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A STUDY OF WAGE-PAYMENT TO PRISONERS AS A PENAL METHOD

L. D. WEYAND

INTRODUCTION

It is estimated that 500,000 persons, of whom 90 per cent are men, are annually committed to the correctional institutions of the country.¹ In other words, one out of every 200 persons in the United States is put in jail or prison each year. This does not take into account those who are arraigned at court and are acquitted, discharged, receive a suspended sentence, or are put on probation. The bulk of those committed are for but a few days or weeks. Of 468,000 persons discharged from prison or jail in 1910, only about 25,000 were from state prisons or state reformatories; that is, only about 6 per cent of all those discharged came from what have been called the "higher institutions of crime."

These figures may include a number of persons who are counted two or more times, since "repeaters" are frequently sentenced to prison a number of times each year. A part of this population, now classed as criminal, is so only in a limited sense. There are "accidental offenders." Some of these may be included in the statistics given, but they are not criminal in any sense of the word. Some of those committing petty offenses are sentenced to pay a fine, and not having the wherewith to pay are committed to jail. These are included also among the number. The size of this class might be materially reduced by a more efficient administering of the law. This is not a matter to be dealt with here, however. Our concern is with those committed to penal institutions.

Every person committed to a correctional institution is a ward of the state, at least during the period of his detention. Furthermore, a large proportion of the dependents of prisoners are made, by virtue of the imprisonment of the breadwinner, charges of the state or of public or private charity. The treatment that the state administers

¹The Seventy-third Annual Report of the Prison Association of New York, 1917, p. 81.

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to those thus made dependent is a matter of importance; it determines very largely the attitude of these persons toward society.

Dr. Healy, who has studied many delinquents, says:

"One of the most appalling discoveries made in a study of offenders is that in attempting to protect itself, society so frequently ends by making matters worse . . . All sorts of punishments must be safely guarded if they are to have no ill effect."²

Self-respecting people do not like to talk nor hear about the injustice that may be done to those whom the state makes its wards and dependents. And so the scandals of prison administration continue unheeded. But everyone is vitally concerned with what is done to these offenders, for eventually those who enter prison must return to civil life, better or worse for the treatment they have received.

There are several features of prison administration in which improvement seems to be possible. Mr. T. M. Osborne, formerly warden of Sing Sing prison, makes nine counts against the present system of prison management. One of these deals with the compensation of prisoners.

He says that the present system of prison labor is ill-organized and inefficient and lacks any incentive to honest, hard work.

"Men are assigned to jobs entirely without regard to their preference or capacity; they are kept at the unattractive tasks by fear of punishment; they receive no return for their labor (the cent and a half a day graciously allowed by the State of New York is a joke). Such labor is mere slavery; and slave labor has always been inefficient and always will be. It is hopeless to expect men to do good work unless they can see some advantage to themselves in doing it. Men outside prison are not, as a rule, affected with what Kipling calls 'a morbid passion for work'; and human nature prevails inside the prison in this respect if in no other."³

The present investigation of the problem of paying prisoners seeks an answer to the following questions: Has a method of employing penal labor been developed that worked better than the one now in vogue? Can such a plan overcome the legal and financial obstacles that are to be encountered in operating a system of wage payment to prisoners? What has already been achieved that is favorable to such a scheme? What considerations favor and what oppose the wage payment to prisoners plan and what are its strength and weakness?

²Healy, "The Individual Delinquent," p. 168.

³Osborne, "Prison Discipline and Character Building." Proceedings of the National Conference of Charities and Corrections, 1916, p. 520.

CHAPTER I

HISTORICAL STATEMENT CONCERNING THE MOVEMENT FOR PAYING
WAGES TO PRISONERS

The materials for writing a complete history of the movement for a wage payment to prisoners have never been assembled. It is not our purpose to attempt to make such a collection here, but to bring together the materials that are available as an introduction to an investigation of the recent movement. Our statement must, therefore, be quite fragmentary and incomplete.

The earliest trace in the United States of a system for paying prisoners that has been found is in the "Acts and Resolves of the Province of Massachusetts Bay."

The law of 1699 provided for the establishment of houses of correction in each county where they were not already provided. These houses were to be used for "the keeping, correcting, and setting to work of rogues, common beggars, and other lewd, idle and disorderly persons; . . . and until such house or houses of correction can be erected the common prison in each county may be used for that purpose."

Persons sent to the house of correction were to be provided with suitable materials on which to work during their abode there. The selection of the town to which these persons belonged delivered these materials to the keeper of the house for this purpose. Children or servants, under the care of their parents or masters, but committed to the house of correction, were provided by their parents or masters with such things as were necessary for

"the keeping of them to work and labor during their abode in said house; . . . and no persons to be committed to the said house of correction that is able to work shall in any sort be chargeable to the county for any allowance, either at their bringing in, or during the time of their abode there, but shall only be allowed for their labor and work the sum of eight pence out of every shilling they shall earn, and the overplus of such of their earnings to be unto the master or keeper of said house to account for; and if such persons are masters or heads of families, then and in such case the whole profit and benefit of their labor, or so much thereof as the court of general sessions of the peace shall think necessary and direct, shall be for the relief and support of such persons and their families."

A different arrangement was made for those unable to work.

This personal or local control of misdemeanants sentenced to these houses of correction existed concurrently with penal labor by the use

of the system of indenture throughout the greater part of the eighteenth century.⁴

During the century, however, a change was occurring in the sentiment of the people. And by the Act of June 25, 1802, the law requiring that parents and masters furnish the means of employment for wards and servants imprisoned in the houses of correction was amended so that no parent or master might furnish employment without the consent of the overseer of the prison. Indenture, which was applicable to the social and industrial condition of our colonial times only, disappeared near the close of the eighteenth century, and large numbers of convicts were now confined in the newly erected state prisons and large county prisons and penitentiaries. As a result of these circumstances, compulsory labor came to be under public or state control and conducted on public or state account. The overseer or keeper of the houses of correction and jails had complete government of the penal labor of these institutions, and the state officers, the wardens, and inspectors of the state prisons, had control of the labor of convicts in the state prisons and penitentiaries. The effect of these changes upon the plan of allowing the prisoner a share in the product of his labor will be noted later.

Another early evidence of the existence of a plan for paying prisoners is found in Pennsylvania. We are unable to trace all the steps in the development of the plan, but it seems to have been a part of the general humanitarian movement that was afoot in Pennsylvania in the latter part of the eighteenth century.

When the people of Pennsylvania took up the task of forming their constitution in the revolutionary period and of reforming their laws in the post-revolutionary period, they were deeply influenced by the mildness of the laws of William Penn.

The first constitution of the state, adopted in 1776, provided for the reform of the penal laws by the state legislature and for making punishments "in some cases less sanguinary and in general more proportionate to the crimes."

Section 39 reads:

"To deter more effectively from the commission of crimes, by continued visible punishments of long duration, and to make sanguinary punishments less necessary, houses ought to be provided for punishing by hard labor, those who shall be convicted of crimes not capital."

The legislature took up these constitutional commands soon after the close of the Revolution and by the Act of September 15, 1786, for

⁴Hiller, "Development of the Systems of Convict Labor in the United States." This JOURNAL, Vol. 5, p. 244.

many crimes substituted imprisonment at hard labor as punishment in lieu of death, branding, and mutilation. This was followed by other Acts of March 27, 1789, and December 5, 1789, in the same direction, and by the Act of April 5, 1790, inaugurating that system of imprisonment at labor, which later by improvements, became known as the "Pennsylvania System" and which was largely followed in other states.⁵

That the system of penal labor included a wage payment plan is evidenced by the following facts:

In Philadelphia County the keeper (with the approval of two inspectors) obtained the materials necessary for the prisoners to work with through the county treasurer. The products of the labor were sold by the keeper, who obtained thereon a commission.

"A separate account was kept with every convict wherein he was charged with the expenses of clothing and subsistence and a proportionate part of the cost of raw materials. He was credited with the amount received by reason of his labor. If this amount was greater than his expenses he received the benefit of one-half the excess.

"Practically the same provisions were applicable to the counties other than Philadelphia. In these counties the product was to be disposed of, as directed by the county commissioners."⁶

Thus we see that prison labor in Pennsylvania really began under public or state control. As we saw above, Massachusetts had reached the same position by this period. Now it was expected that under this system the labor of prisoners would net a profit over all the prison expenses, but only deficits resulted. So the theory and practice of keeping an account for the labor and earnings of each convict fell into disuse everywhere. The state assumed the deficits, and prison industry came to be conducted entirely by, and on account of, the state.⁷

An act passed by the Pennsylvania Legislature in 1844 provides that any excess that may remain after paying the expense of maintenance shall be paid into the state treasury.

In 1847, among other things required to be reported by inspectors, sheriffs, and persons in charge of penitentiaries or jails, is whether an opportunity is afforded to the prisoners for doing overwork, or for receiving in any other manner the profits of their labor.⁸ At no time,

⁵*Smithers*, "Treatise on Executive Clemency in Pennsylvania, pp. 29-30.

