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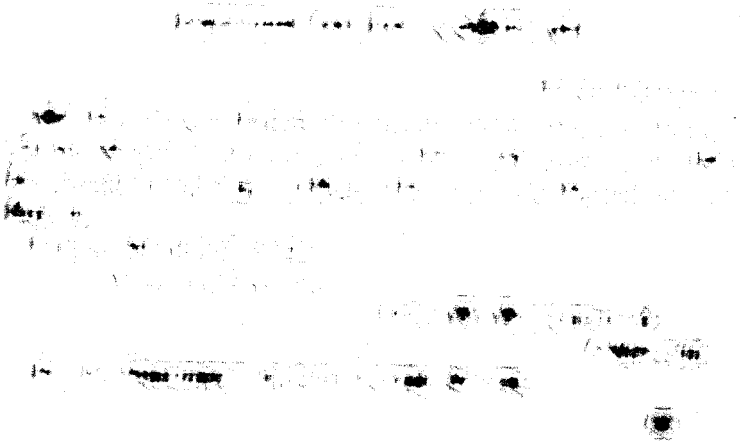

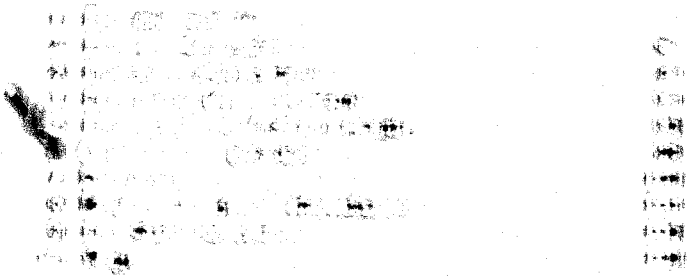

REPORT ON PENAL INSTITUTIONS, PROBATION AND PAROLE—Con. [illegible]

IV. Education [illegible]

1. The failure of the community [illegible]
2. Objectives of prison education [illegible]
3. The educational program of [illegible] [illegible]
4. Prison libraries [illegible]
5. [illegible] [illegible]
6. Prison education [illegible] [illegible]
7. The prison community [illegible]
8. Group [illegible] [illegible]

V. Parole [illegible]

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VI. Probation [illegible]

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VII. Conclusions and recommendations [illegible]

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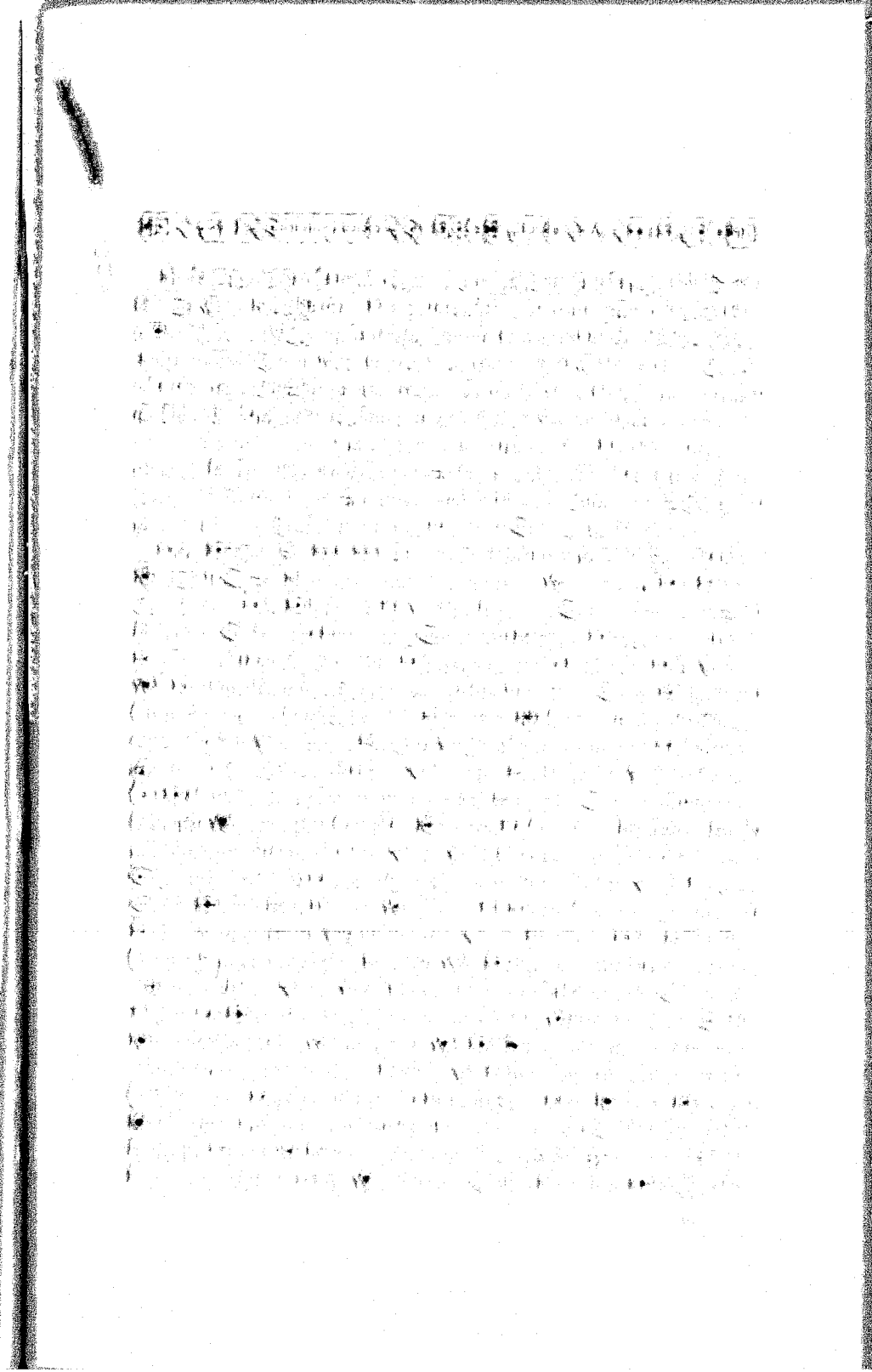
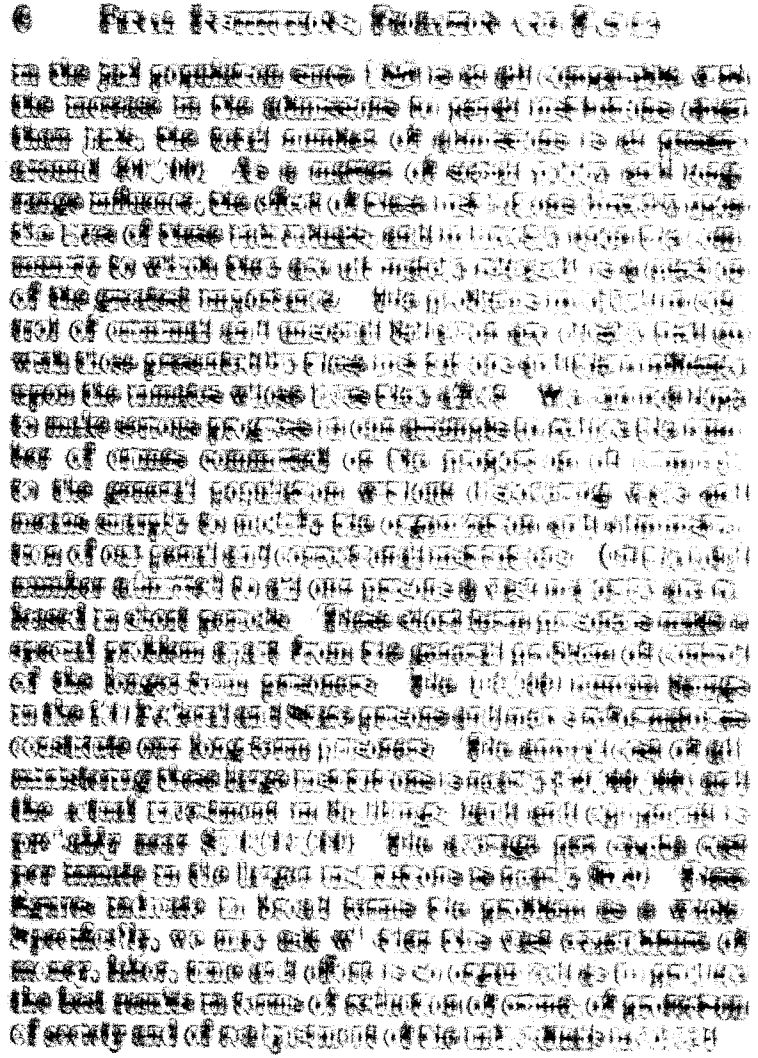
REPORT

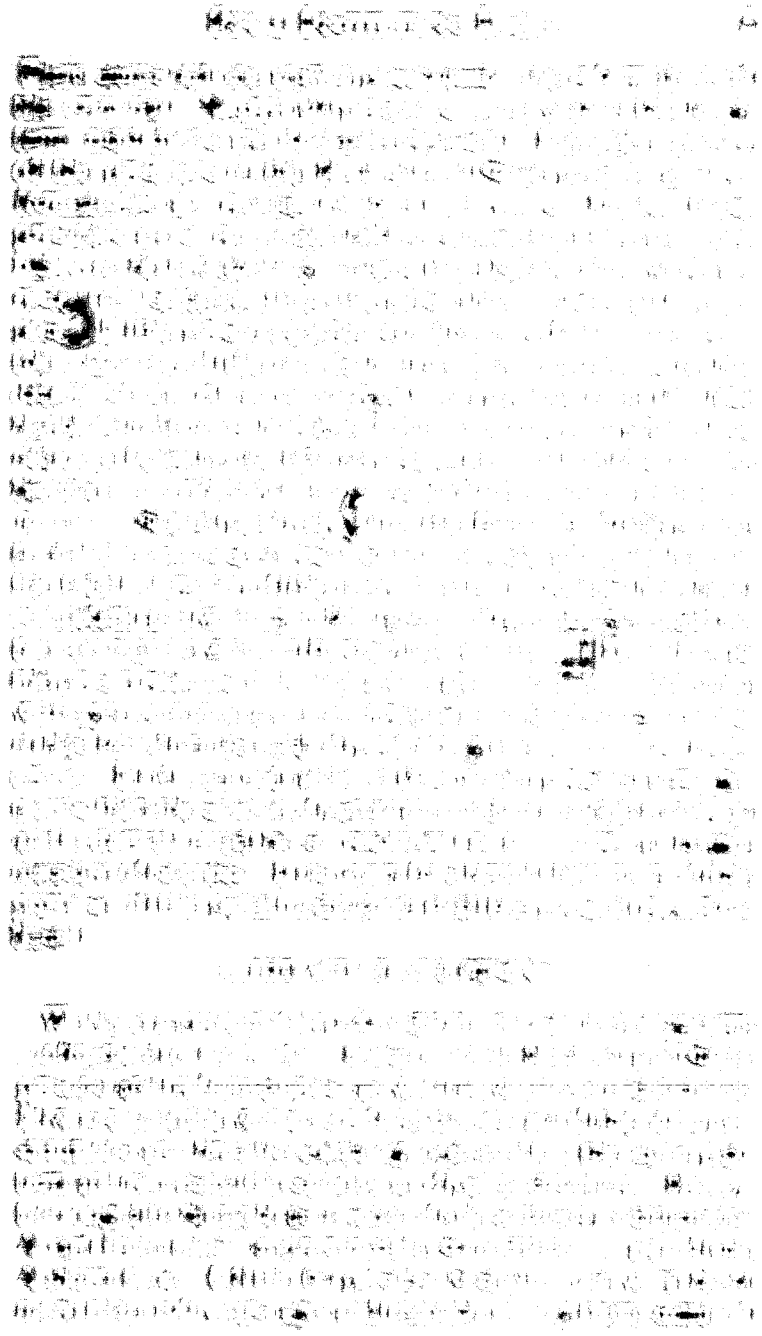
ON

PENAL INSTITUTIONS

PROBATION AND PAROLE







penal institutions, indicate a very clear fact—the sense of fear that exists on the part of the penal administration against possible outbreaks and violence and the insistence that the guards and officers must be ready at any moment to suppress riot, prevent escapes and make violence impossible. Here is a large community of young men who are to be kept in safety against their will, even at the hazard of life, by men who are not permitted to hold more than formal converse with them. The rules of one prison require that no prisoner shall come nearer than five paces to the officer and that he must fold his hands over his breast with both palms open and visible. Such rules show sufficiently fear and suspicion between the two groups.

