled by the State

The county and municipal jails are an integral part of the correctional system of the State. Not only are all persons, with insignificant exceptions, who ultimately find their way to the State institutions, previously lodged in these local places of detention, but more than one-half of the total number of persons committed to imprisonment for crime in the State serve their terms in the jails and other county institutions.

Our county jails are the oldest of our penal institutions. Though instituted primarily for the purpose of keeping in custody vagrants, debtors, and persons awaiting trial or execution, they were, almost from the first, also employed for the punishment of "fellons" and other malefactors.

The first workhouse was provided for by an act of 1748, which authorized the County of Middlesex to erect such an institution, but its purpose was rather to confine "disorderly or insubordinate slaves or servants upon application of their masters," than to inflict punishment upon criminals. The penal function of the workhouse was not clearly established till Hudson County erected its famous workhouse or penitentiary in 1869, followed by Essex County in 1873, and Mercer County in 1892. A municipal workhouse was provided by the City of Camden in 1913-14, and in 1916 bonds were issued by Middlesex County for the construction of a county workhouse. At the present time the three workhouses in actual operation contain a total delinquent population of nearly 700, about 100 of whom are women and girls, and over half of whom are persons eligible for commitment to the State Prison. The workhouses thus established and authorized came into existence partly to relieve the overcrowding of the jails and partly to satisfy the terms of sentences to imprisonment at hard labor, which the county jails notoriously failed to supply.

But the jails were, and still continue to be, notorious for many other defects than the failure to furnish adequate facilities for the employment of their inmates. The demoralizing idleness, injurious alike to health and character, the indiscriminate intermingling of all classes of prisoners, the general filthiness, the total lack of instruction in educational and religious matters, have been repeatedly called to the attention of the public and the Legislature from the report of the Prison Discipline Society in 1831 to the present time. That the county jails throughout the United States are the worst part of our penal system is asserted by all intelligent students. The record of our own jails, as disclosed in the History appended to this report, and in the statistics of the County Jails and Workhouses of New Jersey prepared for the Commission (attached hereto as Exhibit C), shows that New Jersey can claim no superiority over her sister states in this respect. In many counties the same conditions of idleness and overcrowding, of improper living conditions, of lack of proper medical care or of intellectual, moral, or religious instruction, of the indiscriminate intermingling of all classes of prisoners—the young and the old, the sane and the insane, the sound and the diseased, the decent and the depraved, hardened criminals and those innocent of wrongdoing—still persist. In October, 1917, the jail population numbered 1,368, of whom 139 were women and 35 children under sixteen years of age. Of this number 555 were serving time for criminal offenses, ranging from disorderly conduct to grand larceny and other serious crimes, 682 were held as "court prisoners," to await the determination of their cases, and 39 as witnesses. During the year 1916, several counties not reporting, the records show that 15,546 persons were commited to the jails, of whom 1,334 were women and 798 children under 16 years of age. Of this number 7,711 were committed for sentence, 6,342 were "court prisoners" and 286 held as witnesses. At the same time the three workhouses had 2,324 inmates, 290 of whom were women. The law requires that debtors and criminals shall not be confined together and that children under eighteen years of age and persons detained as witnesses shall be kept apart and separate from other prisoners. However, few of the jails have proper facilities for the segregation of inmates, except the elementary one of providing separate quarters for men and women, and these humane and decent provisions are frequently disregarded.

It should be unnecessary to repeat the urgent recommendations of the official investigating commissions of 1869 and 1878, reinforced year after year by the State Charities Aid Association and by num-

berless private citizens in this and other states (1) that all these county and municipal institutions should be put under some form of effective state supervision; (2) that the jails be entirely transformed into places of detention for the accused and for witnesses, and no longer be used as penal institutions; and (3) that under no circumstances and on no pretext should children under sixteen years of age ever be committed to county or municipal institutions other than detention homes especially provided for their temporary custody.

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THE LABOR PROBLEM IN THE CORRECTIONAL INSTITUTIONS

The problem of utilizing to advantage the labor of convicts—to their advantage as well as to that of the State—has for nearly a century taxed the ingenuity of all who shared the responsibility of prison administration. From the primitive forms of congregate labor practiced in the first State Prison, from 1798 to 1836, to the establishment of work shops and the persistent attempts of the Legislature and the prison authorities to work to advantage, one after the other, the various forms of the contract system, the record is one of constant, half-hearted experimentation, of generally increasing financial loss and of almost invariable failure.

In 1884, under the influence of labor agitation, an effort was made by the Legislature to put an end to the contract system and substitute in its stead the system of manufacture for state use. But this effort was vitiated by a subsequent statute, passed at the same session of the Legislature, permitting the employment of the "piece price" system, under which the contractors, instead of hiring the labor of the prisoners, took the manufactured goods at a fixed contract price, an arrangement which proved, in practice, to be more favorable to the contractors and less advantageous to the state than the obnoxious system which it displaced.