⁶Report of the Penal Commission. Employment and Compensation of Prisoners in Pennsylvania, p. 56.

⁷*Hiller*, *Ibid*, p. 246.

⁸Report of Penal Commission, p. 57.

however, was there a provision enacted that prisoners should receive any compensation.

The following description of the prisoner under the separate system dates from the year 1846. The prisoner is shut up in a room as large, perhaps, as the one he was accustomed to at home. He has his loom or his shoe-bench at hand; he is at liberty to work as long as he pleases, to rest when he is tired; he knows that if he does more than a fair day's work the *overstint* will be added to the small sum already placed to his credit and be at his disposal when he goes out.^{8a}

Another description of the system is vogue in the Philadelphia Penitentiary contains the following:

"In this penitentiary was taught a trade such as shoe making, cane seating, cabinet making and weaving. Those who learned the trade were allotted a moderate task. After this was accomplished they were credited with 'overwork.' Some individual prisoners on their discharge (before 1862) were paid upwards of \$250.00, which stood on the books to their credit. One prisoner on his discharge after a three years' sentence was paid \$213.00."⁹

In 1883 a law was passed stating that convicts are to receive wages.¹⁰ And an Act of 1901 specifies that when a county prison board permitted work to be done on the streets of the borough in which the jail was located, that borough was to pay the county treasurer thirty-five cents a day.¹¹ Finally, in 1913, an act was passed providing that the wages earned by prisoners, who have been committed for non-support, shall be payable to certain dependents, and allows a wage of sixty-five cents a day.¹²

The problem of employing the prisoners; of their discipline, and of meeting the expenses of the institutions arose soon after the beginning of the system of penal labor under state or public control and on the state or public account. During the second and third decades of the nineteenth century the contract, lease, and piece-price systems were instituted to meet these problems and continued as the prevailing methods of employing compulsory labor till the close of the century.¹³ The prevalence of the contract and lease systems is shown by the fact that in 1867 the system of working the prisoners on account of the state was used in but three state prisons, viz., Clinton

^{8a}Report of a Minority of the Special Committee of Boston Prison Discipline Society, p. 45.

⁹The Journal of Prison Discipline and Philanthropy, p. 29.

¹⁰Report of Penal Comm., p. 59, 1883. June 13, P. L. 112, sec. 4.

¹¹Report of Penal Comm., p. 61.

¹²Ibid. p. 61.

¹³Hiller, Op. cit., p. 230.

Prison, N. Y., and Maine and Wisconsin Penitentiaries; it was also in partial use in New Hampshire. The contract system was the prevailing method in the Northern states and the lease system in the Southern states.¹⁴

In 1874 the contract system prevailed exclusively in twenty state prisons, the lease system in six, and a mixed system in seven.¹⁵ In the latter, a part of the labor from which cash revenue was derived was let to contractors and another part was managed by the authorities on behalf of the state. In 1887 the contract system was sanctioned in a pure or mixed form in twenty-eight states, and the lease system in ten states. Among all the states, fifteen permitted the use of the state account plan if it seemed to be to the interest of the state to do so. But this system usually proved to be the least profitable and the most difficult of administration, and in consequence the contract and lease system continued unrestricted until the demand for reformation and for freedom from competition between contract prison labor and free labor induced the legislature of the states to adopt the public account and other systems under public control.¹⁶

Organized labor, prison reformers, and penologists opposed the methods of private control of penal labor and demanded that the abuses be restricted and more protective and humane methods be adopted. The first fruits of this opposition were the substitution of the state account and piece-price systems for the contract and lease systems.

"But it was soon discovered, on the one hand, that the menacing effect of convict labor upon free labor was not removed; and on the other hand that employment was difficult to secure and that undue burdens were placed on the state agents in conducting the prison industry under the public account system to guard against unemployment and against over burdening the prison officers. A combination of public and private control was effected in the adoption of the piece-price system, and further means of employment were sought by engaging the labor of convicts in non-mechanical occupations on highways and public lands and farms, and on public works and buildings. While the prison officials found that the public account system, as it was usually conducted in prison manufactories, was inadequate and unsatisfactory and were in consequence resorting to the piece-price system, free laborers were, at the same time, discovering that so long as convict labor was entered upon the wage and price market, the menace of the subsidized industry and the low-level competition remained."¹⁷

¹⁴*Wines and Dwight*, "Penal Reformatory Institutions in the United States and Canada," p. 225.

¹⁵National Prison Congress Report, 1874, p. 293.

¹⁶*Hiller*, Op. cit., p. 255.

¹⁷*Hiller*, Op. cit., p. 263.

The first individuals to advocate the paying of wages to prisoners for their labor were Vilain, Archbishop Whatley, and Alexander Maconochie.

Vilain, who was connected with the prison at Ghent in the latter part of the eighteenth century, allowed prisoners a percentage of their earnings and an opportunity to overwork, to encourage them to work. Part of their earnings was their own to expend in the prison; part was retained, to be given to them at their discharge, so that they might not relapse into crime.¹⁸

The next advocate of such a system seems to have been Archbishop Whatley, of Dublin, who, in 1832, suggested that instead of sentencing the prisoner for a certain length of time, he be given a labor sentence. A part of the plan suggested is as follows in Mr. Whatley's own words:

"It will also allow them, for a certain portion of the work done, a payment in money; not to be expended during their continuation in prison, but to be paid over to them at their discharge; so that they should never be turned loose into the world entirely destitute. Instead of being sentenced to confinement for a fixed time they should be sentenced to earn, at a certain specified employment, such a sum of money as may be judged sufficient to preserve them, on their release, from the pressure of immediate distress; and orderly, decent, submissive behavior during the time of their being thus employed, should be enforced under the penalty (besides others, if found necessary) of a proportionate deduction from their wages, and consequent prolongation of their confinement."¹⁹

Captain Alexander Maconochie tried an experiment in prison reform at Norfolk Island. He tells us that on his arrival in 1840 he found 1,400 doubly-convicted prisoners, the refuse of the penal colonies of Van Diemen's Land and of New South Wales. "A more demoniacal assemblage could not be imagined," he says. Yet, three years after his arrival Sir George Gipps asked Captain Maconochie what he had done to make the men look so well. Said Sir George: "I have seldom seen a better looking set; they are quite equal to new prisoners from England."

There were several features to the plan Captain Maconochie instituted, but we are concerned here only with the part related to paying prisoners.

The captain gave every man a small garden. This he describes as a "boon to the industrious, but none to the idle." Those whom he "camped out in the bush" he encouraged to raise pigs and poultry,

¹⁸*Wines*, "Punishment and Reformation, pp. 132-137.

¹⁹*Wines*, *Op. cit.*, p. 186.

"thereby improving their ration, and still more, infusing into them, by the possession of property, that instinctive respect for it which makes it safer in a community than any direct preservatives." Every man had to perform his government task besides the labor he bestowed, as he could catch an opportunity, on his garden or other interests.

Mr. Maconochie describes the system that he planned to work out as "a well arranged adversity." The essence of the system can be best presented in his own words:

"The Mark System proposes to place criminals in a state of utter poverty, destitution, and bondage from which nothing but their own steady, persevering, unflinching exertion can eradicate them. They are at the bottom of a well, with a ladder provided by which they may ascend if they will, but without any bolstering or dragging up by other than their own efforts. If they halt they are made to descend, for their maintenance from day to day is to be charged to them."²⁰

He was not allowed to use his Mark System with the Colonial convicts, but only with convicts sent out direct from England, and in the case of these it was deprived of the feature that the criminal should work out his own freedom.

Mr. Maconochie cites as evidence of the success of the plan the following facts respecting the conduct of the prisoners after they left his care. He says:

"In four years I discharged 920 doubly-convicted men to Sydney, of whom only 20, or 2 per cent, had been reconvicted up to January, 1845, the latest period to which I have any returns. Of 538, whom I discharged to Van Dieman's Land in February, 1844, sixteen months afterwards, viz., in July, 1845, only 15, or 3 per cent, were under punishment, by which, I understand, had committed grave offenses."²¹

Twenty-five years after Maconochie's experiment at Norfolk Island the Royal Commission of England made the following comment:

"The experience, both of this and of other countries, has demonstrated that it is impossible to compel convicts to work hard by mere coercion, the attempt to do so having invariably failed, while it has produced a brutalizing effect on their minds, and increased their previous aversion to labor. On this ground the late Captain Maconochie, many years ago, recommended that the punishment to be inflicted upon criminals should be measured not by time, but by the amount of labor they should be compelled to perform before regaining their freedom, and he devised an ingenious mode of recording their daily industry by marks, for the purpose of determining when they should have a right to their discharge. The proposal met

²⁰Miss Mary Carpenter, "Our Convicts," p. 103.