To understand what makes discipline so difficult, we must study the prison as a community. Prison discipline has broken down frequently just because the warden has failed to recognize that he is dealing with a social phenomenon containing within itself the seeds of social cohesion, moral leadership and a sense of right and wrong—a right and wrong in terms of the attitudes of the prison community, but real and effective none the less. The failure to recognize this fact has given support to the individual inmate in his struggles and contentions with the prison officials. The individual culprit within the prison, generally speaking, has the moral support of the rest of the prisoners. It is this that makes his activities possible, and it is this that makes the efforts of the warden difficult and frequently futile. It has been said, and with true insight, that it is the moral support of a group that makes criminal activity possible. This is just as true of the prisoner. As long as he has the support of the prisoners he is strengthened in his resistance against the warden and his officials. How this sense of community develops and the character it represents we now propose to describe.

We have already noted that the prison is large and that it is composed in the main of inmates under the age of 30. The next thing to note is the isolation of the prison community. It is locked in behind high walls and cut off from the world. Its contacts are sharply confined within the walls of the prison. It is something like a little remote

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rules by inmates * * * are correlated with certain cell guards and certain jobs." In the same institution these prisoners that have interesting work commit fewer violations than others. The rules themselves become inducements to violations, especially if the prison group develops a dislike to some officious guard. "Living under constant watchfulness and restraint, certain groups develop attitudes of mischief and small infractions; thefts of food, for instance, furnish a diabolic thrill and subject matter of excited conversation. Every official at Pontiac admits if normal activities were more interesting less punishment would be necessary."

The justification for the rules and their enforcement is that they make possible the maintenance of order, the prevention of escapes, the control of sodomy and the elimination of narcotics. These are the major objectives of every prison, as they constitute the major difficulties of penal administration. In the face of the record no prison has succeeded in solving these problems—in eliminating violence, in preventing escapes, in stopping the flow of narcotics, or in suppressing sodomy. The record of punishments we have already cited shows this to be true.

In 1922 a speaker before the American Prison Association remarked that "In the last four years scarcely a State has escaped its prison riots, wholesale deliveries, or scandals of other varieties." This statement could be made for the last two years with even greater force. Within that time there have been riots in Folsom, Calif.; in the Colorado State Prison; in the prison at Jefferson City, Mo.; in the Federal prison at Leavenworth; in the State prison at Columbus, Ohio; in the prisons of Auburn and Clinton, in New York. In addition to these major prison riots there have been a larger number of minor conflicts between prisoners and their guardians, the most recent at Joliet, Ill. Nor has severity of discipline any effect upon the internal harmony and peace of the prison. The prison at Jefferson City, Mo., reports that "there have been strict disciplinary methods instituted." In the same report (Missouri, Report, Department of Penal Institutions, 1930, p. 152) it is revealed

that during the year 6 men committed suicide, 4 were killed by other prisoners and 76 escaped.

Severe rules and strict enforcement are of less importance than the discipline of the institution. It is the mode, the tone, the unofficial relations within the institution, rather than the actual rules or their enforcement, which determine its disciplinary problems. If the institutional environment is wrong, if there is interesting occupation, if the men can keep going without undue irritation, with an opportunity to get an outlet of some sort for the restlessness that comes from restraint and confinement, the behavior difficulties are few. If, on the other hand, there is a great deal of unnecessary irritation, if the environment is irritating, then no amount of discipline or cruelty will save the institution from internal violence, riot, fire and murder. The pressure becomes so great that prisoners break out in unexpected fury, not because they plan to but because some incident opens the valve, so to speak, of hitherto suppressed feelings and the prison is in a state of fury and hysteria before anyone knows exactly just what has happened.

Anyone who has studied the phenomenon of prison riots will testify that they arise from a general situation rather than from any specific grievance, and that they are produced by the mass of the prisoners bursting into hysteria, even if they result from a scheme of some few leaders to make difficulties for the prison administration. The emotional life within the prison is so closely interwoven that the real grievance of any one prisoner becomes a common grievance. It is this that defeats severity of prison discipline. When one man is unfairly or unjustly punished, instead of curbing him the prison administration rouses a large mass of prisoners against itself. Each tends to accept the punished man's grievance as his personal grievance. Instead of cowing one man it has roused a hundred to greater hatred and discontent. It is his failure to understand this that has given the prison administrator his greatest difficulty. If, and when, the warden can understand that punishment within a prison must have the moral approval of the prison community to be effective, then he

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[illegible] means that the rules upon which the person [illegible] the individual [illegible] bearing upon his development, except as they become points of irritation and conflict [illegible] the person.

The question arises why these rules are in force in the face of their having so repeatedly [illegible] failed to bring about the ends aimed at—a com-

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staffed was encountered in all the prisons in the country." This general statement is reinforced by the following specific evidence:

There is no educational program in 13 of these prisons: Alabama, Arizona, Florida, Georgia, Idaho, Mississippi, Montana, Nevada, New Mexico, Oregon, South Carolina, the Brushy Mountain Penitentiary in Tennessee, and the Michigan prison at Marquette. In about an equal number the educational work makes little more than a halting and grudging bow to State laws requiring that every prisoner (with liberal exceptions made by the warden and the industrial authorities) shall be given a third or fifth grade education. In less than a dozen prisons the work is extensive enough or effective enough or sufficiently well supervised to rise above the level of mediocrity. In the remainder, constituting about half of all the prisons in the country, the educational work has little significance in spite of the conscientious efforts of those in charge and the inmates who work under them.

How descriptive this is may be seen from a few quotations taken from the prison reports. Speaking of Auburn prison, the New York Prison Commission says:

One civilian teacher and no schoolhouse is the striking evidence at this prison of the general lack of educational facilities for prisoners at all the State prisons. At Auburn, school is now kept in an abandoned shop. There is no place to keep it.

The Montana State Crime Commission reports as follows:

One of the great needs of the Montana State Prison is some form of educational work preferably along vocational lines. No facilities are now available for giving a prisoner, who might have the desire for it, any training or education to fit him for a more useful life after he leaves the institution. The great majority of men who come there are untrained in any trade or vocation. A very large percentage of them are almost or entirely illiterate. They spend their time in absolute idleness, acquiring habits of sloth. Of the 700 men and over in the prison at the time of our survey, about 450 are idle all of the year around. Except for a brief period of exercise they take daily in the prison yard, they spend their whole time loafing in their cells.

Furthermore there is no vocational education in American prisons, and they offer no opportunity for schooling beyond the lower grades. This is an interesting commentary upon our prisons in view of the large interest in adult education that has developed in the United States since the war.

It is an amazing fact that not one prison has an organized program of vocational education, although many prisons claim with some justification that their prisoners receive vocational training, incidentally in the industries or maintenance work of the institution. A few prisons offer scattering vocational courses, usually conducted by correspondence and seldom with sufficient correlation of theoretical instruction and practical application. The need and the desire for vocational training and its value in stimulating interest in academic education are so patent that the almost complete absence of provisions for vocational education in our prisons is difficult to understand.

There is also little educational opportunity for the prisoner who wishes to advance beyond the lower grades or who already has education enough to fit him for advanced study. Little is done to offer nonutilitarian, cultural education to the few who desire it, and, at the other end of the scale from the practical standpoint, little is done to give health education to the large numbers who need it. The educational work of most prisons, in brief, consists of an academic school closely patterned after public schools for juveniles, having a low aim, enrolling students unselectively, inadequately financed, inexpertly supervised and taught, occupying mean quarters and using poor equipment and textual material.

What these shortcomings mean is seen from Mr. MacCormick's evidence:

Picture a not unusual prison school. A few illiterates are learning to read from a book that tells how Tommy and Susie went out to catch butterflies or that rhapsodizes on the subject of how soft and warm pussy's coat is. A few strays who are attending school from a variety of motives are studying arithmetic or history or geography from ancient and dog-eared textbooks written for juveniles. A few foreigners are being "Americanized" by being taught that United States Senators are elected every six years. A handful of men are studying "vocational courses" in bookkeeping, business English and show-card writing. The teacher is the chaplain, an underpaid guard, a city school-teacher who has already done a hard day's work in his own school, or an inmate who got the job because he has somewhat more education than his fellows but who has had no previous teaching experience and is now receiving no training in teaching technique. Study outside of the classroom, if required at all, is pursued in a dingy, 1-man cell occupied by two men and lighted by a 20-watt bulb, or in a noisy, crowded dormitory lighted only by naked bulbs suspended high above the beds. The schoolroom is a dimly lighted, smelly mess hall, a chapel with a sloping floor and stationary seats into which the students are crammed without room for desks or tables, the lower corridor of a cell block, or a room in the basement, in a made-over section of the main building, or in a remote and inaccessible building in the prison yard.

This is a somewhat exaggerated picture, but the writer can take the skeptic to no less than 50 prisons and reformatories where the educational program rises very little, if at all, above these heights. * * * History being taught from texts that were published before the World War, and reading from primers published as far back as 1903; 75 men of all ages crammed into the only classroom in the prison; seated on backless benches without desks, taught under the district-school method by an earnest but untrained chaplain, and searched by guards on entering and leaving the classroom; 60 reformatory inmates in a single room, taught by an untrained inmate under 20 years of age, with a sleepy, stupid-looking guard perched on a high stool in the front of the classroom to keep order; guards conducting classes with hickory clubs lying on their desks; guard-teachers, after a hard day's work in the school, "swinging a club" over their erstwhile pupils in the cell houses and mess hall; a $130 a month guard in charge of the educational work in a 3,000-man penitentiary; men studying in the prison of one of the wealthiest States in the country by the light of 15-watt bulbs; rules forbidding prisoners attending school to have writing material of any kind in their cells; educational "systems" which consist of allowing prisoners without guidance, to purchase correspondence courses far beyond their ability and to follow them without assistance; schools that are nothing but dumping grounds for the industries, places of temporary sojourn for men who have not yet been assigned to work, or convenient roosting places for yard gangs that are called on occasionally to unload cars of coal and other supplies; libraries in which there are not more than a dozen up-to-date books possessing educational value; and so on, almost endlessly.

This description shows at least one thing. Our prisons can make no claim that they are attempting to utilize the opportunity provided by the large amount of unoccupied time within the prison for broad educational ends. This general judgment of the prison is also made for the reformatory.