Thus the "lease" form of the contract system having been legislated out of existence, and the "piece-price" form having proved an even more disastrous failure, the annual deficit having increased from $87,835 in 1885 to $178,585 in 1911, the State decided to go the whole length of adopting the state use system exclusively. This was effected by the Act of June 7, 1911, which directed that thereafter all industrial labor in the penal and correctional institutions should be employed in the manufacture of goods for state use, but with a proviso, the probable effect of which was that any surplus of goods not so required might be sold on public account. It was, however, provided

by an act of April 14, 1913, that the contracts then in existence might be continued until sufficient state use industries had been established to absorb the labor of the inmates.

Doubtless it was the increasing pressure of labor agitation as much as the economic failure of the contract system, that led the Legislature thus to commit the state to the state use system. In this respect New Jersey was only repeating the experience of other states in which the labor organizations had effectively agitated for the abolition of a system under which free labor was exposed to the unfair competition of unpaid and sweated convict labor. As early as 1879 the Legislature had taken notice of the agitation by the appointment of a Commission on Prison Labor, which rendered a report recommending that the competition with free labor be reduced to its lowest terms by a diversification of prison industries and a restriction on the number of men to be employed in any given industry. The result of this recommendation was the act of March 25, 1881, forbidding the employment of more than 100 men in any one industry—a device which clearly missed the point involved in the controversy, which was not the *amount* but the *unfair character* of the competition maintained by the contract system. Even under the state use system, which the labor organizations have generally favored, convict labor will still compete with free labor. But if the system is fairly administered, with proper emphasis put on the general and industrial education of the inmates, and a proper wage scale established for them, the last objection to the competition will have been met. Under those circumstances it also is safe to assert that, if the purpose of the act of 1911 is fully carried out and an honest effort made to supply the requirements of the state for prison-made goods, the sale in the open market of any occasional surplus of goods that cannot be disposed of in the usual way will be equally unobjectionable.

The sincerity of this effort of the Legislature to solve the prison labor problem in the right way was evidenced by the fact that the act of 1911 created a Prison Labor Commission to direct the development of the new system and control its operation, and that in the following year the Legislature, by joint resolution, March 28, 1912, made provision for a Convict Labor Commission to formulate a comprehensive plan for the employment of all convicts, physically able, on the public roads, in public parks, in forestry and in such other ways, not in competition with free labor, as may suggest themselves. But the Prison Labor Commission, while authorized to direct the installation of state use industries in the several penal and correctional institutions, was

invested with no power to carry its recommendations into effect. In fact, from the institution of the Commission in April, 1912, down to the present time, its history has been a discouraging record of "orders" and "directions" issued by it to the managing authorities of the several correctional institutions and of appeals for appropriations, nearly all of which were ignored or met with the conclusive formula, "No funds." Only in the field of exploiting the market for institution-made goods, i. e., in requiring charitable and other state agencies to supply their needs from such goods—here, where alone it has real authority, has the Commission attained a real measure of success. This function the Commission appears to have performed with commendable firmness and discretion. But it is obvious that this must remain a very restricted function so long as it is not combined with the power to enforce the production of such goods as may be required, and such has, in fact, proved to be the case.

The result was that, though the act of June 7, 1911, abolished contract labor from the standpoint of legal theory, in 1917, six years later, but twenty men, on an average, were employed on state use activities within the state prison walls, while about 400 were still engaged in work on "piece-price" contracts.

The first and most fundamental cause for this failure was the conflict of jurisdiction in the control of the industrial activities of the prison which was thus created by the law of 1911 and subsequent legislation on this topic. In addition to the Prison Labor Commission, which was given general control and supervision over the employment of the inmates of all State penal, correctional or reformatory institutions," the Board of Inspectors, by the law of 1876, confirmed by the act of April 20, 1914, were also vested with "full control" over the general administrative policy of the prison. The principal keeper, as a constitutional officer of the State, regarded himself as responsible for the discipline and guarding of the prisoners when engaged in industrial operations. Further, the supervisor (fiscal agent since 1914) was the recognized industrial and financial manager of the state prison, while the governor of the state was authorized to pass upon the desirability of allowing the continuance or extension of the contracts. With such a conflict of powers, there is no reason for surprise that practically nothing had been done to improve the industrial situation within the prison walls down to the summer of 1917.

The second cause for the failure was the neglect of the Legislature to make the necessary appropriations wherewith to introduce the new equipment essential to the establishment of the "state use"

system, as well as to provide working capital for its operation.

The only attempt down to 1917 to introduce the new system in the prison came in 1915, when a small knitting establishment was set up—a most inconsequential movement, as it never employed more than 25 prisoners, and was poorly adapted to an institution containing none but adult male inmates. During 1917, however, steps were taken to provide for the introduction of a new "state use" industry, namely, the making of automobile tags. This industry will probably be able to start by the spring of 1918 and is expected to employ about 75 men.