²¹Carpenter, *Op. cit.*, p. 99.

with so much approval from the government of the day, that Captain Maconochie was sent to Norfolk Island for the purpose of trying the system he had recommended in the management of the convicts detained there. The experiment did not succeed, for reasons which were sufficiently obvious; but . . . the failure did not afford any reason for condemning the principle on which the scheme was founded, and, in fact, that principle has been adopted to a greater or less extent in all the various schemes of penal discipline which have been tried in the last twenty-five years. The result has been to establish the conclusion, that the hope of earning some remission of their punishment is the most powerful incentive to good conduct and industry which can be brought to act upon the minds of prisoners."²²

The report of this commission makes no mention of compensation as a part of the plan. But a detailed description of the Mark System found in an account of the Irish Penal System of that period gives this feature also. The Mark System was introduced into Ireland by Captain Knight, but it is expressly stated that the principle was originated by the Archbishop of Dublin or by Captain Maconochie.

"The maximum number of marks that each convict can obtain monthly is nine, but they are distributed under three different headings, namely, three for discipline, that is, for general regularity and orderly demeanor; three for school, that is, for attention and a desire for improvement or industry in the school . . . Three for industry, that is, industry at work, not skill, which may have been previously acquired."²³

A convict on entering the prison is informed that he must attain a maximum of marks during his detention to justify his obtaining a full remission of the term authorized by the regulations for the ticket of leave. If a man does not accumulate enough marks in the time it is his own fault, and he is kept back till he does.

Take the case of a man who is sentenced to three years' penal servitude, he must produce his document, and show that he is in the first class, with 90 marks made, before he can pass into the intermediate prison. He must then remain a certain time in the intermediate prison in proportion to his sentence.

There are four classes of prisoners in the stage at Spike Island, the third, the second, and the first, and the advanced "A" class. When they leave the separate prison they go into the third class. A convict may raise himself from the third to the second class in two months. To do so he would have to get the highest number of marks attainable, 18. He could pass from the second to the first class in six months, provided he attains 54 marks in that period. Then he can

²²*Carpenter*, Op. cit., Vol. II., p. 282.

²³*Carpenter*, Op. cit., Vol. II, p. 92.

go from the first to the "A" class in twelve months, provided he has attained a full number of marks each month. When a convict reaches the "A" class his progress is noted at A1, A2, and so on; any misconduct causes a loss of marks.

This rather lengthy explanation of the Mark System has been necessary as the "pay" of a prisoner depends on his class. A convict in separation receives no gratuity, but in the third class he receives 1d. a week, in the second class 2d., and in the first class 3d. and 4d. In the "A" class he receives from 7d. to 9d. The average amount of gratuities in Ireland is about one-half of what it is in England.²⁴

The largest amount of gratuity possible for a man under a sentence of four years' penal servitude to earn is as follows: He would be two months in the third class on public works without pay; and eight weeks at a penny per week which would amount to 8d. Then he would be for six months in the second class, or 26 weeks, at 2d. a week, making 4s. 4d. Then, for the first six months that he was in the first class, he would receive 3d. a week, and during the second six months, 4d., making for the year 15s. 2d. He could then enter the A class and remain there 26 weeks at 9d. a week, amounting to 19s. 6d. By that time he would be promoted to the intermediate prison where he would remain five months before his discharge. These five months at 2s. 6d. a week would net 2 pounds 12s. 6d. The total that a man of the best character could earn under the Irish system in serving a four years' sentence would be 4 pounds 12s. 2d.²⁵

The directors of the Irish prisons say that "The prisoners appreciate the 'Mark System' and show a great desire to attain high classification"; that after seven years' experience of the 'Mark System' we are entirely of opinion that it has been most successful in its results."²⁶

The English system differed at the time (roughly, 1860) from the Irish system in a few particulars. In England if a man's conduct was good in separate confinement, he went, on being removed to the public works, immediately into first class. And the gratuity which a man earned depended entirely upon the warden's report, checked by the superior officers. The convict received, if he had "very good," 9d. a week to his credit. If he had "good" he received 6d. per week. If he did not get "good" he received nothing. He also received, if he was in the first class 6d. a week from that; if in the second class, he got 4d. a week; and if in the third class, he got nothing. The grades

²⁴*Carpenter*, Op. cit., Vol. II, p. 93.

²⁵*Carpenter*, Op. cit., Vol. II, p. 102.

²⁶*Ibid*, p. 192.

"good" and "very good" were said to be irrespective of the general conduct of the prisoners, and indicated only a good report of their work. It was not always the worst characters who did the poorest work.

A scale of payments to convicts was authorized by the English secretary of state. The following is the scale as given by Captain O'Brien in his evidence to the Select Committee of 1856.

"Five pounds and under to be paid on discharge; above five pounds and under 8, four pounds to be paid on discharge and balance at the end of two months. Eight pounds and under 12, half to be paid on discharge and half at the expiration of three months. Twelve pounds and under 20, five pounds to be paid on discharge and half the remainder in two months, and balance at the expiration of three months more."²⁷

The gratuities to prisoners after their discharge were paid through the police, who investigated the character of the applicant, and if it was unsatisfactory did not pay them. In one year 240 pounds were so paid to 58 discharged prisoners through the police, and the gratuities of the others were paid to the Prisoners' Aid Society. One man received in two payments, 15 pounds 17s. 9d.; another received 10 pounds, and another 7 pounds 10s.

The gratuities of the English system provoked considerable unfavorable comment in their day.

Sir Richard Mayne expressed the belief that these gratuities diminished any deterring effect that sentences of penal servitude might otherwise have had. He regarded them even as an inducement to crime and cited the following incident as evidence of that fact: ". . . A man, two days ago, when he received his gratuity, stated that he knew that several persons in the agricultural district were very glad to get into prison, as they were so much better taken care of, and they had no fear whatever of it. . . ."²⁸

Captain Cartwright in a letter to the commissioners mentions the case of ten men who were convicted of arson at the Gloucester Winter Assizes, and sentenced to six years' penal servitude. "Many of these men made distinct statements that their object was to get a sentence of penal servitude, as they should thus learn a trade, and get plenty of money."²⁹

F. S. Rawlins wrote to the Times in 1864 of a man who had been three years and four months in Dartmouth prison. During this time he had earned 12 pounds 9s. 7d. besides his comfortable keep.

²⁷*Carpenter*, Op. cit., Vol. I, p. 136.

²⁸*Carpenter*, Op. cit., Vol. I, p. 137.

Thus we see that the penal wage paying system began in Massachusetts Bay Colony, where offenders were punished either by imprisonment in a local house of correction or in a county prison, or by being placed under some person in indenture to work out their fines. Even in the house of correction the offenders were frequently under the surveillance of some individual other than the keeper of the prison. Where the relationship was so local and personal it was easy and natural to provide for a wage payment as a part of the scheme.

In Pennsylvania this personal relationship was lacking, but the local element was present at the beginning of penal labor there, and provision was made for prisoners to receive a share of the fruits of their labor.

A change in social and economic conditions resulted in the state or county taking control of large numbers of prisoners, confining them in large institutions and directing their labor on public or state account. There was no change in purpose. It was still expected that the labor would net a profit and that part of it should go to the convict. But a change of purpose is easily to be accounted for when deficits result and the state has to assume the burden of these. The welfare of the convict was soon lost sight of and contract and lease systems were adopted for disposing of penal labor.

But no system that loses sight of the well being of the convict can prove satisfactory to society, however paying it may be in money. So with a reconsidering of the purposes of penal labor in the light of statistics on recidivism and criminality, men began to cast about for methods that would save convicts from a criminal's career. Notable among the efforts along this line is the experiment of Captain Maconochie on Norfolk Island. History seems to have proved the worth of the principles he advocated. This plan involved a wage payment. With this review of the movement before us we may now consider the recent efforts to reinstate this system and to survey the present situation in the United States with reference to payment of prisoners for their labor.

CHAPTER II

THE LEGAL SITUATION IN THE UNITED STATES WITH REFERENCE TO PAYING PRISONERS

Perhaps there is no better indicator of sentiment in certain fields than that of statute law. This is the case with the subject of paying prisoners. The existence of a statute sanctioning the paying of a wage to prisoners in certain or all the reformatory and penal institu-

tions of a state is an indication that the sentiment of the people of that commonwealth approve of some such scheme. The following review of the laws of the states shows how the tide of sentiment is flowing.

Alabama.—The State of Alabama allows its convicts to work for themselves after the performance of their daily tasks, in such a manner as may be prescribed by the rules of the Board of Inspectors. The proceeds of such labor is to be disposed of in such a way as the Board shall provide.³⁰

Each convict must be discharged from the penitentiary at the expiration of his term of confinement. He must be furnished with a decent suit of clothes and sufficient money to enable him to reach his destination. The amount of money must not exceed ten dollars.³¹

California.—This state is permitted to indemnify a person for the pecuniary injuries sustained through false arrest and imprisonment.³²

The State Board of Prison Directors is authorized and empowered by law to provide for assisting paroled and discharged prisoners and to secure employment for them. For this purpose it may employ one or more persons, may purchase tools, or give any other assistance that in the board's judgment may be necessary for carrying out the objects and spirit of this law.³³

Colorado.—The Board of Penitentiary Commission is empowered by law to adopt a special rule applicable solely to convicts employed on public works. This rule grants to convicts so employed additional good time allowance, conditioned upon their good behavior and cheerful compliance with all rules that may be made by the board or superintendent for the management and control of convicts so employed.