Aside from their failure from the standpoint of reform, with few exceptions the reformatories have failed as educational institutions. In the greater number this is due to the fact that education has become a mass-treatment process in which a stereotyped routine is followed. Individualization is almost totally lacking. * * * The reason for this condition is not that reformatory officials believe in the type of education described above. They can not believe in it, for they have seen it fail year after year with their prisoners. They know that many of the prisoners look on educational work as something to be avoided and to be got through as easily as possible if one can not avoid it. They know that many of their graduates never follow the trades in which they have been instructed while in the reformatory and that others find themselves unable to meet the standards of competitive production because they have been inadequately trained. Reformatory officials are placed in a position of unwilling insincerity in that they must claim to be operating educational institutions, knowing that they are failing.

12. THE REFORMATORY

The foregoing description of the American prison applies with equal force to the men's reformatories.

Inclusive of the Federal reformatory which has been recently established, there are only 20 reformatory institutions. This is a significant fact in more ways than one. The reformatory movement is more than 50 years old. It began with a great flourish as a new and far-reaching attack upon the older penal system. It was to introduce into the penal field an institution that would take the younger prisoner and save him from contact with the older and more hardened inmate. It was to be an educational institution concentrating upon the reconstruction of character, the rehabilitation of the younger men and their return to society. Unfortunately these early hopes have not materialized. If there was any doubt of this before, the recent study by the Gluecks of the reformatory at Concord, Mass., is conclusive. The reformatory does not reform. The answer lies in the fact that it is, generally speaking, not a reformatory at all. It belies its name. One report speaks of Rahway Reformatory as "a prison with reformatory features rather than a reformatory pure and simple." It is perhaps a prison for junior offenders. But even this may be doubted. The age group of the men in the reformatories overlaps with the men in the prisons of the country. This can be seen from the fact that in 1928 out of 40,001 admissions to 52 prisons 26,075, or 54 per cent, were of persons under 30 years of age and 9 per cent were under 20. Records of admission available for 1930 in the case of 32 prisons showed 56 per cent under 30. If we compare the admissions into 52 prisons and 18 reformatories in 1928, we find that the group between 20 and 30 years of age constituted 45 per cent of total received by the prison and 47 per cent of those received by the reformatory. While the average age of the inmates in re-

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The cell houses are overcrowded; a considerable number of cages are used and form bunks on the corridors [illegible] overcrowded, open dormitory, not in cells. These cells were originally intended for a single person, and they are now used by two or three. Compared to cells in Joliet or Southern Illinois Penitentiary, they would be comfortable if they were not overcrowded. Overcrowding limits the possibility of segregation of first offenders from the habitual or professional criminals and throws the first offender into association with youths brought up in an environment inimical to official authority.

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2. CLASSIFICATION AND BUILDING

At the base of any system of classification must lie an organized and systematized plan of penal plant development. It is not enough to classify. Classification must be followed by the provision of proper housing facilities for different groups. Without this no system of classification, no matter how elaborate and scientific, will have material value. The prison system was developed before general recognition had been given to the multiple factors in criminal treatment. It was also developed at a time when there was an inadequate recognition of the various types of individuals who constitute the prison population. It is now taken for granted that the population must be grouped for purpose of specialized treatment and control. It is now clear, therefore, that the usefulness of the classification system will depend upon the adaptability of the general-housing program.

Hence what every large State needs is a comprehensive program for the development of its penal plant for the care and treatment of the several groups with which it must deal. Every prison system requires—

1. A central reception and classification building for all male adult prisoners committed by the courts.

2. A group of structures connected with or apart from the reception and classification building and used for temporary or permanent segregation of special health and problem groups.

3. A series of structures for the handling of the mass of prisoners who are held with a view toward their ultimate release to the community.

The receiving and classification building ought to be centrally located. It ought to be large enough to receive and house temporarily all those admitted until they can be properly classified. It ought to be sufficiently well staffed by experts to make possible a rapid and thorough study of all individuals committed. Even in the largest States it would probably seem best to have a single receiving and classifying center. The higher cost of transportation would probably be overcome by the more expert and unified practice which a

single institution might be expected to develop. There ought, of course, to be provision for easy transfer between the units of the system as necessity determines. With such machinery available, the courts, the prisoners and the public might feel that the first important step had been taken toward dealing with the problem of the ultimate social readjustment of the convicted individual in terms of his prospects and deficiencies. This would seem to be the first and the essential step in any attempt at developing a modern penal system. Without it there is little prospect of the adoption of a rounded scientific program in dealing with the offender.

The development of such machinery has already been undertaken by some States, notably by New York and New Jersey. The classification system now in use in the latter State is described in some detail in the report of the Advisory Committee on Penal Institutions, Probation and Parole, which is printed as an appendix to the present report.

Directly leading from the receiving and classifying prison there should be a number of structures to receive the special problem or health groups which study of the prison population reveals. For the larger States, where the prison population is large, it would probably be best to have separate institutions for the special health and behavior problem groups where specialized treatment and control could be provided without the difficulties arising from the management of too large a unit. If the prison population is small such separate institutions may not be feasible. But whether there is to be a series of separate institutions set apart and away from the receiving center, or whether the receiving center should be part of a group of institutions all physically connected and commonly administered, it is clear that separate provision must be made for the different groups in the total prison population. It is also evident that unless such provision is made no adequate treatment is possible.

Some sort of separate provision ought to be made for each of the following groups:

(*a*) The insane.
(*b*) The feeble-minded.
(*c*) The tubercular.
(*d*) Contagious venereal cases.

(*e*) The sex pervert.
(*f*) The drug addict.
(*g*) The aged and crippled.
(*h*) The general prison population—
(1) Those needing maximum security buildings.
(2) Those needing medium security buildings.
(3) Those needing minimum security buildings.

3. THE INSANE

It seems incredible at this late date that argument should still be necessary as to removal of the insane from penal institutions. And yet such an argument seems to be required to bring about adequate treatment for insane prisoners. The Department of Public Welfare of Ohio in its report for 1930 says:

> The mental and nervous strain to which a prisoner is subjected during his first few months of prison experience is very often the critical factor in producing mental illness. If these incipient cases of mental trouble are allowed to develop and the aggravating conditions under which the prisoner must live are allowed to continue, there is a very great probability of permanent mental trouble. This may mean that the individual will be a custodial ward of the State during the rest of his life. It is proper not only so far as humanitarian treatment is concerned, but from the point of view of actual economy, to furnish these men with a treatment which is suited to their condition.

The 1930 report of the State Penitentiary of Kansas says:

> For the past eight years recommendations in this biennial report have been made for a criminal insane hospital, separate and apart from the State prison, where it is now located. The State prison is not equipped to properly handle criminal insane patients. It would seem much more creditable to the State of Kansas if a criminal insane building or ward, suitable for the purpose of treatment and handling of the criminal insane, could be constructed on the site and under the direct management of one of our present hospitals for the insane.

Speaking of the general situation in the different prisons one recent study says:

> Few, if any prisons, were found to be adequately equipped to care for cases of insanity within their own immediate jurisdiction, yet in some prisons were found as many as 40 insane prisoners being kept within a section of the cell block set apart for them. In such cases there are no proper facilities for these individuals and practically no medical supervision unless they should develop an acute physical illness. In the State Prison of Rhode Island insane prisoners are kept in quarters entirely unsuited to them. There is insufficient ventilation and there is so little light that dependence must be had upon artificial light all of the time.

In both Illinois and Michigan insane prisoners are at present kept within the prison. There are insane prisoners kept in the State prison of Maryland. Speaking of the insane prisoners at Anamosa, Iowa, the same report says: "There is no occupational therapy * * * the men have nothing to do."

We have said enough to indicate that the necessity for special provision of insane prisoners is still a serious problem. Of the prisons and reformatories in the country, 45 send their insane to civilian hospitals for the insane. Twenty-four States have special hospitals for the criminal insane. But in many cases if the hospitals are overcrowded they refuse to accept these patients. What is the best system of handling insane prisoners? Certain things seem obvious. No insane prisoners ought to be kept within prison walls. The classification and receiving station ought to be empowered to transfer insane prisoners to institutions especially provided for them. It would seem best that the insane should be treated as such, regardless of whether they are criminals or not, and sent to insane hospitals, as is now done by many institutions, with provision for their return to the prison if cured. It would also seem that each case as it arises within the prison ought to be similarly treated. In some of the larger States where there are at present competent and well organized hospitals for the criminal insane it would perhaps be best to maintain the institutions as they are. In those States where no adequate system of treating the insane is available there seems to be every reason to argue for their commitment to regular hospitals for such diseases.

The keeping of insane persons in prisons until their sentences expire seems an unnecessary cruelty harmful alike to the prisoner, the prison and the community. It makes cure difficult; it increases the burden of discipline for the prison; it increases the prospect of permanent expense for the State, because neglected cases become more difficult of later cure; it is wholly inexcusable in the light of modern practice; it complicates prison discipline and administration and makes any progressive prison program impossible. The first move in any general national attack on the penal problem should be the separation of the insane from the prison population and immediate transfer of insane prisoners from the confines and control of the prison proper.

4. THE FEEBLE-MINDED

What is true of the insane is quite as true of the feeble-minded. In this case the method of selection may be less well established. But the behavior difficulties and special problems raised by this type of prisoner when in a prison are so serious that, with the aid of the physician, psychologist and psychiatrist, he ought to be eliminated from the prison population and transferred to an institution especially developed for his type. Only 29 prisons and reformatories make any attempt to discover the feeble-minded within their midst and only a few States make any attempt to segregate the delinquent feeble-minded from the rest of the prison population. The most conspicuous example is the Institution for Defective Delinquents at Napanoch, N. Y. This group of prisoners are chronic violators of prison rules and frequently the butt of the prison community. One prison which has made an attempt at segregation says that "They are no longer annoyed by other inmates, led into wrong doing, or made the objects of practical jokes." This group requires specialized treatment which is not available in the ordinary prison. It seems desirable that an absolute indeterminate sentence should be applied to them. This at least seems to have proved a significant feature of the New York institution. Until these special problem prisoners are removed there is little hope for adequate disciplinary reconstruction of the prison proper. The experience at Napanoch has shown that these persons are amenable to a type of treatment which the prison, because of its larger and different type of population, can not provide. The next step in institutional development will relieve the prison of the emotional and disciplinary strain which this recognizable and controllable type of prisoner creates.

5. THE TUBERCULAR

There are still prisons in the country which make no adequate provision for separate treatment of tubercular prisoners. This is an obvious shortcoming and needs correction. To place and keep a tubercular prisoner in the general atmosphere of a prison—especially if his is an aggravated case—is unjustifiable. It endangers the health of the other prisoners and it makes cure for the diseased difficult or impossible. It places an unnecessary burden upon the prison physician, who is not necessarily an expert in this disease and has sufficient work in looking after the routine needs of the institution. It seems clear that separate treatment for the tubercular prisoners outside of the general atmosphere of the large prison needs to be developed. This general position is taken by the Department of Penal Institutions of the State of Missouri when it says:

> The bad condition of the tuberculosis ward has been mentioned in another part of this report. The building is poorly constructed and does not permit the proper treatment of those having pulmonary tuberculosis. No money should be spent upon this building. Such expenditures would be a mere waste and would accomplish nothing. The services for these patients should be separate and apart from a base hospital unit but near enough to use its kitchen and its diagnostic equipment. * * * Patients with contagious disease, venereal diseases, and syphilitic patients are thrown together with patients with noncontagious diseases and clean surgical cases. All patients use the same toilets and lavatories.

