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THE PROBLEM OF PROVIDING INCENTIVE FOR PRISON LABOR¹

CHARLES S. HYNEMAN²

An investigation of 104 penal institutions for adult civilians in the United States, made following the year 1923 by the Bureau of Labor Statistics of the Federal Department of Labor, revealed that in three federal institutions, 99 state institutions, and two institutions of the District of Columbia, there was for the year 1923 an average daily prison population of 84,761. Of these, 5,411 prisoners were confined in the three federal penitentiaries, leaving 79,350 as the average daily population of the 101 prisons, penitentiaries, penal farms, and reformatories of the 48 states and the District of Columbia.³ These figures do not include inmates of county and city prisons. The cost of maintaining these convicts constitutes an item of considerable importance in the state budget. In 1919 the governmental cost payments of all states for corrections amounted to \$49,307,846. Of this amount, \$39,642,794 went to meet the cost of handling adult delinquents. The total governmental cost payments of all states for all governmental purposes in the same year (1919), was \$542,661,141, and the total governmental cost payments of all states for all charities, hospitals and corrections was \$134,056,498. These figures reveal that 36.78% of the total sum spent by the states for all charities, hospitals and corrections, went for corrections alone; and that 29.5% of the total spent on charities, hospitals and corrections, went to care for adult offenders. We also find that the expenditures of the 48 states for corrections were 9.1% of the total costs of state government; 7.2% of the cost payments for all governmental purposes being for the correction of adults.⁴

The problem of setting these prisoners at work so that their earnings may meet at least a part of the cost of their keep requires

¹Extract from a seminary report at the University of Pennsylvania.

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³Table 1, "*Convict Labor: 1923*," in *Monthly Review of U. S. Bureau of Labor Statistics* (Monthly Labor Review), vol. 18 (1924), 702-03. This article is a part of Bulletin No. 372 issued by the Bureau of Labor Statistics of the Department of Labor, and entitled *Convict Labor in 1923* (Washington, 1925).

⁴United States Department of Commerce, Bureau of the Census, *Financial Statistics of States, 1919* (Washington, 1920), Table 10, pp. 74-84. The report for 1919 is used because the only later report, that for 1922, makes no subdivision of "charities, hospitals and corrections" which would enable us to cite the cost of corrections alone.

a study of incentive. Unless some reward is given for labor, or a punishment imposed for refusing to work, the prisoner will not put forth his best efforts. Reliance on the lash is going the way of some other barbarities, such as the lease system. Bread and water diet and solitary confinement are becoming less popular as incentives, while the curtailment of privileges is being used to perhaps an increasing extent. The warden of the Arizona State Prison reports that the only compensation for prison labor in that state is the favorable consideration which the parole board gives to the application for parole made by a man with a record for loyal and efficient service. This compensation is believed to have induced the convicts of Arizona to do "reasonable" work.⁵

A. GOOD TIME.

Two incentives are relied upon mainly to induce an increase in prison production—a money wage, and shortening of the sentence. The latter scheme, reduction in the term of imprisonment as a reward for good behavior and hard labor, is worked out in different ways.⁶

In Minnesota, the prisoner serving a maximum term of six months may obtain his release at the end of five months if he is a model prisoner. The amount of good time which may be earned increases with the length of the sentence until the convict has served twenty-one years, after which point he may be required to serve as little as four months of each remaining year of his original sentence.⁷ Until the 1926 session of the legislature, New York had a progressive good time law under which the maximum good time that might be earned was ten days reduction from the minimum sentence for thirty days of first class work. In Oregon a similar provision now obtains. Wyoming sets a task for her prison laborers, and all who meet that task or make a conscientious effort to do so, and obey the prison rules are allowed ten days good time per month. Montana extends the same amount of good time to those trusted prisoners who are allowed to do farm work outside the prison walls, and New Mexico makes similar provision for men working on the roads, for foremen, and for trustees. California gives good time to men working on the roads only. These get one day of commutation for each two days

⁵In reply to a questionnaire.

⁶The information in the following paragraph, except for Minnesota, was obtained by questionnaire.

⁷*Twenty-third Biennial Report of the Minnesota State Prison, 1923-24* (Stillwater, Minn., 1924), 74.

of work. In Indiana, for good conduct or meritorious service, the prisoner may receive for the first month, three days good time; for the second month of such service, four days good time; for the third month, five days, etc., to a maximum of ten days good time for one month of good conduct or meritorious service.

The writer will not attempt to say what has been the value of good time provisions as a means of encouraging earnest work on the part of the prisoner. A Texas penal investigating committee in 1915 advised that those features of a law of that state which provided for a wage for prisoners be repealed, and that in their place incentive to work be assured by a provision that the prisoner be given a reduction in his sentence of one day for every ten days of good conduct and honest effort.⁸ Supervisor Howard of the Indiana State Penal Farm thinks that a reduction in sentence of from three to ten days per month would be more satisfactory as an incentive to labor than the wage of thirty cents per day now paid in that institution.⁹ In both the Texas and Indiana institutions, however, the wage was not graded so as to serve as a reward for conscientious labor, but was a flat rate assured to the prisoner whether he gave his best effort or not.¹⁰ The increasing popularity of good time provisions induces one to believe that they form a very essential part of the ideal compensation plan.