Every able-bodied convict is to be put to work and kept at work most suitable to his or her capacity and most advantageous to the State of Colorado and which may least conflict with the interests of the free labor of the state, during his or her confinement. The earnings of such convict, after deducting a sufficient amount to pay and satisfy the cost of maintenance and retention, is to be given to the family of the convict, or dependents if there are any. If there are none, the sum accumulated shall be paid to the convict himself upon his discharge from the penitentiary.

When any convict is discharged from the penitentiary he is given

²⁹Ibid., p. 295.

³⁰The Code of Alabama, Vol. III, p. 403, sec. 6351, 1907.

³¹Clay's Digest, "Laws of Alabama," pp. 207-408, sec. 6554.

³²Statutes and Amendments, Laws of California, p. 246, sec. 5, 1913.

³³Statutes and Amendments, Laws of California, p. 919, sec. 1.

the sum of five dollars, a new suit of clothes if he needs it, and a railroad ticket to the railway station which is at or nearest to the county seat of the county in which the crime was committed and from which the convict was sent. If the convict so desires he may receive from the warden five dollars in lieu of the railroad ticket; if the distance which such ticket would carry him should exceed ninety miles, he shall then receive from the warden ten dollars and no railroad ticket.³⁴

Connecticut.—Any person imprisoned in the state prison, who, by reason of good conduct and upon the recommendation of the warden, shall be deemed worthy by a majority of the directors, shall receive as compensation for services performed by him, a sum not to exceed ten cents per diem during the term of his imprisonment. Such sum shall be deposited in some savings bank, state bank or trust company, in the state under the direction of the board of directors and the warden, and with the interest accumulated thereon, shall be paid to such convict by the warden upon his discharge from said prison. The warden may pay to such person, with the advice and consent of the directors, during the term of such imprisonment, such sum as may, in his opinion, be necessary for the welfare of such convict.³⁵

Hawaii.—Any prisoner who has undergone a sentence of a year or more in the territorial prison, in case that person has not sufficient funds for present purposes, shall be furnished by the warden with five dollars and clothes costing not more than ten dollars.³⁶

Idaho.—Sec. 1. The probate judge of each county shall have authority, hereinafter provided, to make provision for the partial support of women whose husbands . . . are *prisoners* confined in the Idaho State Penitentiary . . . when such women are poor and are mothers of children under the age of fifteen years, and such mothers and children reside in such counties.³⁷

Illinois.—The warden furnishes the discharged convict with a suitable suit of clothes, transportation to the place of conviction, or the equivalent in money, and in addition ten dollars in money.³⁸

The commissioners are authorized, whenever they shall deem it expedient, to so make contracts for letting the labor of convicts or to permit each convict who performs his task in a workmanlike manner to have certain amount of labor allotted to him each day for a day's

³⁴Rev. Statutes of Colorado, 1919, p. 1165, 66, secs. 4888, 82, 84, 85.

³⁵The General Statutes of Connecticut, Revision of, 1918, Vol. I, p. 616.

³⁶Laws of the Territory of Hawaii, p. 34, sec. 1614a.

³⁷General Laws of the State of Idaho, p. 293, chap. 135. Passed at the Thirteenth Session of the State Legislature, 1915.

³⁸Annotated Statutes of the State of Illinois, p. 4682, 1913.

work, and the time gained after the performance of such task may be occupied in labor for contractors, the labor to be at the same rate or not less than that which may be agreed upon between said contractors and the convict. If any convict who has performed overwork is unable to perform full work on another day or days, no deduction shall be made from his overwork earnings on that account.

It shall be the duty of the officer in immediate charge of the convicts to take daily account of the overwork and report the same to the clerk at the end of each month. The commissioners shall receive money so earned the same as the money due the state from contractors, and an accurate and detailed account of all such moneys, by whom earned, time when, amount, and to whom payable shall be kept in a book provided for that purpose.

The contractors are required to pay the entire amount belonging to the convict for overwork at the end of each month. Each convict at the end of his term of confinement may draw his portion from the "overwork fund." He may at any time with the approbation of the warden, draw from the commissioners the amount due him or any part of it for the purchase of magazines or books for his own use. The convict may also, by order of the commissioners, at any time have money due him transmitted to his family or friends for their use or to be invested for him,³⁹ but for any other use the convict is prohibited from drawing money from this fund until discharge.⁴⁰

Indiana.—Whenever any person is discharged from the Indiana reformatory or state prison, the superintendent or warden is authorized to furnish him with a railroad ticket to any place he may desire to go, not farther from the institution than the place from which he was sentenced. He shall also give him ten dollars in money, a desirable suit of clothes, and from the first day of November to the first day of April, an overcoat, the cost of the suit not to exceed six dollars and that of the coat not to exceed five dollars.

It is the duty of the superintendent or warden to furnish to all paroled persons clothing and transportation as in the case of discharged persons. But if the paroled person receives his final discharge while away from the institution of the state issuing the discharge, the provisions of this act do not apply to such persons at the time of final discharge.⁴¹

³⁹Annotated Statutes of the State of Illinois, p. 4685.

⁴⁰The details of the situation in Illinois are discussed fully under a separate head.

⁴¹*Burn's Annotated Indiana Statutes*, Vol. 3, p. 1031.

Iowa.—The Board of Control of Iowa is permitted by law to allow prisoners who work upon the highways of the state such part of the earnings received by the prisoners as the board shall deem just and equitable over and above the cost of maintenance. It may deduct a part of such earnings and forward it direct to the family or persons dependent upon such prisoner for support. The board and warden may also provide for deposit of the earnings of such prisoners in a bank or banks to be given said prisoners upon their release. Part of the money may be allowed them for current expenses.

On discharge the warden furnishes the convict with transportation to a point nearest his home or to any place of like distance in the state, a suit of common clothing and not less than three nor more than five dollars in money.⁴²

The prisoner released on parole is provided with money, clothing and transportation to the place of employment, but no further allowance is made to him on his final discharge if this is granted while he is on parole.⁴³

The Mother's Pension law of Iowa also makes provision for a form of compensation to the dependents of prisoners as follows:

Mother's Pension.—Sec. 254, a20. . . . If the court finds that the mother of such dependent or neglected child is a widow and if the court further finds that such mother is poor and unable to properly care for said child, but is otherwise a proper guardian, and that it is for the welfare of such child to remain at home, the court may enter an order finding such fact and fixing an amount of money necessary to enable such mother to properly care for such child . . .⁴⁴

Sec. 254, a28. When considered the widow. Any mother whose husband is an inmate of any institution under the care of the Board of Control, shall, for the purposes of this act, be considered a widow, but only while such husband is so confined.⁴⁵

Kansas.—The Board of Directors of the State Penitentiary and State Reformatory are directed to pay out of the general funds belonging to the respective institutions to each convict employed by the state a sum of money, and such wage shall not be less than ten cents per day and may be raised from time to time above ten cents, where in the judgment of the superintendent or Board of Directors the work is of such quality and value as to warrant a greater amount. But in no case is the amount so paid to exceed twenty-five cents per day for

⁴²Acts and Joint Resolutions, Thirty-fifth General Assembly of the State of Iowa, p. 133, 1913. Supplement to the Code of Iowa, p. 1935, 1913.

⁴³Supplement to the Code of Iowa, p. 1171, 1907.

⁴⁴Supplement to the Code of Iowa, p. 118, 1913.

⁴⁵*Ibid.*, p. 119.

each day's work performed by the convict above the regular daily task assigned by the warden of the penitentiary or the superintendent of the reformatory, while in such institution. The amount of money earned by the convict shall be placed in a separate fund to his credit to be forwarded by the Board of Directors at the close of each month to any person or persons of his immediate family who are dependent upon such convict wholly or in part for their support. This dependence must, however, be shown by a written statement signed by the county commissioner and probate judge of the county in which such dependent persons live. If there are no such persons dependent upon the convict for support, then the fund shall accumulate to the individual credit of the convict until the close of his term, when the Board of Directors shall use a portion of it to supply the convict with suitable clothes. The remainder is given him to assist him in getting a new start in life. But the board or superintendent may use a portion of this fund for the purchase from time to time of small necessities for the convict without dependents.⁴⁶

The work of prisoners employed upon the public roads and highways of any county or the streets and alleys of any town or city is paid for at the rate of one dollar per day. This sum is paid to the warden who deducts sufficient amount to cover the expense of maintenance and retention and the remainder he gives to the family of the convict, or dependents, if there are any. If there are none, the sum accumulated is paid to the convict upon his discharge from the penitentiary.⁴⁷

Upon the release of any prisoner from the penitentiary the warden shall provide him with suitable clothing, ten dollars in money, and transportation for him to his place of employment. The same provisions pertain to any prisoner discharged by expiration of his maximum sentence, save that he shall procure transportation for said prisoner to his home, if within the state; if not, to the place of his conviction, or to some other place not more distant, selected by the prisoner.⁴⁸

Mother's Pension.—Be it enacted by the Legislature of the State of Kansas: Sec. 1. That Sec. 5545 of the General Statutes of 1909 be amended so as to read as follows: Sec. 5545. That the Board of County Commissioners may in their discretion allow and pay to poor persons who may become chargeable as paupers, and who are of mature years and sound of mind, and whose general character will probably be benefited thereby, and also the parents of idiots and of children otherwise helpless, requiring the attention of their parents, and who are unable to provide for

⁴⁶State of Kansas Session Laws, 1913, p. 524.