Also with respect to the prison at Columbus, Ohio, it is said:

> At all institutions of the State an attempt has been made to segregate tubercular patients from the general population. This has proven a particularly difficult task at the Ohio Penitentiary. During

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These [illegible] when [illegible] ought to be [illegible] for [illegible]

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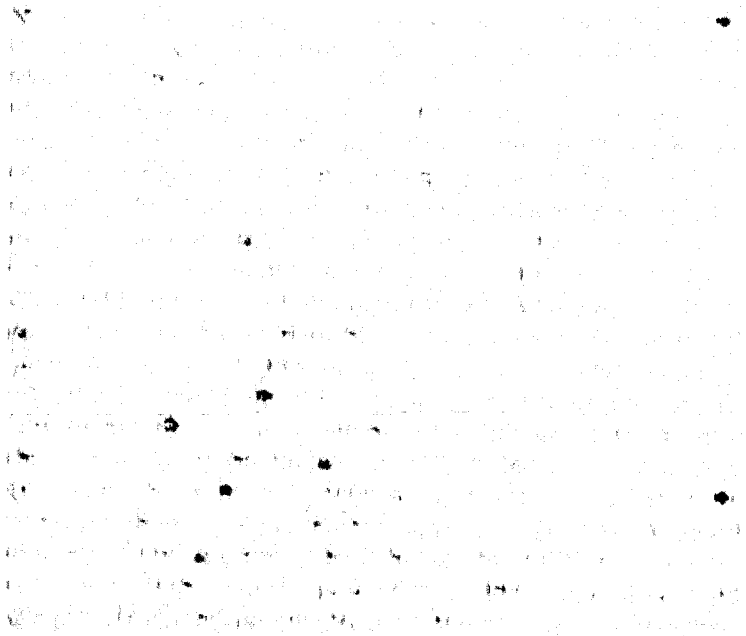

sary." The warden of the State prison of Florida, speaking in 1923, said, "We check our men out in crews of 5 to 25 to prison foremen. They have no guns; we have no guards."

A discussion of the problem of prison architecture points out that "An analysis of the records of the Leesburg, N. J., prison farm (cottage system, no bars, wall or fence) shows that 20 per cent of its prisoners were convicted of murder and manslaughter. Escapes from this prison farm in 10 years have been less than one-half of 1 per cent, and all but four men were recaptured." This experience has been duplicated by the Federal reformatory at Chillicothe, Ohio. The Detroit House of Correction keeps 90 per cent of its inmates in minimum security structures. This is true of the Indiana State farm.

Perhaps the most illuminating experience is recorded by the State prison at Auburn, N. Y. The report of a recent commission says that "The emergency which followed the prison riots of 1930 forced the opening of temporary road camps. * * * So well has the scheme worked that it has been possible to rate the colony group at Auburn with far more assurance than is possible elsewhere. * * * " There were in this colony at the date of the report 317 prisoners. This is significant because it is the only prison colony group of State prisoners, and it was established, not because of a deliberate decision but because of necessity. The record of escapes in such institutions is negligible; it averages less than 1 per cent for 12,621 prisoners in 27 States where a study has recently been made.

In the light of this experience, what is the proportion of prisoners needing to be kept in the strongest of prison buildings? The North Carolina Prison estimates that less than 15 per cent are classed as incorrigibles. In the new Federal prison at Lewisburg planned for 1,200 prisoners "we are providing maximum security for only about 100 prisoners." For about 300 more, outside rooms with barred windows are being provided. "The balance will be kept upon what you might call medium security." There is no standard division of the prison population into the groups which can be kept under minimum security conditions, those that need medium security, and those for whom maximum

security must be supplied. Estimates range from as low as 10 per cent for those that can be placed outside to as high as 90 per cent or even more. The present discussion in New York places the proportion at about 25 per cent of the total number of prisoners. Another 34 per cent are classed as "a temporary restricted group." The point to be remembered is that all of these discussions are empirical in nature. They do not refer to any broad study of the problem or to any conclusive evidence. In so far as experience goes to prove anything at all it is that all the systems have worked. It shows that some wardens who have placed 10 per cent outside have succeeded with that percentage, that those who have placed 20 per cent outside have also succeeded, that those who have had the courage to place 50 per cent and even more of their total prison population outside of strong walls have also succeeded. It is not argued that all prisoners could be placed outside the walls, but the evidence available gives rise to a strong presumption that a very much larger proportion of the prisoners than are at present placed outside the walls could be removed to less strongly built housing without seriously endangering the régime of the institution. There is no record of riots, or fires, or jail breaks, or any other unusual experience in any one of the lesser security housing experiments which have thus far been tried.

In response to this experience buildings are now under construction which attempt to restrict the maximum security type to a small proportion of the inmates. The new building project of the Federal Government at Lewisburg has already been cited. Another instance of the same type is the new plant going up at the Massachusetts State Prison Colony at Norfolk. This project is described as follows:

> The eight buildings of three units each, to house 1,200 inmates, are so designed that their strength and interior arrangement can be varied to meet the needs of different classes of prisoners as experience dictates. Even the disciplinary and receiving building (the jail) will have different sections for different types of prisoners. The first building, now under construction, has been built for 150 grade A inmates, divided into three units of 50 each. It is of ordinary fireproof construction without bars or special security devices. Each unit contains twenty-five single outside rooms, three 7-bed rooms, one 4-bed room, two officers' rooms and bath, a toilet and shower bathroom

on each of the three floors, a common room, a dining room, a barber shop, a locker room, and a basement workroom.

It seems clear therefore that we are turning to a new type of prison building policy. The old bastile type is, in some places at least, in disrepute and it may prove that few if any of the older type of prisons are to be built in the future, although there are some structures now going up which still retain all of the major characteristics of the old Auburn model.

The reason for the change is obvious. Experience has shown the older scheme of building unnecessary for all prisoners. The proportion for which it remains necessary is yet to be determined. Such a differential building arrangement makes possible classification and segregation of small groups of prisoners for specialized treatment. The building program involves much less cost. The prison buildings of the older type are increasingly expensive to build. The new plans for the Detroit House of Correction are estimated at $3,000 per bed; the cost per man at Rockview, Pa., is $3,760. The cost for the new prison at Attica is estimated to be as high as $5,000 per inmate. Part of this cost is due to the new wall which is "a highly refined engineering project." When under investigation it was asked "From a practical point of view, what is its particular advantage?" The answer was "Nothing—it has an esthetic value that may have been overdone." This may be contrasted with average cost for a cottage dormitory at Lorton, Va., which is $440 per inmate.

The minimum security buildings are considered sufficient if they approximate the Army type of cantonment. This building type, easy of construction and built at low cost, has the immediate great advantage that it can be suited to relieve the intolerable overcrowding in the prisons without requiring heavy expenditure for new structures. In fact, it seems that a prompt and judicious but general adoption of projects similar to those which are now under way in some of the States would make unnecessary the heavy investment in bastile prison buildings. It certainly would not seem desirable to reproduce a type of prison structure which other States are abandoning as unnecessary and burdensome. The

present period is essentially one of experimentation in the nature and type of prison building for a classified prison population and heavy commitments ought to be avoided until such experimentations have passed a preliminary stage. In the meantime, relief from overcrowding can be sought by the development of inexpensive structures for specialized groups in the prison population.

Account must be taken also of the psychological importance of the differential building programs, in that the prospect of transfer to a lesser security building with the promise of greater freedom and normality tends to relieve the strain even within the walled and maximum-security prison. It, of course, benefits the men from the point of view both of health and social relations, and makes them more amenable to the proper sort of influence. It makes segregation possible because, with the low cost of construction, different units can be easily developed or separate housing can be found for different groups in separate small buildings. The record shows that the danger of escape is not any more serious under this type of construction than it is under the older.

It is, however, always to be remembered that these buildings are designed for the lesser criminals; for those that are better release risks; for those whose crimes are classed as the least dangerous to the community.

A modern prison program requires a centralized receiving and classifying prison. It requires the temporary or permanent hospitalization and segregation of the special-problem groups. It then calls for the broad division of the prison population into three major groups for maximum, medium and minimum security housing. Within these groups there should again be as many subdivisions as seems desirable—tentative and experimental in character. These three broad groups should be housed in broadly different types of building with decreasing disciplinary provision and increasing freedom as a means of preparation for release. The prison population should be afforded a gradual approach to freedom as the day of return to society comes nearer. It is in this direction that experiment with penal administration seems to hold the greatest promise.

III. LABOR AND INDUSTRY

It has long been recognized that idleness in prison is bad both for the inmate and the institution. Because of this and because labor has been looked upon as a punitive instrument and therefore an element in carrying out the sentence for crime, the demand for labor in prison is a long-standing one. In earlier days nonproductive labor devices were employed in some institutions to carry out the sentence to hard labor. These devices included carrying a cannon ball to and fro, the treadmill and the crank. Obviously, these served no productive end, but filled the need for "hard and servile labor." In spite of this background large numbers of prisoners are kept in idleness. This is true of most of those serving in county jails and workhouses, and of many men confined in other and larger penal institutions.

Meanwhile, the increased crowding of prisons, the comparative inability of penal institutions to keep up with technical changes resulting in lower costs in outside plants, and the restrictions placed upon the potential market by legislation as well as by opposition of consumers to "prison-made goods" have combined to make the problem of prison labor more acute. At the same time, since the size and cost of maintenance of the prison population is increasing while its average age is decreasing, some solution of the labor problem becomes more necessary than ever.

Historically a variety of prison-industry and labor systems has been used in the United States. None of them is free from criticism and none serves the ends demanded of an ideal system. Upon the emphasis given to the broad aims of a penal sentence will depend the particular service which it is believed that any system of prison labor ought to perform.

Since more than 90 per cent of all prisoners ultimately return to society, no prison industry in use can completely neglect their welfare. Their health and well-being must be preserved not merely on humanitarian grounds, but because

of the danger that they may become public charges or sources of infection through contagious diseases acquired in prison. Such an outcome would throw an unfair burden upon the community in return for any benefits that a system of labor might bring with it. What is true of health and well-being is also true of any reformative influence that the prison might involve. It would be dubious public policy to sacrifice the possible reformative influence of a penal sentence for the sake of pecuniary gain.

It might be argued, at least theoretically, that the State ought not to be burdened with the cost of maintaining the adult prisoner. In an ideal scheme of arrangements he ought not only to be able to support himself, but to help cover the cost of investment and depreciation of the industrial and housing plants which the State provides for his safekeeping and employment, as well as to contribute to the support of his family on the outside. In fact, some States have an industrial arrangement which appears to contribute a financial return over and above the actual cost of maintenance and upkeep of both the prisoners and the plant. While this arrangement is desirable, it has doubtful worth if its achievement is possible only under conditions making training and reformation difficult or impossible. To all of these considerations must also be added the danger of unfair competition with outside labor and industry. This arises from the State's underwriting part of the costs for the prison contractor so that outside industrial establishments find it impossible to compete with him. In this event public money brings private profit.

The type of labor best adapted to a penal institution must therefore be considered with an eye to its effect on the health and well-being of the prisoner, its influence upon his possible reform, its bearing on State expenditures and income, its contribution to a wage for the prisoner as a means of maintaining a self-respecting relationship with his dependents, and its competition with free labor and industry.

A number of different systems of labor have been tried during the last hundred years. Each has its strong and weak points and the ultimate decision as to which system is

preferable depends upon a number of factors. There is no easy method of decision and any system adopted may have disadvantages that will be subject to criticism and objection. Fundamentally, any discussion of the relative merits of different systems refers back to the question of the function of the penal institution and the degree of responsibility that the State ought to assume toward shaping the future conduct of the prisoner. The question is whether immediate benefits are more important than future ones, whether the gain made by the State, either in money or in the avoidance of immediate administrative responsibility, is greater than the prospect of a reformed criminal. Assuming reformation to be the greater gain, a further question concerns the method most feasible as a reformative influence. Where suffering and pain are considered the means of reformation, one labor system will seem most desirable; those who think education and proper stimulation more feasible are likely to prefer another system. The question, moreover, is not merely what are the prisons for; it is also a question as to what methods are likely to be most successful to achieve the ends sought. The conflicts over types of employment systems are therefore not only practical but also ideological. Fundamental attitudes and beliefs are involved in whatever system is finally established and used.