B. THE MONEY WAGE.

We have, in the past, been prone to take a very short sighted view of the problem of paying a wage in money to prisoners. Anything which would increase the state's expenditure for this already too costly group has been vigorously opposed. But our very earnestness in curbing expenditures in behalf of the criminal class has blinded us to the most economical way of dealing with that group. In refusing the prisoner a wage we have made it impossible for him to support his family. Society, thereby, has been forced to bear that expense itself, and a very strong tie between the prisoner and his family (a tie needed to recall the prisoner to a proper attitude

⁸*Report of the Senate Committee Investigating the Affairs of the Prison System of Texas*, Sept. 2, 1915 (Austin), 16. Also *A Record of Evidence and Statements* before the Penitentiary Investigating Committee appointed by the 33rd legislature of Texas (Austin, 1915), 32.

⁹In reply to a questionnaire.

¹⁰From reply to a questionnaire by Supervisor Howard and from *A Record of Evidence and Statements* before the Penitentiary Investigating Committee of Texas, 1915, p. 32.

toward the personal and property rights of others) has been broken. By refusing to pay a money wage to the prisoner, society has made it impossible for him to accumulate a fund to support himself after his release from prison while he fits himself into the working and earning world. In so doing the state has not merely increased the obstacles in the way of the convict who is determined to go right, but has forced many of them to return to the paths which first landed them behind the bars. And lastly, by refusing to pay the prisoner a wage, society has failed to provide an incentive to labor which would have increased the earnings of the prison industries, and consequently the revenues of the state, far beyond the amount paid in wages. The reasons why the money wage should form a part of all convict compensation plans, have been pointed out by various persons.¹¹

The question as to what state authority should fix the amount of wage which each prisoner is to receive has not been given the attention which it deserves. An attempt to ascertain by questionnaire the opinions of some leading penologists brought forth little evidence of any strong convictions. One correspondent suggested that the amount of wage which is to be given each prisoner should be determined by a commission of three, this commission to be made up of a representative of organized labor, a representative of the manufacturers in the lines pursued in the prison, and an unprejudiced third member, a plan which has been followed with success in some French prisons. This proposal is very similar to that of the New York Prison Survey Committee, which advised that the unprejudiced third person be a member of the State Prison Department.¹² One of the pioneers in bringing about the employment of convicts on road construction and repair, wrote that he would have the legislature fix a minimum wage, and give to the prison board the power to determine what amount in excess of this minimum should be paid. The Commissioner of Institutions and Agencies in an eastern state would

¹¹See: George Cosson, "The Courts and Prison Labor," in *Annals of the American Academy of Political and Social Science*, vol. 46 (1913), 128; A. S. Dean, in *The Prison and the Prisoner, a Symposium*, edited by Julia K. Jaffray (Boston, 1917), 138-41; Mr. Eamen, in a discussion in *Journal of Criminal Law*, vol. 6 (1915-16), 519-20; Burdette G. Lewis, in *Proceedings of the National Conference on Social Work*, Atlantic City, 1919, p. 109; Hugo Pam, Annual Address of the President of the Institute of Criminal Law and Criminology, delivered at Boston, Sept. 2, 1919, in the *Journal of Criminal Law*, vol. 10 (1919-20), 336; *Report of the New York Prison Survey Committee* (Albany, 1920), 32, 34; and Louis N. Robinson, *Penology in the United States* (Philadelphia, 1922), 154, 182-84, 189-93.

¹²*Report of New York Prison Survey Committee*, 1920, p. 125.

apparently give all of the wage fixing power to a "central policy fixing board or commission." Professor L. D. Weyand has endorsed the plan in use in New York state.¹³ In that state the fixing of the actual amounts given to the individual prisoners is at the discretion of the Prison Industries Board, except that that Board is required by law to grade the wage of each prisoner according to the value of the labor performed.¹⁴ This is not widely different from the ruling statute in Pennsylvania, which provides that the amount of wage to be credited to each prisoner shall "be regulated at the discretion of the department [of Welfare] or such person as it may designate."¹⁵

1. *Description of the Wage.*

At the bottom of the wage problem lies the question, what tests shall be applied in determining the wage which each prisoner is to receive? There is no uniformity in the practices of the states. However, it seems not impracticable to arrange the states into four groups, according to the test which determines whether or not the prisoner will be paid at all.¹⁶

Group I. A. Fourteen states which pay no wage whatever. These are: Arizona, Arkansas, Colorado, Florida, Georgia, Illinois, Maine, Massachusetts, Mississippi, New Mexico, Nevada, Texas, Utah, and Washington. B. Seven states on which no data was obtained: Alabama, Iowa, Louisiana, North Carolina, South Carolina, Tennessee, and Vermont.

Group II. Seven states which pay a wage to all persons (with minor exceptions) who are confined in the prison. These are: Connecticut, Delaware, Kansas, Maine, Missouri, New Hampshire, and South Dakota.