⁴⁷Session Laws of the State of Kansas, 1913, p. 393.

⁴⁸General Statutes of Kansas, 1909, p. 1462, sec. 6843.

said children themselves, such annual allowance as will not exceed the charge of their maintenance in the ordinary mode, the said board taking the usual amount of charges in like cases as the rule for making such allowance; provided, that in any case where the mother of any child or children under the age of sixteen years shall have the sole care and custody of such child or children by reason of such mother being a widow, divorced, or by reason of the husband of such mother being physically or mentally unable to earn a living for himself and family, or by reason of his being lawfully confined in any penal institution, or by reason of the husband of such mother having at all times for three months last past abandoned or deserted such mother without just cause, and where such mother has been an actual bona fide resident of the county for one year next preceding her application, and where such mother is a provident woman of good moral character, and a fit person to have the care and custody of such child or children . . ."⁴⁹

Louisiana.—The leases are required to furnish the convict at his or her discharge ten dollars and a coarse suit of citizen's clothes at the expense of the institution, if the board of control so authorizes.⁵⁰

Maine.—The master of the house of correction is required to keep an exact account of the earnings of each prisoner, and of the expense incurred for commitment and maintenance. He specifies the time of the convict's commitment and liberation and presents these on oath to the overseer of the poor of the town where such house is established, annually and oftener if directed. The town may recover the amount of such expense incurred for commitment and maintenance.

After this deduction has been made, if there is any excess from the prisoner's earnings such excess is paid by the overseers of the poor to or for the benefit of dependent or kindred of said prisoners.⁵¹

On discharge any convict who has conducted himself well during his imprisonment may receive from the warden a sum not exceeding ten dollars and, if he requests it, a certificate of good conduct. He is also provided with decent clothing.⁵²

The sheriff of any county in the State of Maine may, in his discretion, give a prisoner about to be discharged from the jail over which he has charge a sum of money not exceeding two dollars and wearing apparel not exceeding the value of ten dollars. He may also furnish the discharged prisoner a railroad ticket to any place, the fare of which does not exceed the sum of eight dollars.⁵³

⁴⁹State of Kansas Session Laws, 1915.

⁵⁰Constitution and Revised Laws of Louisiana, Vol. II, p. 1316.

⁵¹Act and Resolves of the '73 Legislature of the State of Maine, p. 114, 1907.

⁵²Revised Statutes of the State of Maine, p. 992.

⁵³Acts and Resolves of the Sixty-seventh Legislature of the State of Maine, p. 128, 1913.

Michigan.—The State of Michigan provides for the family of a deserting husband who has been sentenced to serve a term of imprisonment for such desertion as follows: If funds are available the warden of the state prison or the superintendent of the Detroit House of Correction, in which the convict may be, is authorized to pay over to any of the superintendents of the poor of the city or county in which his wife or children reside, the sum of two dollars and fifty cents per week for each child under fifteen years of age. If there be no wife and there are children under fifteen years, the sum of two dollars and fifty cents per week for the oldest and an additional sum of one dollar per week for each of the other children under said age is to be paid.⁵⁴

The Board of Control and wardens of the several state prisons in which manufacturing is done on state account are permitted, if it seems wise to them, to direct the payment to prisoners engaged in manufacture on state account, of a proper amount for overtime. This compensation must not exceed fifteen cents per day to any prisoner thus employed. The times and amounts of such payments are determined by the Boards of Control and wardens of the prisons and are made from the sale of manufactured product of the industry in which such convicts are engaged.⁵⁵

The warden furnishes the discharged prisoner with clothing, if he is not already provided for, not exceeding ten dollars in value and such sum of money, not exceeding ten dollars, as the warden may deem necessary and proper and the board of the prison may, in its discretion, furnish such convict with a further sum of money not exceeding fifteen dollars whenever in the opinion of such board the necessities of the discharged convict are such as require the same.

Minnesota.—Minnesota authorizes and empowers the Board of Control to provide for the payment to prisoners confined in the state prison or in the state reformatory, of such earnings as it may deem proper. Such earnings are to be paid out of the fund provided for the carrying on the work in which the prisoner is engaged when employed on state account, and by the contractor when the prisoner is employed under contract.

Any money arising under the above conditions shall be under the control of the state board, to be used for the benefit of the prisoner, his family or dependent relatives, according to the regulation of the board. Should any prisoner willfully escape from the state reform-

⁵⁴Public Acts of the Legislature of the State of Michigan, p. 331, 1913.

⁵⁵*Howell's* Annotated Statutes of the State of Michigan, p. 58, 1913.

atory or prison, or become a fugitive from justice, or commit any breach of discipline at either institution, the board may in its discretion cause the forfeiture of all earnings remaining to the prisoner's credit, and cause the same to be replaced in the fund from which it was originally taken.⁵⁷

The commissioners in charge of county work or correction farms may furnish aid weekly or less often, if necessary, to the family of any prisoner confined in such work farm, or to the guardian or other person or association in control and responsible for the care and support of any dependent child or children of said prisoner. Such aid shall not exceed fifty cents for each day's labor performed by the prisoner on the farms or elsewhere in the county.⁵⁸

Minnesota Mother's Pension.—Chapter 130, H.F. No. 2. Be it enacted by the Legislature of the State of Minnesota: Sec. 1. Court may order county to pay mother ten dollars per month for support of child, where the latter is a widow, or husband is in penal institution or insane asylum, or unable to support family . . . Whenever any child under the age of fourteen years shall be found to be dependent or neglected within the meaning of Chapter 285, General Laws, 1905, or Chapter 232, General Laws, 1909, or Chapter 27, Revised Laws, and it shall also appear that the mother of such child is a widow, or that her husband, if living, is an inmate of a penal institution or an insane asylum, or because of physical disability is unable to support his family, and that the dependent or neglected condition of such child is due wholly or in part to poverty of the mother and the want of adequate means to properly care for such child and the mother of such child is otherwise a proper person to have the custody of such child and that the welfare and best interests of such child will be subserved by permitting it to remain in the custody of its mother, the court may, in its discretion, file an order finding and determining such facts, and therein and thereby fix and determine the amount of money, not exceeding ten dollars per month, which it deems necessary for the county to contribute towards the support of such child in her own home.⁵⁹

Missouri.—Every prisoner confined in the Missouri State Penitentiary, who performs the work assigned to him by the officers, acceptably, and conforms to the rule and discipline of the institution, is allowed as a wage five per cent of his daily earnings for the peni-

⁵⁷Revised Laws of Minnesota, p. 1142, 1905.

⁵⁸General Laws of Minnesota, p. 242, 1913.

⁵⁹General Laws of Minnesota, 1913, p. 148.

Note.—Discharge allowance for United States prisoners in Minnesota Prison: On the discharge of any United States prisoners from Minnesota Prison, the warden shall provide such person with one plain suit of clothes and five dollars in money, for which charge shall be made and allowed in the accounts of said prison with the United States. This provision applies only to persons sentenced for a period of six months or more.

Eighteenth Biennial Report, Minnesota State Prison, 1913-1914, p. 118.

tentiary. The sum thus accruing to the prisoner's credit is set apart at the end of each quarter.

A sum not less than fifteen dollars is allowed to accumulate for the use and benefit of each prisoner after release from penitentiary.

All over this amount may be used for the support of the prisoner's family or other persons rightfully dependent upon the prisoner, or for the purchase of necessities not furnished by the institution or for other necessary expenses of the convict. The money is paid to relatives or dependents of the prisoner only in case they are in need. In case of life prisoners no sum is accumulated from their earnings. The entire five per cent of the earnings of every such convict is to be used for the support of rightfully dependent persons. If the life prisoner has no one dependent, his entire earnings go into the gross earnings of the institution.

The warden and inspector may, in making contracts, permit each convict who performs his work in a workmanlike manner to have a certain reasonable amount of labor assigned him for each day as a day's work. The contractor and the warden determine this amount. The time gained after the performance of such tasks may be employed in labor for such contractor at a rate agreed upon by convict and contractor, but at a rate not less than that paid to the state. If for any reason the deduction from any overwork which he has performed shall be made, the officer in immediate charge of the convicts keeps account of the overwork earnings and returns the record of it to the state. A record of it is also furnished to the convict at the end of each month. The state collects this money the same as its own, but the convict is permitted to draw any part of it at any time with the consent of the warden for the purchase of books or magazines or for remitting to his family. For any other purpose the convict is forbidden to draw any money until his discharge.