1. THE LEASE SYSTEM

The least defensible system of labor in prisons is the lease system. Happily, this system has practically disappeared. It is still retained in law, if not in practice, in the States of Louisiana, North Carolina and Arkansas. It is a matter of record that this system was productive of great cruelties. The prisoner was turned over to a private contractor, who, for a financial consideration, was given complete control over him to use, feed and discipline him as he saw fit. The State, it is true, retained a right of inspection. But in practice its inspection service did not prevent barbarities from being practiced upon the bodies of the prisoners. It did not insure decent lodging, sanitation, proper and sufficient food,

or adequate medical care. In Florida, for example, the lease system was abolished in 1923 after a nine-week special followed the killing of Martin Tabert, a young North Dakota boy, who was committed to one of the convict labor camps for vagrancy. Unless the conditions of the prisoners are of no concern to the State and unless the immediate financial return and the lack of administrative responsibility are regarded as primary rather than secondary considerations, there is little to be said in favor of the lease system. Its complete disappearance, both in law and practice, is to be desired.

2. THE CONTRACT SYSTEM

A different system, little better in practice than the lease system, is the contract-labor system. This system is still in use in a number of prisons. In 1929 there were 11 prisons and 3 reformatories which used the contract-labor system exclusively and 9 prisons and 2 reformatories which used it in part. There were, therefore, in 1929, 25 institutions employing this labor system in some form. In 1923 it was responsible for the production of prison goods valued at $18,240,350 out of a total prison production of $70,000,000.

It is now generally recognized that the Hawes-Cooper Act, which will go into effect in 1934, will practically force prisons still having the contract system to abandon it. This act is the outcome of many years of State and National agitation. In fact, opposition to the contract system was written into the law of Massachusetts as early as 1828. The Massachusetts statute was later repealed and the contract-labor system reintroduced. But opposition to the contract-labor system continued and became especially effective after the Civil War. This hostility was reflected in the gradual decline of the percentage of prisoners in State prisons employed under that system. In 1923 this number had shrunk from 40 per cent in 1885 to 12 per cent of the total prisoners employed.

This consistent opposition to the contract system, which has now been formulated in Federal law, has many roots. (1) The contractor's interest in profit leads him to exact as

An investigation into the State prisons in New York in 1890 brought out the following testimony:

They (the contractors) do not only insist in some cases that the convict shall be punished, but in other instances endeavor to screen him from the punishment which the interests of the institution demand that he shall receive. They even lay plans to entrap the prisoners so that acts may be done by which punishment may be sustained. * * * The contractors introduce into the prison a class of persons who are unfit to associate with the prisoners and who greatly abuse the facilities there accorded for intercourse with convicts. These persons are of two classes—laborers and instructors of the convicts. * * * They introduce surreptitiously into the prison for-

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In the classification from the prison population in New York it is seen that only 25 per cent of those committed

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past and present evidence that the contract-labor system can only exist on the basis of indirect State support. The wages paid for prison labor, the cost of rent, power and light, the control of labor with the aid of the State, all contribute to giving the prison contractor a favored position as against other industries in general and the same industries within the State in particular.

Many citations covering this point could be made. In 1925 the commissioner of correction of the State of New Jersey made the following statement:

> In the balmiest days of contract labor in New Jersey, only a part of the prison population was employed and the gross earnings of the State were $148,000. The State permitted the contractor the use of shops, power, light, heat, etc., without cost to him, so that the real income to the taxpayers was considerably less than $148,000.

The superintendent of industries of the Illinois State Prison in Joliet, during the life of the contract system, said to a State investigating committee:

> The contractor paid the State 50 cents per day (at Joliet it was 55 cents) for each prisoner employed. The contractor paid the State nothing at all for the first six weeks of employed prisoners' labor. The State furnished buildings for manufacturing and part of the machinery. Only in the cooper shop were the prisoners paid, and even there only for overtime. Cooper-shop work was trying toil and overtime work was overtaxing. The industries maintained at Joliet under the contract system were shoe, reed-chair, cooper and broom shops. The attack upon the contract-labor system in the prisons by the labor unions centered around shirt manufacturing, but shirts were not manufactured at Joliet.

It is clear, therefore, that the manufacturer who employs prisoners under the contract system receives a "bonus" at the expense of the taxpayers in the form of reduced overhead costs on the one hand, and low labor costs on the other. It is also clear from the evidence that this lower cost affects the relative advantage of the contract and noncontract manufacturer. Nor is there any evidence that the consumer benefits from these lower costs incurred by the prison contractor. This discussion raises an interesting question. Has the State a moral right to tax competing manufacturers in an industry in which it is permitting some producers to receive State support? It is doubt-

ful policy for the State to underwrite part of the overhead costs of some manufacturers, thus giving them a competitive advantage in the market, and at the same time tax the other competing units in the industry which do not receive any State aid in the form of free rental, heat, power, electric light, and supervised labor force. It seems obvious that any prison-labor system that raises such a question is not desirable. The State is placed in the position of deliberately aiding some favored manufacturer at the cost of the taxpayers and to the disadvantage of other manufacturers in the same industry who are also taxpayers.

There is, finally, the much-discussed question of competition with free labor, a phase of the question just raised. If it is unfair for the State to give certain manufacturers a competitive advantage as against others, is it fair for the State to supply forced labor to some manufacturers at a lower wage level than is available to outside employers? Obviously not. The State has no more moral right to compel free labor to compete with forced labor than it has to favor some manufacturers at the expense of others. For all these reasons the fight on the contract system, now ended with the passage of the Hawes-Cooper Act, was justified on administrative, moral, and economic grounds.

3. THE PIECE-PRICE SYSTEM

A variation of the contract-labor system which has had much vogue in the United States is the one known as the piece-price system. This system is but an attempt to circumvent restrictions of the contract system and has most of the disadvantages of that system. The piece-price system means that the contractor supplies the raw materials and purchases the product from the State at a given price per piece. In practice it has developed most of the evils of the contract system. It permits the same type of pressure upon prison officials, it leads to collusion and corruption, it gives a manufacturer the benefit of no or a very low overhead in the form of a low price for the product which he purchases from the State. Sutherland, summarizing the

discussion of this labor system, says: "But the piece-price system was merely a subterfuge—really the contract system under a different name and in a somewhat preferable form."

It has sometimes been argued that elimination of the contract system would destroy the prisoner's opportunity to earn a wage. To verify this statement an analysis of wages paid in contract and noncontract prison labor was made. It should be noted that 19 prisons and 11 reformatories pay no wages at all. Of the remaining institutions, 39 prisons and 8 reformatories provide for payment on noncontract work, while 20 prisons and 5 reformatories pay for contract labor. The following table shows the total number of men who received wages on contract and noncontract labor, grouped according to average wage payments per day, in all prisons and reformatories in 1928.

Contract and noncontract employment and wages in men's prisons and reformatories in 1928

Contract labor			Noncontract labor		
Number of men	Per cent of total	Average wage per day (in cents)	Number of men	Per cent of total	Average wage per day (in cents)
231	2	02	3,654	12	01½
155	1	03	559	2	02
391	3	04	165	1	03
388	3	06	4,833	16	04
219	2	07	2,972	10	06
189	2	08	20	0	07
836	7	09	916	3	09
603	5	10	1,438	5	10
110	1	12	211	1	11
352	3	13	218	1	13
897	7	14	1,263	4	15
3,139	25	15	858	3	16
363	3	21	230	1	17
325	3	23	306	1	18
291	2	25	939	3	20
310	3	27	1,047	3	22
835	7	30	210	1	23
415	3	40	104	0	24
608	5	50	2,440	8	25
380	3	54	60	0	30
404	3	65	640	2	31
870	7	75	806	3	32
			328	1	33
			4,335	14	40
			1,139	4	50
			149	0	75
			313	1	100

The table above may be summarized as follows:

Contract and noncontract employment and wages in men's prisons and reformatories in 1928—Continued

Contract labor		Daily wage payment	Noncontract labor	
Number of men	Per cent of total		Number of men	Per cent of total
2,409	20	Less than 10 cents	13,119	44
4,371	36	Less than 15 cents	14,986	50
7,510	61	Less than 20 cents	17,643	59
8,198	67	Less than 25 cents	19,943	66
4,113	33	25 cents or more	10,210	34

The foregoing summary shows that above the very small-wage group there is no significant difference in wage payments to prisoners between a contract and a noncontract labor system. The argument that the wages of prisoners depend upon contract labor is, therefore, not substantiated, if 1928 may be taken as a typical year.

Each system of prison labor so far discussed, namely, the lease, contract and piece-price system, involves private use of a public institution for private gain. None of these systems seems to fit the peculiar needs of our penal system and none of them is consistent with the political and social ideals of a democratic government. We must seek some other use of labor in our prisons than those which lead to private profit through public favor and public support.

As substitutes for the types of labor just described systems of labor directly under State control have developed. In fact, at present, by far the greater part of labor in prisons is done under these systems of public control and management; whereas the contract and the piece-price systems represented 40.2 per cent of the total value of the product of prison labor in 1923, the industries under direct public control represented 59.8 per cent. This percentage is probably greater at present because contract labor has been yielding to other labor systems in prisons during recent years. The systems of labor under public control are generally known under the names of public account, public works and State use.

4. THE PUBLIC ACCOUNT SYSTEM

Public account is a system of labor in which the industry is managed by the prison authorities under initial financing by the State for the purpose of selling the product on the open market. Any profit which accrues from such a system is returned to the State treasury. The most successful example of this type of industrial organization is that developed by the State prison at Stillwater, Minn. During 1930 this prison reported a net profit of over $25,000. Other States have raised the question of the feasibility of copying this system in their own prisons. There are, however, certain fundamental questions involved in this type of industry which, even if it could be duplicated in other States, might make it undesirable.

To begin with, the special conditions in Minnesota which make the industry possible are not easily duplicated in other States. Minnesota is an agricultural State in which there are no significant competing industries manufacturing binder twine or farm machinery, which are the industries developed by the prison. For obvious reasons the farmers have supported this local prison industry. Competition with these industries comes from outside the State. These conditions, together with legislative support, go far to explain the success of the public-account system in the Minnesota State prison.

But it is difficult to find like conditions in other States. Almost any industry which might be developed meets with resistance from local manufacturers and local labor. Nor is the home market ordinarily sufficient to absorb the greater part of prison products. Most of the products produced under the contract system, as we have already seen, are sold outside the State in which they are manufactured, a circumstance that accounts for most of the support received by the Hawes-Cooper bill. But even if the conditions especially favorable to the public-account system could be reproduced in other States, would it be desirable to stimulate

its development? The answer seems to be clearly in the negative.

The public-account system is essentially a system of State industry, underwritten and managed by the State in direct competition with private industry. It does not seem desirable or consistent with our economic institutions to develop a State industry based on forced labor, low wages and confinement for unsatisfactory work and to place it in competition with private industry and free labor. If the State is to go into industrial production and compete with free industry in the open market, it ought to do so on equal terms.

An equally serious objection to the public-account system is that a successful industry of this type tends to drive similar industry out of the local market. That is, the prisoner upon release, if he has become adjusted to an industry, has to go outside of the State to find employment at the trade he learned in prison. In other words, the very success of the prison industry tends to destroy its adjustment value for the prisoner upon release.