In view of this practical failure, to date, in the introduction of the "state use" system within the prison walls, one must look to the development of extra-mural activities to discover the chief avenue through which "state use" industries have been developed by the prison authorities. This outside employment of prisoners was authorized by the act of April 11, 1910, and its subsequent amendments. In 1913 two road camps were opened for the employment of convicts on the roads of the state, and in 1915 a third, and in 1917 a fourth camp was established. These road camps have been a relative success. In addition to the hygienic and disciplinary value of the outdoor work, in 1916, the road camps nearly met their expenses, including the salaries of the deputies, while within the prison the expenses were almost exactly three times the receipts. In September, 1913, a prison farm was purchased consisting of 1,000 acres of waste land near Leesburg in Cumberland County. During the last year the prison farm was an expense of $25,466, and the total receipts realized were only $6,894, but the loss is at least partially offset by the increased value of the land resulting from the clearing and other improvements thereof.

In the meantime the prison finances have steadily become worse. In 1911, the total loss, including the salaries of the officers, was $178,586; by 1916 it had reached $233,694, though the number of prisoners serving sentence in 1916 was less than in 1911.

The industrial situation at the State Reformatory at Rahway since 1911 has been more encouraging than that which has existed at the state prison. Superintendent Moore has been, from the first, a strong advocate of the "state use" system, and the governing board of the Reformatory, in contrast to the inspectors of the State Prison, have consistently supported the efforts of the Superintendent to develop the system in the Reformatory. Industrial production commenced on a significant scale in 1915, and it has up to the present time

made considerable progress. In 1916 the first full year of the operation of the new system, orders to the value of $21,420 were filled.

The farming activities at Rahway have been equally systematic and profitable. A large and well cultivated farm adjoining the Reformatory has been in operation for several years, the net gain from which in 1916 was $23,203. Early in 1917, through the aid of the Governor and of the Comptroller, Newton D. Bugbee, a productive tract of land at Annandale in Hunterdon County, which had been acquired by the State for other purposes, was placed at the temporary disposal of the Reformatory as an additional farm. This has been cultivated by inmates during the past season with gratifying results. It is estimated that the net gain from this innovation in 1917 will approximate $10,000, while the disciplinary aspects of the experiment have been entirely successful.

Road building has been carried on by the inmates of Rahway only to a modest degree, but in a highly profitable manner. Roads have been built for the city of Rahway, and in the fall and winter of 1917 a number of inmates were employed in building roads leading to the army encampment at Wrightstown.

While in the early years of the State Home for Boys, at Jamesburg, and, in fact, down into the present century, various industries were carried on under the contract system, there is at present very little mechanical industry in the institution. An adequate industrial plant exists, but is scarcely at all developed, either from the standpoint of productivity or from that of industrial training. A large farm is cultivated and this occupies the labor of the boys during most of the year, except in the winter months.

In the two remaining State institutions, as in those under county and municipal control, there has been little industrial development, with the exception of farming, which is carried on with success on a considerable scale at Clinton Farms and, on a more restricted scale, at the Trenton Home for Girls. In all the State institutions, moreover, the external clothing of the inmates is for the most part provided by their labor.

In conclusion, then, it may be said that the enlightened purpose of the state in legislating the contract system of prison industry out of existence and directing the substitution therefor of the state use system, has been almost completely nullified by the imperfect character of the legislation devised for the purpose and by the failure of the governing authorities of four of the five correctional institutions of the state to do their part in putting the new system into effect.

The Commission is of the opinion that no satisfactory solution of the problem can be devised that does not provide for an effective control of the entire system of prison labor either by the Prison Labor Commission or by such a central board of control as is recommended in the concluding section of this report.

The system of prison labor which we may thus be able to secure will aim not only to protect the State against the waste of its resources that the old system has entailed, but will be even more concerned to provide adequate industrial training for the inmates of the State institutions. Pending the complete development of such a system, the Commission believes that the employment of the inmates in road making, farming, land reclamation and other public work should be greatly increased. With the unlimited opportunities that the State presents for such public work, the Commission is of the opinion that the remaining contracts, under which a large number of men are still employed at the State Prison, should be terminated at an early date.

## Pardon and Parole

The pardon power is, under our constitutional system, vested in the chief executive of the nation and of the several states, respectively. In New Jersey, as in several other states, this function has been transferred to a Court or Board of Pardons which, in this State, is composed of the Governor, the Chancellor and the appointed members of the Court of Errors and Appeals. The Court of Pardons of New Jersey grants pardons by a majority vote, of which majority the Governor must be one.

The parole power came into existence in New Jersey in 1889 as an incident of a sweeping measure of clemency, which provided that, with certain exceptions, all inmates of the State Prison who had not previously been convicted of a prison offense, might after serving half the term for which they had been sentenced, be released on parole in the discretion of the prison authorities. Two years later (April 16, 1891) the Legislature enacted a law vesting in the Court of Pardons the power to allow qualified convicts in any of the penal institutions of the State to be at large, under such conditions as the Court might see fit to impose. From that date the Court of Pardons, which had theretofore been confined to the granting of executive clemency, has been the chief paroling power in the State.