The inspector may, upon the recommendation of the warden, at the end of each month, cause to be placed to the credit of any convict engaged in doing work for the state, and who shall not be guilty of any infraction of the rules of the prison, and who shall not have lost any time the preceding month, such limited amount as in their judgment will encourage a more cheerful performance of work. This sum is subject to the same rules as apply to overwork.⁶⁰

Missouri Mother's Pension.—Chapter I. In every county now containing or that may hereafter contain 250,000 inhabitants and less than 500,000 inhabitants and in which a Juvenile Court is now being held or

⁶⁰The Revised Statutes of the State of Missouri, Vol. I, pp. 579-581, 1909.

may hereafter be held, it shall be the duty of the County Court to provide out of moneys in the county treasury, not already appropriated, an amount sufficient to meet the purpose of partial support of women whose husbands are dead, or whose husbands are prisoners, when such women are poor and are mothers of children under the age of fourteen years, and such mothers and children reside in such counties.

Section II. Monthly allowance. Ten dollars a month for one child under fourteen years and if more than one child under the age of fourteen years it shall not exceed the sum of ten dollars a month for the first child and five dollars a month for each of the other children under the age of fourteen years.⁶¹

Mississippi.—The State of Mississippi pays to each convict dismissed from the state penitentiary ten dollars in cash and also provides him with a suit of clothes.⁶²

Montana.—This state provides that whenever any convict is discharged from imprisonment the warden must provide him with proper and sufficient clothing, at a cost not exceeding twenty-five dollars, and must pay him in addition five dollars in money.⁶³

Montana Mother's Pension.—Section 1. Every dependent child under the age of fourteen years whose father is dead or an inmate of some Montana state institution of charity or correction is entitled to financial aid, said aid to be given to the mother of said child or children.

Section 2. Amount of allowance. Ten dollars per month if there is one child, seven and a half per month for the second child and two dollars and a half per month for each additional child, said money to be paid to the mother of said child or children.⁶⁴

Nebraska.—Revised Statutes of Nebraska for 1913 read as follows:

Section 139. State convicts, Employment of. . . . Under the direction of the Board of Commissioners of State Institutions, the warden shall employ as many prisoners as necessary in the manufacture of all such articles used by state institutions as it may be found practicable to manufacture without prejudice to the inmate labor of other state institutions; and he may manufacture for sale generally any article whose manufacture will involve, in the opinion of said board, a minimum of competition with free labor. To this end the warden shall procure machinery, prepare shop room, and employ such persons as may be necessary to instruct the prisoners in such manufacture.

The Board of Commissioners of State Institutions may let the services of the prisoners outside of the Penitentiary to counties, cities, villages

⁶¹Laws of Missouri, Forty-sixth General Assembly, 1911, pp. 120-121.

⁶²Biennial Report of the Mississippi State Penitentiary for the Years 1907-1909.

⁶³The Revised Codes of Montana, 1907, pp. 894-1907.

⁶⁴Laws, Resolutions and Memorials of the State of Montana. Passed by Fourteenth Session, 1915, pp. 112-113.

within the state and to other state institutions, for the purposes hereinafter set forth. Such counties, cities, villages or state institutions shall furnish board and lodging to such prisoners and shall pay to the warden for each prisoner so furnished such sums as shall be agreed upon by the contracting parties. But only such prisoners shall be permitted to work outside the penitentiary as have proven themselves trustworthy and who give the warden a pledge that they will make no attempt to escape.

Section 140. The services of prisoners shall not be let to any individual, firm or corporation, within or without the penitentiary, except as provided in this act.

All labor for the erection of buildings for the penitentiary or for any other state institution and all repairs to present buildings, whenever practicable, shall be performed by prisoners under the direction of proper instructors and foremen skilled in the trade, if there are no persons qualified to instruct or superintend the same.

All labor performed by prisoners as herein provided shall be charged to the institution where the same is performed at a rate to be fixed by the Board of Commissioners of State Institutions.

Section 142. Any county, city or village in the state, through its proper officials, may contract with the warden, subject to the approval of the Board of Commissioners of State Institutions, for prison labor in building, repairing roads or highways, streets, or alleys or in the erection of public buildings, or the improvement, repair and laying out of any parks or public grounds, at a wage to be agreed upon; and such county, city, or village shall provide for the board, lodging, and safe keeping and guarding of such prisoners to the satisfaction of the warden and said Board of Commissioners.

Section 143. The warden shall keep account of the earnings of each prisoner, the nature of the crime for which he is imprisoned and his deportment, and as a matter of discipline, may make deductions from such wages for a violation of the rules, want of propriety or any misconduct.

Section 144. The warden shall be charged with the duty of making the state penitentiary as nearly self-sustaining as possible and with providing sufficient labor for the prisoners as provided for in this act, to enable them to earn something for themselves and their families and to promote their physical and moral welfare. Provided, if it is impossible to obtain the labor and the employment for prisoners as herein before provided in this act, and prisoners are therefore forced into idleness, then in such case the warden shall, subject to the approval of the Board of Commissioners of State Institutions, enter into contracts with any person, firm or corporations to provide labor for idle prisoners upon such terms and conditions as may be for the general physical and moral welfare of said prisoners and a profit to the state; but such contract shall be entered into for the employment of said prisoners in such district only as, in the opinion of said board, involves a minimum of competition with free labor.

Section 146. One-half of the amount credited to each convict or person confined shall constitute a fund for the relief of any person or persons dependent upon such convict and shall be paid upon the order of the Board of Commissioners of State Institutions to the person or persons

establishing such dependency to the satisfaction of said board, at such time or times as said board may order.

Whereas an emergency exists, this act shall take effect and be in force from and after its passage and approval.⁶⁵

Nevada.—Convicts detailed for work upon the public roads are allowed ten cents for each day's labor. The fund accumulated by this allowance is paid to the convict on his discharge or release on parole and is in addition to the sum of money ordinarily given to discharged convicts.

By petition the convict may have paid out of the sum to his credit, according to the discretion of the board, any portion he chooses for the support of the dependent wife, children or parent if such are in distress.⁶⁶

Whenever any prisoner is discharged from the state prison the warden furnishes him twenty-five dollars in coin.⁶⁷ The same amount is advanced by the warden to each paroled prisoner, subject to the authorization of the boards.⁶⁸

Nevada Mother's Pension.—Section 1. It shall be the duty of the county commissioners of each county in the state, and they are hereby empowered and authorized, to provide funds in an amount sufficient to meet the purposes of this law, for the support of widows whose husbands are dead or are inmates of a penal institution . . . and who are unable to support their children, when such women are destitute or are dependent upon their own efforts for the maintenance of their children and are mothers of children under the age of fifteen years, and such mothers and children reside in such counties in the state.

Section 2. Allowance not to exceed fifteen dollars per month when mother has but one child under fifteen years of age, and if she has more than one child under the age of fifteen years, it shall not exceed the sum of fifteen dollars a month for the first child and five dollars a month for each of the other children under the age of fifteen years.⁶⁹

New Mexico.—Upon the release of any prisoner by parole or discharge the superintendent shall provide him with suitable clothing, five dollars in money and a railroad ticket to the place of conviction.⁷⁰

New York.—Every prisoner in a New York institution (penitentiary or reformatory) who is entitled to a diminution of his sen-

⁶⁵Laws, Resolutions, and Memorials, State of Nebraska, at the Thirty-fourth Session, 1915, pp. 303-304.

⁶⁶Statutes of the State of Nevada, pp. 577, 1913.

⁶⁷Revised Laws of Nevada, Vol. 2, p. 2100.

⁶⁸Revised Laws of Nevada, Vol. 2, p. 2111.

⁶⁹Statutes of the State of Nevada, Twenty-seventh Session, 1915, pp. 151, 152, and 153.

⁷⁰Acts of the Legislature, Assembly of the Territory of New Mexico, p. 77, 1909.

tence by good conduct may receive compensation from the earnings of the institution. This compensation is to be graded by the agent and warden of the institution in which the prisoner is, but in no case shall the pay allowed to prisoners exceed ten per cent of the earnings of the institution. The difference in the rate of compensation shall be based both on the pecuniary value of the work performed, and also on the conduct of the prisoner. For misconduct or violation of the rules or regulations of the institution, he shall forfeit out of the compensation allowed fifty cents for each day of good time so forfeited; fines for various offenses may be levied against the prisoner's earnings.

The prisoner during his confinement may draw upon the surplus standing to his credit only upon the certified approval of the superintendent of state prisons for disbursement by the agent and warden of the prison or superintendent of the reformatory to aid dependent relatives of such prisoner, or for such other purposes as the superintendent of state prisons may approve; any balance to the credit of the prisoner at the time of his conditional release is subject to the draft of the person in such sums and at such times as the superintendent of state prisons shall approve. But at the time of his final release the whole amount of the credit balance is subject to his draft at his pleasure. Any prisoner violating his conditional release thereby forfeits any balance. And the amount so forfeited is transferred to the fund in aid of discharged prisoners.⁷¹

North Dakota.—All prisoners when employed, either inside or outside of the penitentiary, shall receive not less than ten or more than twenty-five cents per day for work actually performed, as may be awarded by the warden, according to services rendered. The warden may assign a reasonable daily task to be performed by each convict and the compensation of such convict shall be in proportion to the amount of work he performs. In case he performs the daily task assigned him he receives the maximum compensation provided.