Another serious objection lies in the fact that large-scale development of a single industry tends to force most of the prisoners into the same trade and thus destroys the possibility of training or developing any special aptitudes a man may have. It makes a mockery of any attempt at vocational education. It seems clear, therefore, that it is not desirable to develop a highly specialized large-scale industry in the prison even under conditions favorable to its development. Since such conditions are found in only a few places, it is more than doubtful whether this type of industrial development could be successfully achieved, and even if it could be, it seems clear that it would be against public policy.

5. THE OBJECTIVES OF PRISON INDUSTRY

In addition to the system of public account there are the systems of public works and of State use. The first involves the use of prisoners on public enterprises such as the building of State and county roads; the second, manufacture by prisoners of goods exclusively for use and sale to other State institutions. These two systems of labor seem most

adaptable to the rehabilitation programs of penal organizations and least burdensome to the taxpayer and the prison. The employment of prisoners upon "public works" and for "State use" may be discussed in connection with a general program of penal reorganization.

The position here taken on prison labor must be viewed in the light of our experience with prison industry and labor during the last hundred years. That experience indicates very clearly that prison industry has been a failure financially regardless of the type of labor system tried. In 1928 only 2 out of 11 straight-contract prisons, 2 out of 9 prisons that used both contract and noncontract labor, and 4 out of 39 prisons that had noncontract labor exclusively showed any profit. Thus the great majority of the prisons of the country have never been self-supporting, regardless of the type of labor system employed. The lease system provides the only possible exception to this general statement. But it has so many shortcomings that it is neither desirable nor feasible to revive it.

The reason for the great cost and general loss of time that the prison involves in nearly all of our States lies, in part at least, in the attempt to develop a prison labor system within high walls which will produce enough to pay for the maintenance of the institution. By and large, as we have seen, this attempt has failed. The prison system of factory administration does not ordinarly have behind it either the investment, skilled management, space, marketing facilities, adaptability to changing needs or labor which successful administration on the outside needs and secures.

Even on the outside, where all of these factors are more easily available, and where industry can be managed without the controlling influence of political manipulation, there is a considerable number of failures. So it is not surprising, given the conditions implicit in prison-factory administration, that the proportion of loss should be so high.

It seems most doubtful from every point of view whether it is desirable to attempt to develop, even under the best of conditions, one or two standard industries within a prison for the purpose of ultimately exchanging the income from these industries for the necessities of maintenance. To try

to conduct a prison like a factory is to standardize prison labor and sacrifice possibilities of developing skill and aptitude among the prisoners for the sake of a money profit. It would be better to attempt to treat the prison as a community and treat the labor and industry within the prison with an eye toward self-sufficiency.

The question of prison labor is intimately related to the classification of the prison population, but so far no attempt has been made to recognize their relation in practice. At present labor distribution in prison is generally determined by the deputy warden, who is frequently the disciplinary officer. Labor assignments are made, as a rule, with an eye to discipline. This condition is of course inevitable in any prison where the disciplinary problem is uppermost in the minds of prison officials. And such is the case in most prisons of the congregate type where classification, except for administrative purposes, is at a minimum. A report on 1,515 cases of inmates in New York showed "no evidence, except in rare instances, that men are assigned because they can learn anything or that previous occupation enters into the question." This situation is typical of the prisons of the country.

The problem, therefore, is one of classification into groups before assignment and then assignment to labor within these groups with an eye to the possible use of industrial experience after release. Any rational prison labor system must be based, first, upon an acceptable system of classification of the prison population into types. That done the administrative officials within each class must deal with the problem of assignment of work according to the capacities of the men and their prospects for employment after release. The present inadequate system is adapted to the type of institution which the deputy warden must administer, and, if he sets the men to work "purely from the angle of discipline or expediency," he is hardly to be blamed for that. Most deputies would welcome the relief from labor assignment if other provision could be made without endangering the disciplinary rhythm of the institution itself.

The prison as an institution lacks most of the features which make success in private industry possible. The prison

is not conducive to proper industrial organization except under the most unusual conditions, and then only at the expense of other elements which, from the social point of view, may be considered as involving too great a sacrifice for the financial gain involved. Instead of attempting the difficult, undesirable, and perhaps impossible task of making successful business institutions out of our prisons, we ought to aim at making them self-sufficient economic units. Instead of exchanging the products of one or two large-scale industries for the essentials of prison maintenance, the prison ought to seek to become, so far as possible, a self-sustaining unit.

> Among other things the prison must be sufficient unto itself to attain its aim. Therefore it must have large tracts of land, including timber, sand, gravel, rock and mineral. It should grow all the food required by man and beast even to beef, the pork and the mutton, poultry, eggs, milk, cheese, preserving and canning in season, milling of the wheat, and grinding the breakfast oatmeal. Where the raw material is not raised on the place, it may be purchased so that fabrication may begin as near the source as possible.

The task of adequate distribution of the prison population for purposes of work and training is baffling and difficult. In spite of its small population the prison has within it representatives of a great variety of interests, skills, aptitudes, and possibilities. An ideal prison labor system would fit each prisoner into his place with the greatest benefit both to him and to the prison. It would be flexible and broad enough to utilize all sorts of capacities, and would within its own organization have sufficient knowledge and wisdom to discover and develop latent capacities and so make later adjustment easier. No such ideally organized and staffed prison can be expected. But some rough approximation to the ends sought for ought to be aimed at if the problem of later adjustment to the world is to be solved. Something of the problem is indicated by the following description of 5,300 prisoners in New York State:

> Before the representatives of the committee there were 5,300 men ranging in ages from 15 to 78, ranging in education from no schooling to postgraduate college work, ranging in intelligence from zero to a maximum comparable to that in the outside world, ranging in desire to make good from nothing to 100 per cent, ranging in outside

vocational experience from common laborer to college professor, ranging in inside vocational assignments from floor cleaner to the task of imparting knowledge in schoolrooms.

With the varied human material which it has in its midst, the prison must be considered a community competent to employ all of the different capacities available.

6. CLASSIFICATION AND LABOR

No adequate analysis of the occupational equipment of our prison population is available. It is generally known, however, that a large proportion of the prisoners in State and Federal institutions would fall into the unskilled or semiskilled class. This general statement has to be partially modified for those prisons which draw their inmates chiefly from industrial rather than rural communities. But even in the most industrialized States a very large proportion of the prisoners seem to come from the unskilled and semiskilled groups. Some information on this subject is provided by the occupational analysis of 3,814 men in New York State in 1920. This analysis shows that unskilled laborers and agricultural occupations accounted for 34 per cent of the total. The type of prison industry might be decided in terms of the skill of the individuals committed and their prospective industrial careers after release. If a large proportion of the inmates is unskilled or semiskilled and if their future industrial occupations are likely to be unskilled, then the prison might well seek an industrial development which would suit the ability of its supply. It might do this with the understanding that it is attempting to develop a self-sufficient institution. That is something very different from a profit-making one. It might seek so to distribute its population in industrial arrangements within the general institutional structure as to utilize and, if possible, develop all of the skills available.

Relating the occupational distribution of the prison population to its classification with a view to housing it in maximum, medium and minimum security buildings, it would be possible to develop different types of employment

within these different types of institutions. This is especially significant in view of the fact that the lesser security building would largely hold men sentenced to shorter terms and, therefore, not be available for long-time industrial or vocational training.

Broadly speaking, the prison population may be divided for industrial purposes into three separate groups:

1. Maintenance and upkeep.
2. Farming, road work, reforestation and drainage.
3. Industrial establishments within prisons.

No standardized recommendation for the organization of prison labor can be made. The different size and character of penal institutions, the different climates in which they are located, the different industries which prevail in the various sections of the country, make recommendations on this subject possible only in general terms. We may emphasize the broader objectives. Local conditions must determine local policy.

It ought to be clear, however, that no prison-labor system can or ought to be built on the assumption that the prison is to be a financial asset to the State. The prison must be maintained at any rate. The New York Crime Commission says on this point: "Attempts at money making in prison industries should not destroy the benefit that society obtains upon the release from prison of a person educated to capacity and desire, and thus better fitted for adjustment in a free environment." A prison ought to be maintained with the greatest economy in money, but with the greatest good to the inmates and the State, and financial returns from the labor of prisoners is no adequate test of the latter objective. The prison ought to be self-supporting on condition that it does not sacrifice the broader end of the prison sentence.

All systems of whatever character developed within a prison ought to be planned with an eye to the prisoner's ultimate return to the community. His ultimate release as a good citizen is, and must be, the great end and aim. With this end in view we may make a short analysis of the types of prison labor that lend themselves to natural development within the prison community.

Approximately 30 per cent of all inmates are employed in maintenance and upkeep. This work should have skilled outside instruction and supervision. The point to emphasize in this connection is that the labor ought, as far as possible, to be organized with a view to its possible future use to the men upon release. The plumber and electrician, the stationary engineer, the painter and carpenter, ought to receive from prison experience and labor an added knowledge and skill for future use. Likewise with the kitchen staff and the dining-room staff. In connection with such maintenance work an adequate prison organization would attempt to utilize either correspondence courses or a trained dietitian, with lectures and classes, so as to make the work contribute toward future occupation after release. Nor is this an impossibility. When one looks over the great variety of courses given in San Quentin Prison it is obvious that some of these or similar courses could be fitted in with the actual maintenance work of the prisoner for his increased knowledge and understanding and still more for his development as a human being.

7. FARM LABOR

In view of our discussion of the distribution of the prison population into maximum, medium and minimum security buildings, it is clear that a considerable proportion of the work could be done outside prison walls. Insistence upon keeping most of the men within the walls has complicated the labor problem. The close space and the high cost of maintenance have argued for high-speed industrial establishments comparable with outside industry. But there is every reason to argue for external employment for all trustworthy prisoners. The Commissioner of Correction of New Jersey has said on this point:

> I don't believe industrializing is the complete answer to the question. I think that work for prisoners on highway construction and land clearing and in our State on a project like the mosquito control are projects we ought to consider. Over 60 per cent of our prisoners are of the common-labor variety. They are unskilled, untrained, and their outlook is into common-labor jobs. It seems to me we ought not attempt to carry the plan for work in prisons entirely along the line of factory production, machine-tending jobs. It seems to me we will avoid many of the difficulties of excessive manufacture for the market if we develop agricultural activities, canning operations, and dairy products and all that type of thing and go with a group of our more trusted prisoners into highway construction. In that line we have had very good success.

From the point of view of training, the average sentence of prisoners—especially those that can be housed outside the walls—is probably too short for any elaborate vocational education. A large proportion of the men are unskilled and will return to unskilled tasks. The habit of regular work is probably as significant in their prison experience as any other that the prison might inculcate. Work on a farm for those who came from the farm and will return to it needs no elaboration. The State Board of Administration of Alabama says of farm work:

> However, we feel that this is an advantage to the prisoner because a large number of them are farmers with very little knowledge of farming and their experience on an up-to-date farm will help them in their future life.

In States where a large proportion of the prison population is drawn from agricultural regions, this seems an obvious and desirable mode of labor.

If, in addition, all agricultural work can be accompanied by training in agriculture, the use of visual methods in the teaching of plant and cattle breeding, and lectures upon soil, crops and animal cultures, and, if the prison can draw upon the experience of the State agricultural extension service, many of the problems of seasonal employment in prison farms can be overcome. The work may be so arranged, and the day's program so organized, as to lessen idleness even in those sections where winter seasons reduce farm operations for some months of the year to a minimum. But even here unemployment could be reduced by a diversified agricultural program, keeping cattle and poultry, work on land clearing, renovation of farm machinery, and upkeep and maintenance of farm buildings, together with a well-planned

course in agriculture. The problem of idleness could be further reduced by the development of small food-canning industries. An example of this is given in the following excerpt from a report of the Michigan State Prison:

> In 1909, on the recommendation of Governor Warner, farm lands had been purchased, to be worked by prison labor, and the products of these farms exceeded the demands of the tables in the prison. Mr. Simpson started a canning factory to use the surplus stock, and it remains in successful operation to-day, canning a great variety of farm products.