The institution of the indeterminate sentence by an act of April 21, 1911, gave new scope and importance to the power of parole,

which was definitely vested in the Inspectors of the State Prison, without, however, withdrawing from the Court of Pardons the more extensive authority conferred on it by the act of 1891.

While, in a sense, the parole power vested in the Court of Pardons merges in or overlaps its pardon power, there is this difference, that a pardon is conclusive and final in effect, while a parole is granted on prescribed conditions, for a violation of which the person paroled may be recalled to serve out his term. It should also be noticed that, in the original act vesting the parole power in the Court, it was not bound by the restrictions as to the classes of offenders made eligible to parole. Thus the Court of Pardons might parole old offenders and those convicted of murder or other major crimes and need not in any case wait until the minimum term of the sentence has expired.

These broad powers of parole have been freely exercised by the Court, as appears from statistics gathered by this Commission. Thus in the fiscal year ending October 31, 1916, the Court of Pardons granted 334 paroles at the State Prison and the Board of Inspectors, the regular paroling authority of the prison, only 124. For the twelve months ending September 30, 1917, the inspectors granted 196 paroles and the Court of Pardons 375. Moreover, out of these 375 cases, 329 or 87.7 per cent, received their parole before the expiration of their minimum sentences. It would appear from these figures that the Court of Pardons is employing its parole power largely as an extended function of the pardon power and not in the sense in which the parole power is generally understood.

This anomalous situation of two competing and overlapping parole authorities has been further complicated by the assumption by the courts of what is in effect a power of parole, by exercising the authority of recalling for resentence convicts sentenced by them to the State Prison, the penitentiaries or to any other State correctional institution. The courts, under our system of judicial procedure, have always enjoyed the power of recalling for resentence a prisoner sentenced by them to a term of imprisonment, during the period fixed by law within which a new trial may be granted. This power, inherent in the judicial function, was enlarged by act of the Legislature, March 16, 1914, granting them the further power of recalling prisoners committed by them, at any time prior to the expiration of the sentence imposed or to their previous discharge or parole. While this power has not been exercised so freely as to constitute a serious interference with the due administration of justice, it is always available to a convict who fails to get relief from the Court of Pardons or

the local paroling authority. The net result is that New Jersey presents the curious spectacle of having three distinct and competing paroling authorities of varying jurisdiction, which can be invoked in turn and thus played off, one against another. Such a condition of affairs cannot fail to impair discipline and respect for authority in our penal institutions.

As now constituted, the regular paroling authority in the several correctional institutions (as distinguished from the Court of Pardons and the superior criminal courts which have jurisdiction as to all of them) is the board of control. While the powers of these boards vary as to the time when they may be exercised, they are in all other respects substantially the same. The Inspectors of the State Prison may parole an inmate only after the expiration of his minimum sentence, or, if he was committed for a definite term, only after the lapse of the period to which his sentence was reduced by law. In actual practice parole is granted as a matter of course at the expiration of the minimum term, except in those cases in which the applicant has had his minimum term extended as a penalty for misconduct in prison.

As all commitments to the four reformatory institutions are for an indeterminate period, limited in the case of commitments to Rahway and Clinton Farms to the maximum term fixed by law for the crime committed, and in the case of the two State Homes to the attainment of the age of 21 years, the boards of these institutions may grant parole at any time after commitment. All of these boards have by rule or in practice adopted a self-denying ordinance fixing a minimum of one year of detention before an application for parole will be considered. In Rahway parole is usually granted in a year to eighteen months after commitment; in the three other institutions, at the expiration of a year. Only in case an inmate has by misconduct forfeited the privilege of such early parole, is his first application refused, and only in the case of especially hardened and incorrigible offenders is the period greatly lengthened. In Rahway only may an offender be detained indefinitely, even beyond the legal maximum, by virtue of a special law providing that the period of incorrigibility shall not be counted toward the time for which his sentence may run.

Thus, in all the State institutions, is the aim of the indeterminate sentence defeated by the policy of the paroling authority. The inmate of the State Prison regards the minimum sentence imposed by the court as his actual sentence. The maximum prescribed has no meaning for him. The few months that may be added to the minimum by

the authorities of the institution, he regards as so much additional punishment imposed by them for the specific acts of misconduct of which he has been guilty. This is equally the attitude of the Prison authorities. If they think at all of the purpose of the law—to keep the wrong-doer in confinement until he has become a new man and has ceased to be a menace to the community—they ignore it or assume that the negative attitude of passive obedience to prison rules is sufficient evidence of reformation. Perhaps this is well enough in an institution which has never claimed to be a reformatory, especially in view of the fact that the courts, being aware of this practice, take it into account in fixing the sentence. But this excuse for the practice cannot be pleaded by the other four institutions whose management and discipline are definitely aimed to effect the reformation of those committed to them. It will hardly be contended that a year or eighteen months of such treatment as they afford their inmates will in most cases suffice to correct the depravity or overcome the bad habits or afford the education and industrial training required to fit them to lead useful and honorable lives after their release.