South Dakota pays a flat wage of twenty-five cents a day to all her prisoners excepting those who have been put to breaking rock, these latter receiving eight cents a day. Maine and Missouri pay a flat rate to all prisoners who are not charged with poor conduct. Kansas pays a flat rate to all prisoners, but pays an additional amount to those employed at mining coal, according to the amount of coal mined. New Hampshire pays a flat rate to all and then gives additional pay according to type and amount of work done. Connecticut

¹³"*Wage Systems in Prisons*," in *The Annals*, vol. 125 (1926), 255.

¹⁴Laws of the State of New York, 147th session, 1924 (Albany, 1924), chapter 601, §185, pp. 1103-04.

¹⁵Laws of the General Assembly of Pennsylvania, 1923 (Harrisburg, 1923), Act No. 274, Article XX, p. 607.

¹⁶The data as to wages in the several states was obtained by questionnaire and from a typewritten chart furnished by the National Society of Penal Information. The data in this chart was collected from the material, which will enter into a forthcoming issue of the *Handbook of American Prisons*.

gives a wage to all prisoners who are not being punished, but grades the wage among them according to their conduct and application. Delaware follows a similar practice, paying a higher wage for those holding positions of responsibility.

Group III. Ten states which pay a wage to all convicts who are employed. The following are in this group: Indiana, Kentucky, Maryland, Michigan, Minnesota, New Jersey, North Dakota, Ohio, Pennsylvania, and Virginia.

North Dakota makes her wage a flat rate. Virginia does the same, but pays an additional flat sum to all employed in the productive industries. Indiana, Kentucky, Maryland, Michigan, Minnesota, New Jersey, and Pennsylvania pay all prisoners who are at work, but attempt to grade the pay among the different prisoners according to the amount or quality of work done, or some other test of the desert of the prisoner. Ohio is unique in that she gives a larger wage to those prisoners who are parents of minor children. Of those Ohio prisoners who are not in this favored class, the ones who are permitted to work outside the prison walls get the highest wage.

Group IV. Ten states in which a wage is given only to prisoners employed at particular kinds of work. These are: California, Idaho, Nebraska, New York, Oklahoma, Oregon, Rhode Island, West Virginia, Wisconsin, and Wyoming.

Idaho, New York, Oklahoma, Oregon, Rhode Island, West Virginia, and Wyoming pay wages only to those prisoners who are employed in the so-called "productive" industries.¹⁷ Nebraska pays only the men employed in productive industry and on construction work. California pays wages to none but the men working on roads. Wisconsin pays all men who are employed in the industries and some but not all those who are on non-productive work. In some of these states, perhaps, the wage is confined to men on the productive industries because these industries are operated under the contract system and the wage is paid by the contractors. This seems to be true at least of Idaho, Rhode Island, West Virginia, and Wyoming.

The failure of the states to fix upon a common test as determinant of whether a wage shall or shall not be paid at all is paralleled by the lack of unity in amount of wage paid. In Group II., Kansas, Maine, Missouri, New Hampshire, and South Dakota pay

¹⁷"Productive" industries are those in which a good is produced to be sold for a price. "Non-productive" industries are usually construction, repair, and institution maintenance.

a flat rate. That of Kansas is four and three fourths cents a day; that of Missouri approximates \$1.50 per month; New Hampshire pays ten cents a day; Maine and South Dakota pay twenty-five cents a day. The bonuses paid by Kansas to coal miners during the months from October to March average per worker from \$6.00 to \$7.00 per month, the maximum being about \$45.00. New Hampshire pays bonuses to the men in productive industries, these payments averaging thirty-one cents per day per man. The wage paid by Connecticut ranges from eight cents to fifteen cents per day, the average being about eleven cents per day. That of Delaware is somewhat higher, the average being fifteen cents, with the maximum at fifty cents per day.

Of the states in Group III, Kentucky pays the lowest wage. In that state all men are set a task. Those who do more than the task receive ten cents a day; others only five cents. The wage paid by Indiana ranges from three to eighteen cents a day, according to the pecuniary value of the work. The average wage is about twelve cents a day. Ohio pays five cents an hour to all natives of that state who have minor children. Of those prisoners who have no minor children, the trusted convicts who are permitted to work outside the prison walls get two cents an hour, while those working within the walls receive only 1 cent an hour. Virginia pays a flat rate of ten cents a day to all prisoners who work, but adds an extra twenty-five cents a day for those who are employed in the productive industries. North Dakota pays a flat rate of twenty-five cents a day to all prisoners who work. New Jersey attempts to grade the wage according to the pecuniary value of the labor, the wage ranging between five and thirty-five cents a day. Pennsylvania pays a wage which varies among the different industries from fifteen to fifty cents per day, the model wage being in the neighborhood of thirty-five cents a day. The convicts in Michigan receive wages which range from 10 cents to \$1.65 a day, according to the pecuniary value of the work, the average wage being near thirty cents a day. The average wage of Minnesota and Maryland is about fifty cents per day.