It may be urged here that, from the point of view of rehabilitation, especially of an industrial community prisoner, it is probably desirable to provide him with a complete change in environment and interests. New scenes and activities may in time help to form new habits and be the best preparation for release. Thus many prisons send men about to be released to the farms with a view to fitting them for discharge. Such a system, well planned and organized, might take in the very large proportion of the men classed as minimum escape risks. They would in turn contribute to the production of the food supply of the other institutions. The New York Prison Survey Committee says:

> The prisons of the State last year used approximately $300,000 worth of food materials which might have been raised on prison farms if the prisons had the land, the labor, and the motive. In fact, the market for prison-grown farm products is as enormous and startling in its totals as has been shown possible in the market for prison-made manufactured articles. The charitable institutions of the State alone could use $530,000 of butter, cheese, eggs, milk, vegetables, etc. The State hospitals offer a market of over $500,000 for farm products.

For the prisoner from an industrial community the influence of such an environment would probably be as useful and desirable as any other. It ought to be emphasized, of course, that all such experimentation is determined by the honesty, efficiency and competence of the supervising personnel. Farm work could be developed if sufficient time, thought and interest were taken in it.

8. ROAD BUILDING AND REFORESTATION

What has been said about farming applies with even greater force to road building and reforestation. In the case of road building simple movable camps can be safely constructed. The amount of work that could be developed is almost unlimited. No great expenditure in equipment or machinery is necessary. Roads which are off the main highways—secondary roads which are often overlooked or neglected in any general road system—could be improved and extended. Here the experience of two States now using road work as part of their regular prison labor system may be cited. The State of Alabama reports:

> In addition to grading and surfacing, this board has the machinery and equipment for laying hard or concrete surface roads, and it has also been proven that this can be done in a strictly first-class manner. Up to this time there has been built approximately 600 miles of graded road and 29 miles of hard-surface roads. Our net profit, after charging off all depreciation on buildings, machinery, equipment, and supplies used, shows $120,179.01. During this period (June 1, 1927, to September 30, 1930) we have worked a daily average of 1,480 convicts and have made a monthly per capita profit of $6.76 for each convict.

The Commissioner of Correction of New Jersey has said:

> Our State highway commission has treated our department exactly as a contractor and has permitted us to take contracts for the building of a State highway with the modern reinforced concrete type of road, and we have had an average of from 110 to 150 prisoners out in the army barracks type of camp on State highway construction, building highways right along our populous centers, our shore section, and up through our summer resort sections. They have built roads that have stood all the tests of the highway engineers and have been considered some of the best roads in the State. We have averaged from 7 to 10 miles a year for the last five years, and that has been done without any conflict with organized labor or contractors.

This road work ought to be coordinated with a regular educational program. The maintenance of a properly staffed library, the provision of entertainment in the form of a radio, an occasional educational movie, deliberate cultivation through correspondence courses, and regular visits of the educational director would give such work an educational

objective. Winter months could be occupied with preparation of road machinery for the next season and with similar undertakings. If the camp were permanently located, a small farm might well be attached to it. This plan facilitates the classification of the prison population into different road camps with varying degrees of supervision. Experience has shown that great success with road camps is possible. It is only because we have insisted that the old bastile prison is essential for all prisoners that we have not developed more fully the possibilities of road work. Here again competition with outside labor is at a minimum. Here also the program is in terms of State use, to which most manufacturing and labor groups have given their formal support.

What is true of road work is also true of reforestation and drainage. As far as possible, consistent with safety, outside labor under sufficient supervision with a well-developed educational and recreation program is the best and most feasible means of employing a large proportion of the prison population.

9. THE STATE-USE SYSTEM

If nonindustrial labor is provided for those groups of prisoners who can be housed in minimum and medium security buildings, then the whole problem of prison industry is greatly simplified. Instead of providing manufacturing industries for all prisoners, they would have to be provided for less than one-half, possibly for less than one-third. We have already seen, in the discussion of classification, that even one-third may prove too high an estimate of the number of men that have to be kept in maximum security buildings. The question of industrial labor thus becomes more simple.

But even so, prison industry has its difficulties. In part, at least, these difficulties arise from inadequate financing. Complaints are heard almost everywhere that the machines are old, the equipment insufficient, the right of expenditure for raw materials unnecessarily encumbered, and the prison hampered at every turn in its attempt to find a market and secure competent personnel for direction and instruction. A

few quotations from the reports of the New York Crime Commission will illustrate the situation. These quotations could be duplicated for nearly every prison in the country.

> Prison industry, however, is crippled by the lack of shop facilities and the lack of mechanical adjuncts used in production. The prison shops at Auburn, at Sing Sing and at Clinton Prisons, except the meager number of new buildings, years ago outlived their usefulness and now are unsafe, unhealthful, antiquated, costly to maintain and dangerous to life. New shops are needed in all three prisons.
>
> Sufficient shoproom and adequate shop equipment should be provided to employ in profitable industries all prisoners capable and physically fit and not used in maintenance and other prison service.
>
> Additional appropriations are needed for guards, industrial foremen, and properly qualified teachers, and these grants should be made by the legislature. Compensation of all employees in penal institutions is insufficient to procure good service.

But these difficulties are much less impressive if the prison makes no attempt to organize an elaborate and large-scale industrial establishment for which it has neither the resources nor the competence. The Commissioner of Correction of New Jersey has taken this attitude in the following words:

> If you don't go into this industrial problem wholesale; if you don't try to make your prison compete entirely with one industry; if you don't try to make it compete with only one group of organized labor, it seems to me you avoid a great many difficulties.
>
> I believe in diversified labor because it fits the problem better, it fits the men better, and fits the working conditions in the outside world better.
>
> The keystone of our work has been classification or individualization of our men, the separation of these men into groups which are homogeneous as to capabilities, interests and outlook, and then the development of a cooperative and an understanding spirit on the part of both organized labor and the organized employers.

The system of labor which seems best adapted to State prison industries, and the least objectionable as well, is known as "State use." Under this system "convict-made goods are withdrawn entirely from the open market and sold only to tax-supported institutions and agencies within the State.". Proponents of other systems of prison labor have argued that "State use" is equally competitive with outside labor and capital. We need not repeat the argument here.

"State use" has great merit in that it does not participate in price making in the open market. It leaves that completely and severely alone. It does not involve higgling for either labor or capital. We may state the case in broader terms. Products produced for sale in the open market tend to affect the prices of all similar and related goods in the entire market. Products produced by the State for its own institutional use do not enter the market. The first case involves direct competition with free labor and capital; the second is a closed monopoly which serves only its own ends without coming into contact with the outside market. "State use" reduces the area of the market for a particular product, but does not necessarily affect its basic price. And it meets with less opposition.

This system has the further advantage that it enjoys the cooperation of outside labor. Thus it is reported from New Jersey that—

> organized labor wrote the 5-year course of study used in our printing school and industry in our various institutions. They give apprenticeship credit year by year to those in the industry who successfully complete their year's work in their course of study, and finally a journeyman's card to those who complete all the 5-year course. Recently we have had men leave the prison and go into the profession at wages as high as $55 per week.

The type of industry and its size must be determined by conditions within the prison and the community. Certain industries are obviously suitable for institutional use: The making of clothing, shoes, furniture, bedding, and utensils, which other State institutions need; the making of road and automobile signs; State printing; and the establishment of small foundries. The Massachusetts prisons report:

> The printing plant is being reorganized and will be placed on an industry basis, with the exception that a sufficient amount of printing for other departments will be sent to our shop to enable us to operate at capacity.

In no case need the industries be large. Training and preparation is as important as the actual output. The prison must attempt to diversify its industries so as to become self-

sufficient, help other State institutions to do likewise, and develop all possible skills and interests that men may have and that may be of use to them upon release.

The key to the solution of the problems which arise under "State use" lies in the development of the available State institution market. In so far as the "State use" system has failed to provide adequate labor for the inmates of penal institutions, it has been due to neglect of the prison authorities to use their influence with other State institutions, or failure to seek the necessary legislation for obtaining the available market. For this failure perhaps criticism is too severe. Prison officials are directly responsible for shaping the destinies of the men in prison. They, better than others, know the deteriorating consequence of idleness. Prisons filled with idle men are hard to discipline; the men become bitter, lazy and restless; the prison which provides no work is most likely to have internal fires and riots.

Considering these consequences, prison officials have been unjustifiably negligent in failing to develop the State institution market. In many States they have failed to develop this market although the legislature has given them a legal right to do so. This failure may not always be their fault. They may lack sufficient funds to carry on an advertising or selling campaign among institutions, or they may not have worked out systems of standardizing goods used in different institutions. While all of these are extenuating circumstances, they do not alter the responsibility of the officials. It is for them to see that the funds, the salesmen, and the standardization are made available. That is in some ways their major problem. Unless they succeed in finding work, they can not expect to meet their responsibility either to the prisoners or to the community.

One of the problems in providing a market for prison-made goods under the State-use system is to prevent evasion of the law by municipalities. It is reported from New York that "it seems that various bodies charged under the law with the purchase of these goods in one way or another evade that law." Massachusetts has paid particular atten-

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tion to this problem with good results. Massachusetts law makes it illegal for local auditors and treasurers to pass on bills for the purchase of goods by State and municipal institutions without a release from the State Department of Correction. Such a law, if well enforced, would do much to solve the problem of a market for prison-made goods. It has been estimated that the total market in municipal and State institutions is much larger than that which can possibly be supplied by the State prisons. We quote from the 1930 report of the Massachusetts Commissioner of Correction:

> To every city and town, as well as to institutions of all kinds, which have failed to purchase during the past year, a communication has been sent calling attention to the provisions of chapter 127 of the General Laws, sections 53–60, inclusive. In addition to this the auditors and treasurers have been notified that they can not pass bills for payment without a release from this department. At the same time this department stands ready in all ways to cooperate with city and State departments in the proper and common sense administration of the law * * *. Every effort has been made during the past year to bring smaller towns into line in the matter of purchasing, and the result has been most noticeable by a great increase in the number of new buyers, as well as a corresponding increase in business. As an illustration, 44 new towns purchased furniture in 1927, 50 purchased metal goods, 41 purchased brushes and 67 purchased flags.
>
> Many cities and towns have been prejudiced against prison-made goods, feeling that they could not be manufactured properly by inexperienced help, but this has been proved to the contrary and to the satisfaction of those who have had that feeling, and the department has and is receiving orders regularly from these very municipalities.

Such a system, if properly undertaken and carried out with the consistent support of a State legislature, a centralized and coordinated industrial planning system for the prisons, a proper sales force, and a purchasing law of the type now enforced in Massachusetts, would contribute to solving the basic problem of prison labor in our penal institutions. It would achieve that end without developing the undesirable features which are by-products of other systems.

10. WAGES

Finally, the problem of compensation for prisoners must be considered. Former Governor Alfred E. Smith once said on this subject:

> It has been my experience not only since I have been governor, but all the years I was in the legislature, that the real sufferers as a result of a prison sentence are the dependent members of the prisoner's family. I do not think it is a question that admits of any discussion at all. The prisoner is taken over by the State, supported, fed, and clothed, and his children, if he has any—and unfortunately a great many of them have—and his wife, are thrown upon the mercy of friends and relatives or else become public charges. The most pitiable cases one can listen to are constantly brought to the attention of the governor—actual want and actual starvation—as the result of the bread-winner being locked up in the State prison. In some instances it is unfair to the State to hold a man in prison when the children are in want; it is unfair to society to let them out. In a great many instances the man is where he belongs, but that does not take from the State the obligation to do something for the man's wife and children while he is in prison. Some method should be found.