As already stated, a parole operates as a discharge, subject to certain conditions which, in the case of the State Prison, are prescribed by the Governor, in the case of the four other institutions, by the paroling authority. In theory the paroled convict remains under surveillance to the end of the period for which he might have been held, unless he is sooner pardoned, but in practice the actual supervision is rarely continued for more than a year. Violation of any of the conditions on which the parole is granted subjects the paroled offender to the liability of being returned to the institution from which he was paroled, but this extreme penalty is seldom exacted except for a further criminal offense or other grave misconduct.

The paroled prisoner is committed to the custody of the parole officer of the institution, or, in practice, to some responsible citizen. Juvenile delinquents may be paroled to their parents or guardians, if these are responsible. As the State Prison has only one parole officer to look after more than 1,200 paroled convicts, Rahway only two to supervise the conduct of nearly 700, and Jamesburg three, to look after nearly 1,000, it is obvious that the supervision actually exercised in these cases is little more than nominal. The two other institutions are better off in this respect, the Home for Girls having three parole officers for 225 girls on parole and the Clinton Farms Reformatory having one (with several volunteer assistants) for about 50 women. Even in this last named institution, from which approximately 80 per

cent of the inmates are paroled at the end of a year of residence, it is reported that of 160 women paroled from the beginning of the institution 56, i. e., 35 per cent, were guilty of violation of parole and were returned or had disappeared.

In view of these facts—the fixing of a minimum term of imprisonment where none was provided by law, the general practice of paroling the inmate at the expiration of his minimum term, the short period of surveillance and the inadequacy of the supervision exercised—it is generally conceded that the administration of the parole law very generally fails to attain the purpose for which it was designed.

The system of "indenturing" inmates, which obtains in the Jamesburg and Trenton Homes, under the laws creating them, appears to be nothing more than a modified form of parole, in which a closer and more effective supervision may be exercised over the inmate than is usually possible in ordinary cases of parole. The boy or girl is committed to the care of a family for employment at stipulated wages and under careful restrictions as to the treatment which he or she is to receive. An advantage of the system is that the wages of the indentured child, over and above maintenance and clothing, is paid directly into the treasury of the institution, where it is held as a savings fund until final parole or discharge. The system is reported as working very well. In view of the fact that the indentured individual is not "bound out" to the employer, and that the practice confers on the latter no legal powers of detention, the term by which the system is known appears to be a misnomer.

### Administration of the Correctional System—Central Boards Versus Local Boards

The history of the correctional institutions of New Jersey, which is set out in the foregoing pages and is covered in detail in the History,[2] has followed the same general course as that which has marked the development of similar institutions in other states of the Union. First, we have the summary punishment of the offenders, by fining, branding, deportation or death, a system that left little occasion for places of imprisonment—the county jails, which had been primarily instituted for the confinement of vagabonds and insolvent debtors, being also used as places of detention for those awaiting the determination of their guilt or innocence or the execution of the sentence imposed by law. With the gradual development of imprisonment as a method

[2]See Volume II of this report.

of punishment, the jail, being the only institution available for the purpose, became the place of imprisonment for those condemned to this form of punishment, the result being the indiscriminate confinement, together, of those undergoing sentence and the ordinary jail population. Later, with the overcrowding of the jails, came a recognition of the necessity for separate places of confinement for those undergoing punishment, resulting in the creation of the state prison or penitentiary; and, still later, the recognition of differences of type among those undergoing sentence, causing the institution, one after another, of separate places of imprisonment for youthful first offenders and juvenile delinquents.

The method of development of these institutions has determined the method of management adopted for them. They came one at a time, each in response to a distinct need. Each was treated as a separate unit, to be separately managed in accordance with the ideas which had governed its creation. Except in the minds of those who were struggling with the baffling problem of crime and delinquency as a whole, there was little consideration of the advantages or disadvantages of a unified, as compared with a separate, management of the institutions.

The diversity of management of the several institutions, resulting from this system of separate control, made inevitable a comparison of the spirit and methods governing the older and the newer types of institutions and of the results of their management, and gave rise in many minds to the conviction that the reformatory purpose of punishment, which was the keynote of the latter class of institutions, was too generally ignored in the management of the former class. At the same time, other observers had become alarmed by the enormous and increasing cost of the correctional establishments. Accordingly the system of separate control came under criticism from two distinct sets of influences—on the one hand, from those who, on humanitarian grounds, desired the leveling up of the management of all the correctional institutions to the highest point attained by any of them, and, on the other hand, from those who desired a more efficient financial management of the entire system. As a consequence of this, during the past quarter of a century, there has developed in all the states of the Union a searching inquiry into the advantages, and, in many of the states, an elaborate experimentation in the working, of unified boards of management, designed to deal with the correctional institutions as a whole.