Among the states of Group IV, there are as many different wage plans to describe as there are states. Idaho pays a bonus for overtime which amounts to as much as \$5.50 per month in some cases but averages about \$1.25 per month. New York is at present paying a wage which averages forty-four cents a day, but from this she deducts 38.4 cents for the keep of the prisoner. The net wage thus averages about six cents in that state, the maximum being only about fourteen cents

a day. Convicts employed at road work in California also are credited with a gross wage from which cost of keep is deducted, but in this state the gross wage is \$2.10 per day. The average net daily wage is fifty cents, but some men clear as much as seventy-five cents. Oklahoma pays a bonus to the men employed in her productive industries. This amounts to \$1.00 a day in some cases but averages only about ten cents a day. Wyoming pays the men in her industries a bonus which averages around \$4.00 to \$4.50 per month. Wisconsin pays approximately the same amount. The wage paid by Nebraska for labor in the productive industries varies from fifty cents to \$25.00 a month. The average is near \$5.00 per month. Men on construction work get fifty cents a day for common labor and as much as \$1.25 per day for skilled labor. Rhode Island pays a wage for overtask which ranges as high as \$25.00 per month. Very few, however, receive more than \$10.00 a month, and many go as low as \$2.00. Oregon pays the men in her productive industries an average wage which varies, according to the value of the services performed, from twenty-five cents to \$1.00 per day.¹⁸

Fortunately for one who attempts to arrive in theory at a test which shall determine whether or not a wage shall be paid, there is more of consensus among the expressed opinions of penologists than there is in the practice of states. However, it is possible to discover wide divergence in the opinions of those who have speculated on this problem. The warden of a county prison in Pennsylvania, who has been eminently successful in the employment of prisoners, believes that a wage should be paid only to prisoners who have persons dependent on them. Furthermore, he would allow the judge who sentences the prisoner to fix the wage in accordance with the needs of the prisoner's dependents.¹⁹ Professor Weyand also thinks that the needs of the prisoner's dependents may wisely be taken into account in determining the amount of the prisoner's pay, though he would also take into account the pecuniary value of the work done by the prisoner.²⁰

Former Commissioner Lewis of New Jersey seems to have a similar view. He would also guarantee a wage large enough to create a fund of sufficient size to support the discharged prisoner, but he emphasizes the point that the wage must not be determined by performance or effort alone.²¹ Most writers would base the wage solely on the pecuniary value of the convict's labor, but Mr. Lewis has the support

¹⁸The size of the wage paid by West Virginia could not be ascertained.

¹⁹From reply to a questionnaire.

²⁰*Journal of Criminal Law*, Vol. 11 (1920-21), 271.

²¹In *Proceedings of the National Conference on Social Work*, 1919, pp. 108-09.

of a few in insisting that productivity should not be the sole determinant. A resolution adopted in 1924 by the Intermountain Industrial Allocation Conference,²² the Southeastern Industrial Allocation Conference, and the Eastern Prison Industrial Allocation Conference,²³ advised "that all prisoners should receive such compensation as their conduct and efficiency warrant" In 1915 the Pennsylvania Penal Commission proposed a statute which would give compensation to prisoners according to the willingness, good conduct, and industry of the prisoner as well as on the basis of the pecuniary value of his work.²⁴ But, as stated above, most persons would make the determining factor in fixing the wage, the pecuniary value of the service performed by the prisoner. Among those who have expressed this opinion are: Henry M. Boies,²⁵ the National Committee on Prisons and Prison Labor,²⁶ Joseph H. Pratt,²⁷ E. Stagg Whitin,²⁸ and Sydney Wilmot.²⁹ Similar opinion was evidenced in replies to a questionnaire received from several prominent penologists. The New York Prison Survey Committee worked out a plan for the payment of prisoners in that state which has attracted wide attention. This plan allowed the prisoner pay according to the value of his own work,³⁰ yet limited the wage earning power of each prisoner according to the productiveness of the men with whom he worked. Thus a very able, earnest and efficient worker who was employed in a shop in which the other men were loafers, would not be paid as high a wage as would have come to him if he had been associated with men who made a more serious effort. The New York Committee did advise, however, that where the failure of the prisoners to produce a creditable output was due to poor equipment or management, and not to lack of willingness or ability, no cut in wages should be made.³¹

²²National Committee on Prisons and Prison Labor, Initial Conference, Committee on Allocation of Prison Industries, Salt Lake City, April 9-11, 1924 (New York, 1924), p. 7.

²³From printed sheets distributed by the National Committee on Prisons and Prison Labor.

²⁴*Report of the Pennsylvania Penal Commission*, July 25, 1915, *Employment and Compensation of Prisoners* (Harrisburg, 1915), p. 34.

²⁵*The Science of Penology* (New York, 1901), p. 273.

²⁶*Annual Report*, 1925, p. 10.

²⁷*Economics of Convict Labor in Road Construction*, N. C. Geological and Economic Survey. Good Roads Circular No. 97 (Chappel Hill, N. C., 1914), p. 8.

²⁸*Proceedings of the American Academy of Political Science*, in the City of New York, Vol. 4 (1913-14), p. 331.

²⁹*Ibid.*, 293-94.

³⁰*Report of New York Prison Survey Committee*, 1920, p. 33.

³¹*Ibid.*, 123.