The money so earned shall be placed to the credit of such prisoner and sent monthly to anyone dependent upon him for support, as determined by the field officer. However, a fund of fifty dollars must be accumulated during the term of confinement and retained to be given to the prisoner when his term expires or he is discharged. Twenty-five dollars is to be given to him when he leaves the prison. If he conducts himself properly the warden sends him the balance, not

⁷¹Annotated Consolidated Laws of the State of New York, pp. 4338-4339.

to exceed twenty-five dollars, when in need, or at the end of three months after leaving the penitentiary. If he does not conduct himself properly, as determined from the report of said field officer, the remainder is to be sent to those dependent upon him.

In case the prisoner has no dependents to support, his earnings are to accumulate, and twenty-five dollars is paid to him when he is discharged. Twenty-five dollars more is to be paid to him if he conducts himself properly and becomes hard up at any time. The field officer is the judge of such matters. Another sum not to exceed twenty-five dollars is to be paid to the prisoner at the end of six months upon the recommendation of the field officer, that he is satisfied with the conduct of such prisoner during said period. Should the prisoner after leaving prison be arrested and convicted and sentenced to prison again the balance of the fund to his credit shall be forfeited and go into a fund created for the benefit of prisoners confined in the penitentiary.⁷²

Ohio.—For the purchase of material and machinery used in manufacturing industries, for paying of compensation to employees necessary to carry on said industries, and for providing a fund out of which prisoners confined in penal institutions may be paid a portion of their earnings in the manner hereinafter provided, an especial appropriation shall be made to be known as the manufacturing fund. Receipts from the sale of manufactured articles shall not be turned into the state treasury, shall be credited to said fund, to be used for the purchase of further material, machinery and supplies for such industries for payment of compensation to employees necessary to carry on said industries, and for payment to convicts or their families as hereinafter provided, and the board of administration shall make a four-monthly report of the products, sales, receipts, disbursements and payments to and from said fund to the state auditor.

The board of administration may place to the credit of each prisoner such amount of his earnings as it deems equitable and just, taking into consideration the character of the prisoner, the nature of the crime for which he was imprisoned and his general deportment. Such credit shall not exceed the difference between the cost of maintaining such prisoner and the amount his labor, in the opinion of the board of administration, is reasonably worth. The earnings so credited to such prisoner shall be paid to him or his family out of said manufac-

⁷²Laws passed at the Thirteenth Session of the Legislative Assembly of the State of North Dakota, pp. 352-353, 1913.

turing fund at such time, in such manner and in such amounts as the board of administration directs. The board of administration may cancel all or any portion of the earnings credited to a prisoner for violation of rules, want of propriety, or any other reasons which in its judgment justify such action.⁷³

Ohio Mother's Pension.—Section 1683-2. For the partial support of women whose husbands are dead or become permanently disabled for work by reason of physical or mental infirmity, or whose husbands are prisoners . . . when such women are poor, and are mothers of children not entitled to receive an aid and schooling certificate, and such mothers and children have been legal residents in any county of the state for two years, the juvenile court may make an allowance to each of such women as follows: Not to exceed fifteen dollars a month when she has but one child not entitled to an aid and schooling certificate, and if she has more than one child not entitled to such certificate, it shall not exceed fifteen dollars a month for the first child and seven dollars a month for each of the other children not entitled to an aid and schooling certificate. The order making such allowance shall not be effective for a longer period than six months, but upon the expiration of such period, said court may from time to time extend such allowance for a period of six months or less. Such homes shall be visited from time to time by a probation officer, agent of an association or charities organization, a humane society, or such other agent as the court may direct, provided that the person who actually makes such visits be thoroughly trained in charitable relief work, and the report or reports of such visiting agent shall be considered by the court in making such order.

Section 1683-6. The provisions of this act shall not apply to any women who, while her husband is in prison, receives sufficient of his wages to support the child or children.⁷⁴

Oregon.—Any person convicted of family desertion is to be compelled to work upon the county roads or some other public work of the county, and the county is to pay for the support of his wife or child at the rate of one dollar per day of the sentence served, except Sundays and holidays.⁷⁵

Upon the discharge of any convict from the penitentiary, it shall be the duty of the warden to see that such discharged or paroled convict is properly clothed, and in all cases where a convict is finally discharged it shall be the duty of the warden to pay such discharged convict the sum of five dollars.⁷⁶

⁷³Ohio Legislative Acts, Vol. CV, 1915, Sec. 1866.

⁷⁴Ohio: Joint Resolutions, Eighteenth General Assembly, Vol. CIII, 1913, pp. 877, 878, and 879.

⁷⁵General Laws of the State of Oregon, p. 55, 1913.

⁷⁶General Laws of the State of Oregon, p. 129, 1913.

Oregon Mother's Pension.—Section 1. Every woman who has one or more children under the age of sixteen years and whose husband is either dead or is an inmate of some Oregon state institution, or by reason of physical or mental diseases is wholly unable to work and whose support and the support of whose child, or children, is dependent wholly or partly upon her labor, shall be entitled to the assistance as provided for in this act for the support of herself and her child or children; provided, she may have a previous residence of three years in the state, and one year in the county in which application is filed.⁷⁷

Pennsylvania.—An act providing a system of employment and compensation for the inmates of certain penal and correctional institutions and making an appropriation therefor:

Section 11. Hereafter an account shall be kept by the proper officers of the Western Penitentiary, the Eastern Penitentiary and the Pennsylvania Industrial Reformatory at Huntington, and the other correctional institutions hereafter established by the commonwealth, of the labor performed by all prisoners under sentence in such institution. In such account the prisoners shall be credited with wages for the time he is actually engaged in work, the rate of such wage and the amount credited to each to be regulated at the discretion of the Prison Labor Commission or such persons as they may designate. In no case shall the amount be less than ten cents nor over fifty cents for each day of labor actually performed. The difference in the rate of compensation shall be based both upon the pecuniary value of the work performed, and also on the willingness, industry, and good conduct of such prisoner.

Section 12. Three-fourths of the amount credited to each prisoner or the entire amount if the prisoner so wishes, shall constitute a fund for the relief of any person or persons dependent upon such prisoner, and shall be paid, upon the order of the Prison Labor Commission, to the person or persons establishing such dependency to the satisfaction of said board, at such time and times as said board may order.

Section 13. In case a prisoner has no person or persons dependent upon him, the sums so credited shall be invested for the benefit of such prisoner under the rules and regulations of the Prison Labor Commission; and the sum so credited, together with the accrued interest of the same, shall be paid to the said prisoner, one-third on discharge of prisoner, one-third in three months after his discharge and the balance in six months after his discharge.

Section 14. All wages paid under the provisions of this act shall be charged to the manufacturing fund provided for in Section 10 of this act.⁷⁸

Hereafter the inspectors⁷⁹ or warden may, if they think it expedient, furnish to a discharged convict any sum not exceeding ten dollars out of the annual appropriation made by the state for that purpose.⁸⁰

⁷⁷General Laws and Joint Resolutions and Memorials, State of Oregon, 1915, pp. 97, 98 and 99.

⁷⁸An Act Providing a System of Employment and Compensation.

⁷⁹Report of the Penal Commission, 1915, p. 34.

⁸⁰Statutes of the State of Pennsylvania, p. 3495, Vol. III.

Rhode Island.—When the convict is discharged he is to be decently clothed. The board may in its discretion pay to him a sum not exceeding one-tenth of the average compensation of convict labor during the period of his incarceration. In case he has been unable to work because of sickness or other incapacity, he may, in the discretion of the board, be paid a sum not exceeding one-tenth of the average compensation of convict labor during the time of his sickness. Instead of paying to the convict at discharge the board may pay at any time during the imprisonment of the convict the amount due him to needy friends or relatives. But not less than five dollars is to be paid to the convict at his discharge.⁸¹

South Dakota.—Such amount of the prisoner's earnings as Board of Charities and Corrections and the warden of the penitentiary may deem best, taking into account the character of the prisoner, his family, the nature of the crime for which he is imprisoned and his general deportment may be placed to his credit. These funds are to be paid to the prisoner's dependent family, or to him at such times and manner as the board and warden may deem best.

The allowance to a life prisoner is to be paid only to dependents of his family. If he has none, a sum not to exceed five cents per day may be allowed to such prisoner himself in the discretion of the board. At least twenty-five per cent of a prisoner's earnings must be kept back and paid to the prisoner at the time of his discharge, either in a lump or in installments as it seems best for the prisoner.

The warden and board may, as a punishment for violations of the rules or other misconduct, withhold such a portion of the earnings as would otherwise be paid to the prisoner personally or to his dependents.

Very similar provisions apply to inmates of the training school at Plankton.⁸²

South Dakota Mother's Pension.—For the partial support of women whose husbands are dead or become permanently disabled for work by reason of physical or mental infirmity, or whose husbands are prisoners . . . when such women are poor and are the mothers of children under the age of fourteen years, and such mother and children are legal residents in any county of the state, the county court is hereby authorized and empowered to and shall make an allowance to each of such women, upon petition and notice hereinafter set out, as follows: Not to exceed fifteen dollars a month when such woman has but one child under the age of fourteen years, it shall not exceed fifteen dollars per month for the first

⁸¹General Laws of Rhode Island, Revision of 1909, p. 133.