But the tendency toward unification of institutional management

did not stop with the correctional system. The discovery, resulting from recent scientific study of the inmates of correctional institutions, that a large proportion of such inmates are not essentially different in mental capacity and responsibility from those who fill the charitable institutions for the insane, the feeble-minded and the neglected, has produced a growing conviction that the two sets of institutions are in essence interdependent parts of a single system for dealing with the allied social problems of delinquency and defectiveness. Accordingly, on scientific, as well as on humanitarian and business grounds, this experimentation in unified management has extended so far in some parts of the country as to sweep together, not only all the correctional institutions, but all of the charitable institutions as well, under a single management. As early as 1877, the state of New York placed all its distinctively penal institutions, including the asylums for the criminal insane, but not the reformatories, under a single administrative control. The larger scheme, of placing the charitable and correctional institutions together under a single, unified management, was adopted by Wisconsin in 1881. Up to the year 1914 six states had adopted the plan of a centralized administration of all their correctional institutions and in eleven others both the charitable and correctional institutions had been brought together under a single management.

The hopes of the founders of the new system, like so many hopes of men and women who have dealt with the correctional problem, have not been realized. The goal has been found to be still far away. The reasons attributed for the failure of the central board to realize the expectations of its advocates have been many. A controversy has been going on for almost a quarter of a century as to the relative merits of the local and the central system of management.

In behalf of the system of centralized control it is contended that a central board, dealing with the correctional system as a whole, would be able to secure a more economical and efficient administration of the several institutions, both in making purchases and in the operation of the industries, together with a proper distribution and diversification of the industries, so desirable from the point of view of the training of the inmates for future usefulness as well as from that of the economic interests of the state; that it could set up standards in matters of discipline, of education, of mental and physical examination and treatment, and of general management, resulting in a general leveling up of all the institutions to a common level of excellence; that it would, through its study of the comparative needs of all the institutions, be enabled to submit to the legislature a general budget, thus doing away

with the present competition of the several institutions for appropriations, and finally that, by its study of the correctional system as a whole and through the education of the public, it would be able to secure needed reforms in penal legislation and in the administration of criminal justice, as well as in the correctional system itself.

On the other hand, in behalf of the system of separate control, it is argued that the local board, having to do with only a single institution, is able to bring to its management a personal interest and a degree of devotion which a central board, with its larger responsibilities, could not be expected to develop; that, as opposed to the uniformity which a central board would almost certainly aim to secure, the local board tends rather to a more flexible system of management and to methods of experimentation, which are so essential in the effort to perfect ways of dealing with the varieties of human nature that are found in our correctional institutions, and, finally, that a central board, with its vast power and patronage is more likely to attract that political influence which has everywhere played such a disastrous part in the correctional system.

That there is force in these arguments, on both sides, cannot be denied, and one who has carefully studied the operation of the system of centralized control in the states that have experimented with it will be the first to recognize that the system has not met the expectations of those who advocated and devised it. Nevertheless, the search for the ideal system of central control goes on, because of the persistent belief that some greater degree of unity in the policy and management of the correctional institutions must be attained if the problem is to be adequately dealt with.

Your Commission believes that in this, as in all other schemes of government, the attitude of the people toward the institutions that may be set up will determine the character and development of such insitutions much more than any frame of government that the wisdom of the legislature can devise. The aim should be to institute a plan that will give scope for growth, that will hold out a reasonable hope of the prompt correction of abuses, and, what is perhaps of as great importance as anything else, that will furnish the fullest opportunity for the continuous education of the people of the state as to their responsibilities with respect to the correctional institutions.

From its study of the problem the Commission has come to the conclusion that a system may be devised which will give to the state of New Jersey the benefits of a centralized control of its correctional system as a whole, but which will still leave to the separate institutions

the advantages of the personal interest and devotion which have been such important factors in their development. In reaching this view the Commission has been somewhat guided by the precedent of the state educational system, in which a general authority over all public institutions of education has been successfully combined with local control in the several counties of the state. This plan of organization seems to recognize that in the problem of institutional management we are striving for a solution in the same way that a solution has been sought for so many of the problems that have come up in the workings of American democracy, in the effort to secure the efficiency that goes with centralized authority without sacrificing the local interest which, even at the cost of efficiency, is one of the most valuable features of government.

The Commission is not blind to the possibility that the power thus entrusted to a central board of control might be misused from wrong motives or inexperience or carelessness. What may be hoped to be accomplished by this plan is the creation of a system which the public sentiment of the state will require to be kept free from partisan politics—as free as public opinion to-day generally requires the schools to be kept. As a means to this end, it is believed that, like the State Board of Education, the proposed board of control should be composed of public-spirited citizens serving without compensation. As in the case of the schools, also, it is hoped that more and more of the men and women employed in the management of the correctional institutions will be trained experts, guided and stimulated by the board of non-experts, who will not interfere with technical management any more than boards of education do, but who, like boards of education, will determine the larger matters of policy, to the end that the expert managers of the institution should always be responsible to the public opinion which is so essential to the system of democratic government.