A careful consideration of the factors which enter into the problem induces one to conclude that the wage which is to be paid to the prisoner ought to be determined by as nearly as possible those same factors which enter into the determination of wages in the outside industrial world into which the prisoner must go after his release from prison. The prison must be made to a large extent an industrial training school. A very vital part of that industrial training which the prisoner must receive is an understanding of the factors which determine the earning power of the laborer. He must go out of the prison in a state of mind which will insure as much as possible his contentment with the working and wage conditions which he will meet in the outside world. If the convict has learned in prison that his earning power, due to physical handicap perhaps, is not as great as that of the average man, he can be expected to accept with better grace the relatively low wage which the outside employer will give him, than he would if, in prison, he was taught to expect a relatively high wage because he had persons dependent on him. If the prisoner has been taught during his incarceration to expect a wage whether he works or not, he is going to expect the same when he gets into the free industrial world, and his disillusionment is not unlikely to result in resentment which will induce him to attempt to "even" things up by the methods which landed him in jail the first time. The suggestion that the relative size of the wage should be conditioned to some extent on the willingness of the prisoner and his efforts to please does not appeal to the writer. These may possibly indicate that the objects of imprisonment have been realized and that the man is fit to have further imprisonment dispensed with, but these qualities are not criteria of the value of the labor performed. Willingness and sweetness of disposition will not yield increased income in the outside world unless they are translated into actual accomplishment.

The conclusions expressed in the preceding paragraph apply to the *relative* size of the wage to be paid to the various prisoners. We have said that if, by the standards of the free industrial world, B is worth only ninety per cent as much as A, then B must be paid only ninety per cent as high a wage as A. We may now proceed to say that the *absolute* amount of wage to be paid to any prisoner must not be greater than the amount we may reasonably expect that prisoner to be able to earn after he is released from prison. We have pointed out that if the poor workman receives in prison the same wage as his more skilled fellow, he will expect the same in the free working world after his release; and that his disillusionment is likely to lead to disastrous re-

sults. The same danger must be guarded against in fixing the absolute size of the wage. The convict, after release, is going to expect wages comparable to those he received in prison, and if his wage during imprisonment was \$10.00 per day, he is going to be resentful if he does not receive as high a wage in the job he holds in the free world.

The question is put: What if the wage is not sufficient to permit a savings which the prisoner can rely on while seeking his first job after his release from prison? It may be said that in that case it would be better for the state to make the discharged prisoner a gift of sufficient money to keep him until he finds a job, than to pay him the same money by a boost in his wages. If the money comes as a gift at the time of his discharge, the ex-convict has no reason to look forward to similar gifts in the future. But if the wage scale is raised higher than that which he will receive in the outside world, the prisoner will very likely be embittered when he finds that he is not going to receive what he had learned to expect.

Another person asks: What if the wage is not sufficient to support the dependents of the prisoner? The reply must be carefully reasoned. Only as a last resort must we provide any support for a family other than that which comes from the earnings of the individual who owes them support. Once the state makes a contribution, the family has found an unfailing provider and the father or husband has discovered an easy way to dodge his responsibility. The danger of such a circumstance seems hardly sufficient to overthrow the thesis that the total wage accredited to the prisoner must not be higher than that which he may reasonably be expected to receive in free competition. And if the actual earning power of the prisoner is so low that his wage will not enable him to contribute enough to his family to keep them as society thinks they should be kept, then society must provide that support by other means.

But this essential need of preserving the economic bond between the prisoner and his dependents gives reason for stating that the prison wage must not be less than the prevailing outside wage. If the convict's wage is fixed at exactly the same amount as is paid to the free worker of equal earning power, maximum provision will have been made for him to contribute to the support of his dependents, while at the same time precaution will have been taken against the payment of a wage higher than the prisoner may reasonably expect to receive after his discharge.

2. *Deductions from the wage.*

In his book, *The Science of Penology*, Henry M. Boies declares that every convict "must earn the cost of his arrest, trial, and confinement for crime, if he is able."³² Professor L. D. Weyand states that experience has proved it "necessary and practicable" that the prisoner be charged with the cost of his keep before the state pays over to him any money for his labor.³³ Similar opinions have been expressed by Thomas Mott Osborne,³⁴ and by Sydney Wilmot.³⁵ Ferri, before paying any money to the prisoner, would not only charge him for his keep, but would make the prisoner recompense the party who was damaged by the act which landed the offender in prison.³⁶ In the report of an Oregon penal commission in 1917 appeared the following: "This commission recommends, however, if all prisoners are to be compensated, that they be required to pay either all or a portion of the cost of their apprehension and trial."³⁷ In 1924 the Intermountain Industrial Allocation Conference³⁸ and the Southeastern Industrial Allocation Conference³⁹ adopted a resolution which advised: "That all prisoners should receive such compensation as their conduct and efficiency warrant, to be paid out of the earnings of the prison industries after all costs of prison maintenance have been deducted." In the same year the Eastern Prison Industrial Allocation Conference adopted essentially the same resolutions as those of the above named allocation conferences, with the notable exception that the third resolution read: "That all prisoners should receive such compensation as their conduct and efficiency warrant, to be paid out of the earnings of the prison industries." It will be noted that there was a significant omission of the qualifying clause, "after the costs of prison maintenance have been deducted."⁴⁰ The body of resolutions adopted by the Eastern Allocation Conference, which met after the other two conferences, is so nearly identical to the resolutions adopted by the earlier conferences that the writer concludes that every difference in the resolutions adopted must have been delib-

³²P. 268.