⁸²The Laws Passed at the Eleventh Session of the Legislature of the State of South Dakota, pp. 209-210, 1909.

child and seven dollars per month for each of the other children under the age of fourteen years . . .⁸³

Tennessee.—Upon granting parole to any person the warden furnishes him or her suitable clothing, if not already provided for, not to exceed ten dollars in value, and a sum of money not exceeding ten dollars as the warden may deem proper.⁸⁴

On discharge the convict is paid from one to five dollars, in the discretion of the warden.⁸⁵

Texas.—Every prisoner entitled to a diminution of his term of sentence by good conduct is to receive compensation from the earnings of the state prison to the amount of ten cents per day from the time said prisoner is confined in prison, but when any prisoner forfeits any of his good time, for misconduct, he forfeits out of the compensation allowed twenty-five cents for each day of such good time so forfeited. When a prisoner has a family or relatives within the second degree of consanguinity or affinity dependent upon him the savings are to be paid semi-annually to such of them as the prisoner shall designate. If there are no such relatives the savings are to be paid to him upon his discharge from prison. If he be a life prisoner, such savings may be paid, as directed by him, with the commissioner's approval.⁸⁶

The above section was declared unconstitutional by the attorney general of the State of Texas in 1913 and was amended at a special session of the legislature in 1917. The law now reads as follows:

Every prisoner who shall do extra work or work over time shall be entitled to a credit for the same and diminution of time, as herewith provided, as commutation time for good conduct now provided by law in Article 6217 of the Revised Civil Statutes of 1911; provided, such commutation time may be forfeited in whole or in part by the Prison Commission for misconduct or violation of the rules of the prison system as amended.⁸⁷

Discharge allowance . . . The warden is authorized to furnish the discharged convict with a suit of clothing of good quality and fit, two suits of underwear, one pair of shoes and a hat, one shirt, five dollars in money in addition to any money which he may have to his credit with the prison commission and redeemable and non-transferable railroad transportation to the place from which he was sentenced or to such place as he may desire; provided, that the same be no greater distance from the place where he is released than the place from which he was sentenced.⁸⁸

⁸³Laws Passed at the Fourteenth Session of the Legislature of the State of South Dakota, p. 486, 1915.

⁸⁴Supplements to the Shannon Code of the State of Tennessee, p. 878.

⁸⁵Acts of the State of Tennessee, p. 1054, 1905.

⁸⁶McEachin's Annotated Civil Statutes of Texas, p. 2302.

⁸⁷General and Special Laws of Texas, Thirty-fifth Legislature, 1917, p. 51.

Utah.—Deserving prisoners may receive part of their earnings according to rules adopted by the board. The unmarried prisoners receive not more than ten per cent of their earnings and that at discharge; the married prisoners, not more than twenty-five per cent of their earnings, to be delivered to their families if living within the state and in need. If married prisoners have no resident families they receive the same as the unmarried and that at discharge.⁸⁹

When the convict is discharged the warden furnishes him with clothing, if he is not already provided for, not to exceed ten dollars in value, and such a sum of money as the warden may deem necessary and proper, provided the prisoner has less than ten dollars in earnings to his credit. The board may, in its discretion, furnish the convict with a further sum of money, not exceeding fifteen dollars, whenever in its opinion the necessities of the convict are such as to require the same. Instead of paying the convict the sum allowed the warden may, in his discretion, expend the money, or a portion of it, to pay the car fare of the convict to his home or place of destination.⁹⁰

Vermont.—Any convict who so conducts himself for any month that no charge of misconduct is sustained against him is entitled to a deduction of five days for each such month, and if he is poor and destitute he may receive one dollar for each such month when finally discharged. A reduction of five days and of one dollar for any month is to be made when any charge of misconduct is sustained. But in no case is the amount of the payment on discharge to exceed one hundred dollars.⁹¹

The superintendent of the house of correction may, in his discretion, and at the expense of the state, furnish a discharged convict with a railroad ticket to his home.⁹²

Virginia.—The board may, in its discretion, allow a convict on his discharge not more than ten dollars. He is provided with a certificate of transportation to his home county and a suit of coarse clothing.⁹³

Washington.—The court may direct that the person sentenced to imprisonment in the county jail for family desertion shall be compelled to work upon the public roads or other public works during the term of such sentence. The county commissioners are to allow to the wife or the guardian of the children of such convict at the end

⁸⁹The Compiled Laws of the State of Utah, pp. 816 and 820, 1907.

⁹⁰The Compiled Laws of the State of Utah, pp. 816 and 820, 1907.

⁹¹Statutes of the State of Vermont, pp. 936 and 926, 1895.

⁹²Acts and Resolves of the State Legislature of the State of Vermont, p. 164, 1908.

⁹³Code of Virginia, Vol. 2, p. 2165, 1904.

of each month a sum not to exceed one dollar and five cents for each day's work done by the prisoner.⁹⁴

Wisconsin.—The discharged convict is provided with a decent suit of clothes and a sum of money not to exceed five dollars in addition to transportation to any place within the state. He may also be allowed employment in the prison for a period of time and at a rate of compensation such as the warden under the direction of the state board may deem proper and equitable.

Any prisoner who, by continual good behavior, diligence in labor or study or otherwise, surpasses the general average of convicts, may be compensated by a money allowance out of his earnings or otherwise at his discharge or while in prison, according to such rules as the board may adopt.⁹⁵

Wyoming.—Every prisoner entitled to a diminution of his time of sentence by good conduct may, in the discretion of the commission, receive compensation from the earnings of the prison in which he is confined. This compensation is to be graded by the commissioners for the prisoners under their care, but in no case is the compensation allowed to exceed ten per cent of the earnings of the penitentiary in which they are confined. The difference in rate of compensation is based on the pecuniary value of the work performed, the willingness, industry and good conduct of the prisoner. Any prisoner who forfeits his good time conduct forfeits out of the compensation allowed not more than fifty cents for each day of good time so forfeited. Life prisoners are entitled to the benefit of this provision when their conduct is such as would entitle other prisoners to a diminution of sentence.

Fines may be imposed in the place of other penalties and punishments and deducted from the compensation standing to the credit of any prisoner. The moneys received from fines are credited to a general fund, to be disbursed by the direction of the commission as a special aid to discharged and paroled prisoners who are infirm or in any way incapable of earning a sufficient subsistence after their release.⁹⁶

Any person who has been in the penitentiary not less than six months is entitled to a suit of clothes not exceeding fifteen dollars in value and five dollars in money on his discharge.⁹⁷

Wyoming Mother's Pension.—Section 1. Whenever any woman whose

⁹⁴Session Laws of the State of Washington, p. 72, 1913.

⁹⁵Wisconsin Statutes, pp. 2108 and 2111, 1911. Wisconsin Statutes, p. 2258, 1915.

⁹⁶Session Laws of the State of Wyoming, p. 82, 1911.

⁹⁷Compiled Statutes of the State of Wyoming, p. 205, 1910.

husband is dead or has become permanently disabled for work by reason of physical or mental infirmity or is a prisoner . . . and such woman is poor and is the mother of children under the age of fourteen years and such mother and children have been legal residents in any county of the state for one year, the district court or the judge thereof may make an allowance to such woman as follows:

First, not to exceed twenty dollars a month, when she has one child under the age of fourteen years, and if she have more than one child under that age, such allowance shall not exceed twenty dollars for the first child and ten dollars a month for each of the other children under that age. The order making such allowance shall not be effective for longer than six months, but upon the expiration of such period said court may renew this order. The home shall be visited from time to time by a probation officer or other agent appointed by the court; provided, that the person who actually makes such visits shall be thoroughly trained in charitable relief work, and the report or reports of such visiting agents shall be considered by the court in making such order.⁹⁸

The above review of the laws of the states clearly shows the present status of this movement on its legal side. The following is a classification of the states according to their laws:

A few states make no provision for any compensation whatever: Arizona, Arkansas, Delaware, Florida, Georgia, Maryland, Massachusetts, North Carolina, South Carolina.

Some provide only for a discharge allowance: Hawaii, California, Indiana, Louisiana, Montana, Mississippi, New Mexico, Oregon, Tennessee.

Some allow pay for overwork or excess earnings: Alabama, Illinois, Oklahoma, Virginia, Wyoming.

Others have a definite plan for paying a wage: Colorado, Connecticut, Iowa, Kentucky, law declared unconstitutional; Kansas, Maine, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New Hampshire, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, law declared unconstitutional and amended later; Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming.

The following states have made provision for the needy dependents of the husband and father while he is in prison by a mother's pension: Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, Ohio, Oregon, South Dakota, Wyoming. In other states it is probable that in individual instances allowances are granted from the mother's pension fund to the wife and children of convicts. This payment of an allowance is not to be confused, however, with a system of wages for prison labor.

⁹⁸Session Laws of the State of Wyoming, Thirteenth State Legislature, 1915, pp. 25, 26, and 27.

(To be continued.)