The plan that will be recommended to accomplish these results comprehends only the five correctional institutions surveyed by this Commission. But, as has been pointed out above, the study of the problem has disclosed the existence, in New Jersey as well as in many other states, of a strong sentiment in favor of a more sweeping measure of institutional control, which shall bring all the charitable as well as the correctional institutions under a single, unified management. Applied to New Jersey this larger plan would demand the creation of a central board of charities and correction, which should exercise general authority over the management and development of the entire charitable and correctional system of the state and which would in

the first instance take over the control of the five correctional and the eight charitable institutions and, perhaps, of the two distinct charitable agencies, the State Board of Children's Guardians and the Commission for the Amelioration of the Condition of the Blind, as well.

The additional advantages of this wider plan are (1) the desirability of bringing under a single management two groups of institutions whose problems are on the whole so closely correlated and of providing a comprehensive system for transferring the insane, diseased and defective inmates of the correctional institutions to the specialized charitable institutions available for their several needs; (2) the opportunity of presenting to the legislature from year to year the results of a comparative study of the needs of the charitable and correctional institutions for funds for their maintenance and improvement, thus doing away with the inequalities and injustices of the present system of competition for appropriations; and (3) the completion of the state use system of prison industries by placing the productive as well as the purchasing capacities of the charitable institutions, along with those of the correctional institutions, under a common control.

The dangers of the larger plan are substantially the same as those pointed out above with reference to consolidating the management of the correctional institutions, accentuated by the fact that the problems of management would be grealy increased and multiplied in the larger unit and that the effect of mismanagement or of political control would be correspondingly more disastrous. It may also be conceded that a central board, responsible for the administration of such a large number of institutions and agencies of different types, would be still farther removed from the individual institutions, with their individual problems, and that the difficulty of finding an expert executive to direct the administration of the entire system would be greatly enhanced.

Your Commission has considered all the foregoing questions with great care. Its conclusions and recommendations in this respect, as in respect to other matters covered in this report, are embodied below.

## Conclusions and Recommendations

### (a) conclusions

1. That the correctional system of New Jersey, with a state prison, supplemented by two reformatories, for men and women, and two state homes, for boys and girls respectively, and with some provision for the specialized care of insane and mentally defective delin-

quents, is, upon the whole, fairly abreast of the penal systems of other progressive states, but that it is still seriously defective in failing to make adequate provision for the identification and proper care of the mentally afflicted and irresponsible members of its delinquent classes.

2. That the lack of a centralized authority, endowed with sufficient administrative powers to secure the co-ordination and more efficient management of the several correctional institutions and agencies of the state, is the most serious defect of the existing system.

3. That the various systems of prison labor, heretofore and at present employed in the correctional institutions of the state, have, excepting in the Rahway Reformatory, proved a disastrous failure, and that the failure of the state-use system, authorized by the laws of 1884, 1911 and 1914, to attain any reasonable measure of success is due primarily to the failure of the legislature to invest the Prison Labor Commission with adequate authority and to make sufficient appropriations for equipment and working capital.

4. That the indeterminate sentence, and the parole system, instituted as an adjunct thereto, have proved largely ineffective, owing (1) to the multiplicity of authorities vested with the paroling power, (2) to the short periods of detention of inmates in the reformatories and state homes, and (3) to the fact that a wholly inadequate force of parole officers is provided to exercise the necessary supervision over delinquents at large on parole.

5. That the education afforded the inmates in the correctional institutions of the state is wholly inadequate, and that where, as at Rahway and the other distinctively reformatory institutions, a competent system of elementary education is administered, no systematized industrial or vocational training is even attempted, whereas, at the state prison, hardly any education of any kind is supplied.

6. That the method of discipline in force until quite recently in the state prison has been marked by a general attitude of severity toward the inmates and an indifference as to the conditions under which they have been required to live, a condition resulting in the infliction of cruel punishments and not infrequent affrays; that the exact degree of criminal responsibility for the outcome of such affrays can only with difficulty be ascertained in criminal proceedings; that irrespective of whether or no the acts of individual keepers involved in such affrays in the past have or have not gone beyond the proper bounds of self-defense as permitted by the laws of the state, there can be no doubt in the mind of anyone who has carefully examined the recent history of the prison that many of the men who have passed

years of their lives in controlling prisoners under the repressive conditions that have existed at Trenton, constantly conscious of the necessity of self-defense under the conditions which they were themselves helping to create, have by their very training become temperamentally unfitted to serve in the important capacity of a prison keeper; that it is one of the first duties of a new management of the prison to carefully consider the prison personnel and by a proper exercise of the procedure of the civil service law to provide for the discharge or retirement of those who are upon examination found unfit for the performance of their duties.