³³Journal of Criminal Law, vol. 11 (1920-21), p. 271.

³⁴Osborne, *Prisons and Common Sense* (Philadelphia, 1924), p. 40.

³⁵*Proceedings of the Academy of Political Science*, vol. 4 (1913-14), pp. 293-94.

³⁶Enrico Ferri, *Criminal Sociology* (Boston, 1917), p. 520.

³⁷*Report of the Commission to Investigate the Oregon State Penitentiary*, 1917, p. 64.

³⁸National Committee on Prisons and Prison Labor, Initial Conference, Salt Lake City, 1924, p. 7.

³⁹From a printed sheet distributed by the National Committee on Prisons and Prison Labor.

⁴⁰*Ibid.*

erately made. It would seem, then, that the Eastern Prison Industrial Allocation Conference, made up of the leading authorities of prison industries in Maryland, New Jersey, and Pennsylvania, doubted the advisability of withholding a wage from the prisoner until the earnings of the prison industries meet the cost of the institution. This doubt seems to be justified. The New York Prison Survey Committee estimated in 1920 that only 38.5 per cent of the male population of New York State prisons for adults were "capable of carrying on a productive occupation."⁴¹ It seems too much to expect that 38.5 per cent of the men committed can maintain, by their own labor the cost of keeping themselves and the other 61.5 per cent of the commitments, many of which latter group require hospital care. If that judgment be correct, and if we demand that no wages be paid until earnings meet total cost of the institution, then no wages can be paid. But it has been pointed out that a wage is necessary, even from the selfish view of providing an incentive. If, then, we cannot withhold a wage until all prison cost is met, what deduction, if any, should we make from the wage? Should we, as Boies advises, charge each prisoner with the cost of his own arrest, trial and confinement? In the case of many prisoners there would be no surplus for a wage. On the other hand, the prisoner must not be paid the current outside wage with no deduction whatever for his keep. If no charge is made for board and room, the savings of the prisoner will accumulate at a much more rapid rate than they will after he goes back to the free industry. The prisoner will then be receiving a net wage above living expenses which is greater than he will receive when he goes into free life. The prisoner must not become accustomed to seeing his savings pile up faster than they can possibly be made to accumulate after he is released.

While we do not want the surplus of the prisoner's wage over living expenses to be greater than that surplus will be in his later free life, we do want that surplus to be as near that limit as possible so that the prisoner can contribute a maximum to the support of his family. The conclusion resulting from this reasoning is that the state should deduct from the wage of the prisoner an amount which will nearly equal the cost of the keep of a man in the outside world. This figure will have to be arbitrarily arrived at for the cost of maintaining a man in prison is not the same as the living expenses of the laboring man in free industry. True, the prisoner is forced to dress more cheaply, and dispense with many things considered necessities by the average

⁴¹*Report of the New York Prison Survey Committee, 1920, p. 115.*

man. But the cost of maintaining a high wall and guards about a man more than offsets the saving in dispensing with customary accommodations.

3. *Efficacy of the wage.*

Now arises the question: Will this system, set up with a view to making the prisoner's wage and living costs resemble those of the free man, provide an incentive which will induce our prison population to increase the earnings of the prison industries? A questionnaire was sent to the wardens of the various state prisons and penitentiaries of the United States inquiring: "Is the method of compensation which you have for prison labor sufficient to induce the prisoner to do a reasonable day's work?" The replies revealed that the following net money wages (after all deductions were made) did induce the prisoners to do what the warden considered a "reasonable" day's work:

Connecticut State Prison.....	8 to 15c per day
New Castle County Workhouse (Delaware State Prison)—	
	Average of 15c per day
Indiana State Prison.....	Average of 12c per day
Kentucky Penitentiary.....	Average of 8c per day
Michigan State Prison.....	Average of 30c per day
Michigan Branch Prison (Marquette).....	Average of 26c per day
Minnesota State Prison.....	Average of 49c per day
Nebraska State Penitentiary.....	Average of 50c per day
New Jersey State Prison.....	Wage of 5 to 35c per day
New York (Six state prisons).....	Average of 6c per day
North Dakota State Prison.....	Average of 25c per day
Oklahoma State Penitentiary.....	Average of \$3.00 per month
Rhode Island State Prison.....	Wage of \$2.00 to \$15.00 per mo.
South Dakota State Penitentiary.....	Average of 25c per day
Wisconsin State Prison.....	Average of \$5.25 per month

For three months the Maine State Prison tried out a wage plan which paid a maximum net wage of fifty cents per day.⁴²

A member of the Board of Prison Commissioners writes:

"The three months during which we tried our plan convinced us that fundamentally the thing was sound, from both an economic and a moral standpoint. We increased man-power and we developed "morale" even beyond our own calculations."⁴³

Robert T. Kent, Superintendent of Prison Industries of New York State, makes the following statements concerning the revolution in the prison industries of New York after the daily one and one-half

⁴²For description of the wage system, see a pamphlet entitled, *Dedication of the New Maine State Prison* (1924) pp. 23-26.

⁴³From a letter of March 5, 1926, to the writer.

cent wage of the prisoners in that state was cast aside for a new scale which ranged up to a maximum net wage of fourteen cents per day.

"The immediate effect of wage payments has been startling. During the first month of its operation at Clinton Prison, production increased nearly forty per cent, and is still increasing. At Auburn Prison the net earnings have increased to a point where it will soon be necessary to revise the scale upwards, in order to dispose of the accumulating surplus in the wage fund.

"More important than the improved production, however, is the effect on the men themselves. They have been given a new outlook on life, and already one of the intended lessons is being rapidly learned. A man was discharged for insubordination from one of the shops, and placed on a job which carried no wage schedule. For two months he has been trying every expedient to get himself reinstated in the shop from which he was discharged. Insubordination has disappeared. Men who deliberately soldiered on the job, and who made it a point to perform no more work than was necessary to prevent them from getting into difficulty with the authorities, are now using every effort to increase their production. Men for whom there is no work available are maneuvering to get themselves assigned to the industries, whereas formerly they avoided such assignments wherever possible."⁴⁴

4. *The disposition of the wage.*

Three questions must now be analyzed:

1. What part of the prisoner's wage shall be sent to his dependents?
2. What part shall accumulate as a fund for the use of the prisoner on his release?
3. What part of his wage should the prisoner be permitted to spend during the course of his confinement?

These problems must be solved in such manner as will best preserve the tie between the prisoner and his family, tide him over the period of readjustment following his release from prison, and yet not destroy his incentive to labor. While it is still true that many prisoners voluntarily send their earning to their families,⁴⁵ there is a danger that many would cease to work if they saw all their earnings sent to dependents for whom they had no affection.⁴⁶

The practices of the various states differ.⁴⁷ In New York the disposition of the prisoner's funds is wholly at the discretion of the Su-

⁴⁴Kent, *The Prison Industries of New York* (New York, 1925), p. 6.

⁴⁵Morrison I. Swift, "Humanizing the Prisons," in *The Atlantic Monthly*, vol. 108 (1911), p. 170.

⁴⁶This is pointed out by Professor Robinson, *Penology in the United States*, 189.

⁴⁷The following information was obtained by questionnaire and by correspondence with officials in various states.

perintendent of Prisons; in Michigan and Minnesota, wholly at the discretion of the warden. The earnings of the New York convict are sometimes sent to his family whether he wishes it or not. It is the rule in that state, when the prisoner has no dependents, to reserve fifty per cent of the prisoner's earnings for a release fund. The convict may spend currently as much as \$3.00 per week, if that is not more than fifty per cent of his earnings, but this privilege is subject to revocation as a means of punishment. In Michigan, the warden sometimes sends all of a prisoner's earnings to dependents. In no case is the prisoner permitted to spend his wages for anything except tobacco until he has accumulated a saving of \$10.00. Then he may spend as much as \$1.25 per week unless he is being punished, or unless the warden sends the earnings to dependents. When an inmate of the Minnesota State Prison hesitates to send aid to his family, he is compelled to contribute up to seventy-five per cent of his earnings to them. On approval of the warden, certain articles may be purchased by the prisoner with his remaining funds.

Kansas, Kentucky, and Virginia have practices much alike. In Kansas, the prisoner's wages accumulate until a \$10.00 release fund is realized. After that, the prisoner is free to dispose of his wages as he pleases. In Kentucky twenty-five per cent and in Virginia fifty per cent of the prisoner's wage must be retained as a release fund. The remainder is at the disposition of the prisoner. In neither of these three states is there provision for compelling the prisoner to support those who are dependents upon him.

In some states a definite amount is set aside for the support of dependents. In Ohio ninety per cent of the earnings are reserved for this purpose. If there are no dependents, all of this amount, plus the remaining ten per cent accumulates until the discharge of the prisoner. In New Jersey one-third of the wage is devoted to the keep of dependents; two-thirds may be spent currently by the prisoner for a wide range of commodities, but not more than \$10.00 can be spent per month without approval of each item by the warden. South Dakota reserves twenty-five per cent of the prisoner's earnings as a release fund and devotes the remainder to the support of dependents if there are any. If there are no dependents, this seventy-five per cent may be spent by the prisoner on the approval of the warden. The law of Pennsylvania requires the authorities to reserve three-fourths of the prisoner's wage, or more if the prisoner so wishes, as a fund for the relief of dependents. The amount not disposed of in this way may be given currently to the prisoner, or reserved until his release, as the trustees of the institution

see best. The statute contains a further provision, however, that upon the approval of the Department of Welfare, the prison authorities may disregard the provisions of the statute and substitute any plan they wish for the disposition of the wage.⁴⁸ At present the prison authorities are taking advantage of this proviso and permitting the prisoner to dispose of his meagre earnings according to his own wishes. North Dakota reserves fifty per cent of the prisoner's wage for the benefit of dependents, allows him five per cent for current expenditures, retains forty per cent until his release, and devotes the remaining five per cent to a "general benefit fund."

Wisconsin and Wyoming represent the practice of a great number of states. Warden Hadsell of Wyoming State Penitentiary writes that the "prisoner is allowed to handle his money in any legitimate way at any time." The warden of Wisconsin State Prison writes that in that prison the prisoner is "urged" to save his money until release, and to support his dependents. More concrete, however, is a restriction in the latter state that not more than one-third of the earnings of the prisoner shall be spent for the prisoner's own wants.