7. That, notwithstanding recent noteworthy improvements, the state prison is still not sufficiently reformatory in character, and that the present crowded site in the city of Trenton and the present buildings and equipment are wholly inadequate to furnish the proper environment and facilities for a reformatory institution.

8. That in view of the facts stated in the last preceding paragraph, it is undesirable to expend any further considerable sums in the erection of additional buildings on the present site of the state prison or in the reconstruction of the old buildings now standing.

9. That labor conditions in the state prison are of a most unsatisfactory character, both from the financial point of view and from that of furnishing useful employment to the inmates, and that the remaining contracts, in which inmates are still employed, are an obstacle rather than an aid to the speedy and proper solution of the problem.

### (B) RECOMMENDATIONS

These conclusions have led the Commission to make the following recommendations, which are herewith submitted for such action as to the governor and legislature may seem proper:

1. The Commission recommends that the present legislature provide for the institution of a central board of control, charged with the general administration of all the correctional institutions of the state, and for a local board of management for each of such institutions; that such central board shall be composed of the governor and of eight members to be appointed by him, with the advice and consent of the senate, who shall receive no compensation for their services, and shall include not less than two women, such central board also to take over the powers and functions of the Prison Labor Commission, and to exercise a general power of supervision and visitation over all local places of detention of those accused or convicted of crime; and that such local boards, to consist of five members each, shall retain the

parole power now exercised by the separate boards of control and shall, subject to the general authority of the central board, be vested with powers of management of the institutions to which they are respectively attached. It is further recommended that such central board shall exercise its powers of administration and the supervisory powers which may be vested in it, through an expert commissioner of correction, to be appointed by it and who shall be removable by it in its discretion, and that such commissioner shall have the power of appointing, subject to the approval of the central board, such expert deputies, or bureau chiefs, not exceeding six in number as may be authorized, to assist him in the administration of his office, as follows:

(1) A medical director;
(2) A dietician;
(3) A director of education;
(4) A director of industries;
(5) A statistician, and
(6) A chief parole officer.

In order that the divided control here suggested shall not result in friction or in a paralysis of authority, it is recommended that the local boards of management shall be appointed by the central board, and that the central board shall have authority from time to time to make general rules and regulations pursuant to which the local boards shall manage their respective institutions.

2. The Commission conceives that the authority conferred on it by the legislature does not extend to the making of any recommendation affecting the management of the charitable institutions of the state, which it has not investigated, and which were specifically referred to a distinct commission charged with that duty. But if the legislature should, in its wisdom, decide to enact a more comprehensive measure, putting the correctional and charitable institutions of the state together under a single board of control, then this Commission would respectfully recommend that the plan submitted above for the control and management of the correctional institutions be extended so as to include the charitable institutions and agencies as well.

3. The Commission recommends that the legislature repeal the act of April 16, 1891, vesting the power of parole in the Board of Pardons.

4. The Commission recommends that the legislature repeal the act of March 16, 1914, enlarging the power of the courts of criminal

jurisdiction to recall for resentence convicts previously sentenced by them to terms of imprisonment.

5. The Commission recommends that the present legislature adopt a concurrent resolution providing for the submission to the people of the state of an amendment to the constitution striking out the present constitutional provision with respect to the keeper of the state prison.

6. The Commission recommends that the present legislature enact appropriate legislation simplifying the procedure for the transfer to a hospital for the insane, or to a home for the feeble-minded or to the Village for Epileptics, of insane, imbecile and epileptic inmates of the penal, correctional and reformatory institutions of the state.

7. The Commission recommends that the reconstruction of wing 3 of the state prison, for which provision was made by the last legislature, for the construction of a dining hall and assembly room, be discontinued and the funds appropriated for that purpose be returned to the state treasury.

8. The Commisison recommends that the existing contracts in the state prison be terminated not later than July 1, 1918.

In the foregoing recommendations the Commission has confined itself to matters which seemed to it to require immediate action and particularly to such as were essential to the creation of a new and better system of administration for the correctional institutions of the state. The study whose results are embodied in this report have, however, disclosed many other things which, in the opinion of the Commission, require correction. But it has seemed to the Commission that these may well await the determination and recommendation of a central board, such as has been recommended above. They will thus receive the fuller consideration which such a board, aided by its expert advisers, after full consultation with judges and others possessing a wide experience of penal administration, can give to the problem.

At the present time, when the great world war is making such unprecedented demands upon the resources of the country, it seems to the Commission especially undesirable to make specific recommendations requiring large outlays of public money. It is the hope of the Commission that by the institution of a new system, such as is here proposed, a substantial step forward may be taken and that that step forward may be retained.

Mr. John P. Murray, of the Commission, signs this report with the reservation that, while he approves of the creation of a central board of control for all the state correctional institutions, he is of the

opinion that the proposed commissioner of correction, acting under the general guidance of such central board, should be responsible for the management of the institutions and that there should be no local boards for the separate institutions.