The problem of disposing of the wage has not received much attention from writers. Professor Robinson, however, concludes that the plan outlined by the Pennsylvania statute, "while not perfect . . . is as good, perhaps, as any that can be devised, since it insures the contribution to the family and leaves sufficient [amount] as an encouragement to industry and as a means of discipline."⁴⁹ Professor Weyand would have the wage of the prisoner who has no dependents devoted to the restitution of the person damaged by his crime.⁵⁰ The writer collected the opinions of a few other persons by questionnaire. An official of an eastern state indicated that he believed that all of the prisoner's wage should be devoted to the care of his dependents if necessary, the accumulation of a release fund being subordinated to their needs. Another man, actively concerned in the employment of prisoners, would send all of the prisoner's earnings to those dependent on him and would pay no wage to the prisoner who has no dependents. Others committed themselves little further than to say that they would leave the question of disposing of the wage to be solved in each individual case by penal authorities. Thomas Mott Osborne would place all of the prisoner's earnings to his credit and permit him to draw upon them for any personal expenditure he wished to make. Mr. Osborne

⁴⁸Laws of the General Assembly of Pennsylvania, 1923, Act No. 274, Article XX, p. 607.

⁴⁹*Penology in the United States*, 190.

⁵⁰*Journal of Criminal Law*, vol. 11 (1920-21), pp. 254-55.

would not compel the prisoner to send his money to his family, nor to save it for use after his release. He indicated, however, that the prisoner's release from the prison might well be made conditional on his having demonstrated that he will voluntarily support his family, and upon his having saved a certain sum. The proposal to give the prisoner free rein over his income is opposed by Professor Weyand, who writes: "Money in the hands of the prisoner is the worst thing he could have."⁵¹ A questionnaire revealed that opinion is fairly evenly divided on the question of whether or not the prisoner should be permitted to spend any of his wage during imprisonment.

The conclusions of the writer as to what disposition should be made of the wage, may be stated as follows:

1. A part of the wage must be given to the prisoner for his personal use during his imprisonment.
2. The prisoner must be compelled to contribute to the support of his family.
3. If the whole of the wage is not absorbed in these two provisions, the convict must be compelled to save the remainder for use after release.

It is an essential part of our wage scheme that it should provide incentive for increased production of prison-made goods. In the case of many prisoners, no incentive will be provided if all of the wages are sent to the family or reserved for the use of the convict upon his release several years later. It seems to the writer that it would be best if the able-bodied prisoner were furnished only the barest necessities as regular accommodations. All comforts should be furnished only at a price. No able-bodied prisoner should be permitted to spend within the prison any money except such as is paid as wages for his labor. This plan, it seems to the writer, would insure that the prisoner would earn enough money to buy at least the most desired comforts. In order to prevent gambling, exchange might be by credit only, with a rule that no check should be given by one prisoner to another except on approval by the proper prison authority.

To guarantee that the prisoner would not quit work as soon as he had earned the spending money he wanted, it should be provided that only a certain percentage of the earnings should be available for current use. Thus, if seventy-five per cent of the wage were reserved for the support of the family or for the release fund, the prisoner would have to earn \$1.00 in order to receive twenty-five cents in spending money. If the prisoner is paid by the piece, the same result might

⁵¹Ibid., p. 257.

be attained by a rule that the prisoner should retain as spending money only the amount earned in excess of a certain figure. Thus, if the prisoner is able to earn \$1.00 per day at his job, the *first* seventy-five cents could be reserved and only the amount earned in excess of that figure given for current use.

As between sending money to dependents and accumulating a release fund, the writer feels that the latter should be subordinated to the former. After the prisoner is assured funds for current use, all the rest of the earnings should go to the family if they are in need. If the earnings are not large enough to care for the family and at the same time accumulate a fund to put the prisoner on his feet after release, it is better for the state to make a gift of the latter than of the former. The release fund is given but once, but if the state once makes a flat gift to the support of the prisoner's family, it may result in continued reliance upon state support, long after the prisoner's release.

The writer is not yet convinced that the prisoner should have complete autonomy in the spending of his funds. It would seem rather that the enforced contribution to his family and the compulsory saving of his money might probably become a habit and therefore be of positive value in the reformation of the prisoner.

5. *Summary.*

The conclusions reached in the course of this paper may be restated as follows:

1. The prisoner must be given incentive to work—a part of which incentive must be a money wage.

2. The wage which is to be paid to the various prisoners must be fixed, in both relative and absolute size, by the same factors as those which determine the size of the wage paid in the outside world.

3. The state should deduct from the wage an arbitrary amount intended to very nearly equal the living costs of the average free laborer engaged in the same occupation as the prisoner.

4. The prisoner should be given a certain part of his earnings as spending money.

5. Of the remainder of the wage, the prisoner should be compelled first to contribute whatever amount is necessary to the support of his family, and, second, if any is left after this contribution, save that amount for his own use after his release.

6. This scheme will increase the production of our prisons more than enough to offset the amount paid as wages.