It should be remembered that wages either have not been paid at all in our prisons, or if paid have, with a very few exceptions, been of negligible significance as financial contributions to the men's dependents or even for their own needs upon release. Existing wage payments have frequently been reduced and made still more negligible by systems of fining prisoners for violations of prison rules. There are cases on record in the State of New York in which prisoners who earned 1½ cents a day were fined $5 at a time for some infraction of the prison rules. Without going into a detailed discussion of the wage problem, it is sufficient to say here that adequate wage payments, especially to prisoners with dependents, would be a great boon to the men and to the charitable institutions of the States.

Payment of wages is dependent, however, upon a proper working out of the prison labor problem. If the State achieves an adequate solution of the labor problem, if the prisons become less of a drain upon the resources of the

State, and if they contribute to cutting down the maintenance costs of other institutions by supplying them with farm and dairy products, then it will be less difficult than it is at present to obtain adequate compensation for the prisoners. Some payment ought to be made under any conditions. After all, the incompetence of State officials in working out the labor problems of the prison can not be blamed on the prison inmates. But an adequate wage for the prisoners will have to wait upon solution of the prison labor problem.

IV. EDUCATION

1. THE FAILURE OF THE COMMUNITY

A prison brings together those who have been adjudged unfit to enjoy the benefits of freedom in a civilized community. In one sense a prison sentence is a public announcement that for a particular individual the family, the school, the church and the community as a whole have failed. The prison sentence is the last resort of the community in dealing with an individual. It is a last effort at reeducation, rehabilitation, reconstruction; a final attempt to readjust an individual who has failed to fit into the world in which he was reared. Whatever the cause, the community behaves in fact as if it assumed that a prison sentence could be made to serve the end of readjustment. The Montana Crime Commission says on this point:

> Whatever we may think the object of a prison sentence, or whatever our idea may be of the purpose to be attained in imprisoning men, it is very evident that for the protection of society we aim by such sentence to deter offenders from repeating their infractions of the law.

Otherwise the release of most criminals in less than two years would be an absurdity. If the community did not implicitly believe that a prison sentence is a means to reformation, it would find other means of dealing with its criminals. The prison is the last attempt of society to do what the family, the school, the church and the community itself have failed in doing.

Hence the process by which society attempts to do what it has hitherto failed in doing is the most important feature of the prison as an institution. The word education, as ordinarily used, is perhaps too narrow to describe the process involved. The activities of the State with respect to the convict from the time of his conviction to the time of his release from prison are part of a process of preparing him for his return to the community. The word education in this

connection, therefore, means more than book learning, vocational education, imparting of health habits, provision of medical care and instilling habits of labor and formal discipline. It means all of these and more. It implies the attempt so to reconstruct the basic attitude of the individual that, upon release, he will adopt a different mode of life than the one which led him to the prison gate.

It is clear from what has already been said in other sections of this report that the prison does not at present achieve this change. In part this failure is due to partial or complete nonrecognition of the purpose of imprisonment. It has been said that not more than 40 per cent of the wardens recognize that their major function is an attempt at reforming the prisoner. In part it is due to the lack of proper personnel equal to carrying on a fundamental educational program. In part it is due to the fact that we still operate on a simple and inadequate description of human nature. We still proceed on the assumption that good ideas, good projects, good intentions are easily translatable into good practices. The whole procedure of our prison system may be explained in terms of belief that if we succeed in making the individual feel the desirability of better conduct he will then succeed in behaving better. That is too simple a description of the dynamics of human conduct. Unless we can make the actual behavior of the criminal consistent with the kind of activity tolerated and approved in the outside community, then our prison practice will end largely in failure. Unless we succeed in establishing new habits in addition to new resolutions, our efforts will probably fail.

The whole history of prison practice proves this to be true. One judgment of this condition is typical. "The Montana Prison, to a large extent, is educating men to be criminals rather than reforming them or deterring them from further crime." The State can not remain content with this situation. The New York Crime Commission stated the problem succinctly when it said:

> Our commission has, from the beginning of its work, taken the position that men are sent to State prisons primarily for the protection of society. During such confinement it is the duty of those in authority to make a continuous and positive effort to change the antisocial attitude of each inmate to an attitude of respect for the rights of the persons and property of others, so that when and if released he will return to society so instructed and so accustomed to habits of industry as to abandon his life of crime.

We are considering the problem of changing an attitude toward life and a habit of living. But this is, of course, no easy task. One writer has stated the problem in the following terms:

> If you will select 10 physicians, 10 ministers, 10 lawyers and 10 criminals, all equally interested and habituated in their profession, you will find it equally hard to change the life patterns of each group. The task of removing the physicians, ministers and lawyers from their chosen fields would be just as momentous as removing the criminals from their field of activity. In each case there have to be new attitudes, new interests, new social values and a new philosophy of life.

What we are concerned with is giving people a new philosophy of life. That is, after all, what we have been attempting to do these many years. But we have sought to do it by punishment. How impotent specific punishment is in the actual transformation of a way of life is seen in the fact that, with all of the harshness still characteristic of our prison discipline, the number of recidivists is very high. Admittedly the method we have employed in our prisons has not been effective. The cause of its failure has been suggestively indicated in this way:

> Select 10 Democrats and try to make Republicans out of them; or choose a dozen Protestants and try to convert them to Catholicism; or try to make Americans out of Italians or Italians out of Americans, and you will discover that the delinquents and criminals you are handling are not any more difficult to change than nondelinquents. Certainly punishment will not be any more efficacious in changing one group than it would be in changing the other.

2. OBJECTIVES OF PRISON EDUCATION

Difficult as is the problem that we have suggested, it is made still more difficult by the conditions that arise as a result of imprisonment. The prison tends to build up habits, adjustments, and adaptations to the institutional environment which in themselves become impediments in the at-

tempt to reconstruct the character of the inmate. The prison educational program has, therefore, three definite and inescapable objectives. They are interconnected, but for the sake of the discussion it is well to differentiate them. The prison educational program must—

1. Prevent the deterioration which is an almost inevitable by-product of confinement. It must seek to prevent the regression, the introversion, the self-centering, the substitution of imaginary for real interests, the tendency to day-dreaming, the disposition to cast back to previous interest-bearing experience as a substitute for the lack of current experience. It must attempt to prevent the tendency to dwell in the past that is so general and inevitable among men forced to live in an environment which does not engage their initiative and interest. That is the prison's first task. Perhaps it is its most important task. Unless the prison can enlist the individual's interest in the prison environment in which he lives, most other attempts will fail.

There is but one way out of this dilemma, namely, activity—being kept busy; the busier the better. The day must be filled from morning until night with as much interesting activity in the form of work, play, education, and conversation as possible. The best prison is the one where men are busiest, most interested in the immediate concerns that may be developed within the prison. Any activity which will contribute to healthy attitudes is desirable. Any activity which will take a man's mind off himself, which will keep him from roaming back in his mind to his previous activities, is good. The prisoner must be socialized before he is returned and the first essential is to escape the evil of deterioration consequent upon confinement.

2. Secondly, the prison must seek to break down undesirable habits which the individual brought with him into the prison. That is perhaps the most difficult phase of the prison's educational program. The citations we have given indicate the difficulty of the task. All that we know about the functioning of a habit is that it is a pattern of behavior acting in response to a stimulus. But the mere absence of a given stimulus over a period of time does not necessarily involve the total cessation of its response if the stimulus is repeated later on. Something more is needed than the mere removal of the stimulus that awakens the undesirable response. It is not enough to remove the "temptation." Something must be developed which will make the stimulus nonoperative, should it reappear later upon release. Thus the demand is for substitution of new attitudes which are aware of, and respond to, new stimuli. The method of combating undesirable attitudes, beliefs, ideas, practices, preoccupations, and interests is to substitute desirable ones. The assumption here is that if life in the institution is sufficiently well organized, it will lead to the development of substitute interests and patterns of behavior for undesirable ones.

3. This leads us to the third part of the program of prison education. The prison must not only prevent the deterioration of the individual as a result of confinement and destroy the undesirable attitudes he has brought with him; it must go further and deliberately seek to inculcate new habits and interests. The best method here is in doing new things, having new and stimulating experiences, acquiring new skills, and securing new interests. But these must, as far as possible, be "kinetic"; they must be achieved in the "doing." The adage that "As a man does so he is" reflects a profound insight into human nature. The task is not impossible. If the prison can provide new stimuli, it will in time call forth new habits, and if the habits become ingrained they will ultimately produce a "new" individual with a new character. The problem is one of forging a new community for the prisoner where community pressure becomes sufficiently insistent to call forth new behavior. If this continues long enough, the man will act differently, and if he acts differently he will become different. After all, the way of becoming a criminal is a way of learning how to become one. The process of unlearning need not be more difficult than the way of learning.

This general problem has been stated in the following terms:

First: Delinquency or criminality, like any other pattern behavior, is an adjustment to a social situation. Second: The delinquent or

criminal, as a social type, is produced by identically the same social process as the nondelinquent. Third: Wherever one finds a delinquent or criminal, he finds a delinquent or criminal social situation. Fourth: A delinquent or criminal pattern of behavior is not any harder to change than a nondelinquent pattern of behavior.

With all of these considerations as a background we may now quote in extenso the discussion of the objectives of prison education in the 1930 report of the Federal Penal and Correctional Institution in discussing the educational work of the prison at McNeil Island.

In addition to these activities, which contribute to fitting man for life in the social group, there is a school system. Its immediate aim is to afford mental hygiene, keep men occupied, and build up morale. Its ultimate aim is to meet the cultural, recreational, social, and vocational needs of the men. It meets the first by providing for mental activity, by meeting a desire for self-improvement, by furnishing an activity in which men can engage while in the cell houses, by affording an opportunity to pursue one's interests, by meeting a desire for individual expression, by focusing attention on other things than self, and by keeping up morale through encouragement, setting a goal, and developing masterly self-confidence and industry.

The second aim is met by providing instruction which promotes general information, reasonable mastery of tool subjects, habits of sanitation and hygiene, knowledge of civic privileges, obligations and responsibilities, learning a trade, and developing an appreciation. While the latter aim is both vocational and academic, at present the academic phase is receiving the greater emphasis; plans are being perfected to provide, under the direction of the school, competent training in the ordinary occupational activities.

* * * The above activities, health, recreation, work, discipline and schooling, constitute the educational forces at McNeil Island. They are all recognized agencies in promoting social efficiency; if they are effective in bringing about desirable modifications in the character of the individual on the outside, they can not fail to work some improvement in the inmate capable of learning. As to the school, if it served only to keep a large number of men busy while in the cell blocks, to meet a human demand for an opportunity to improve, and to aid in preventing introversion, it would meet a real institutional need. It is, in actual fact, serving with increasing effectiveness its higher social aim. Any well-directed activity of an institution which promotes a healthy body is in its broadest sense educational. The same is true of those activities that make for mental hygiene by meeting the social and recreational needs of men. They tend to prevent introversion, promote emotional stability, and lead to the formation of right habits, worthy ideals, and an appreciation of beauty and value. To these add work and disciplinary activities, the opportunity to pursue one's

interests, to acquire that information which is the general possession of the group, to develop facility in the essential skills and to learn to perform some service; and you have a well-rounded educational program, one calculated to develop those habits, ideals, attitudes, and interests which promote active responsible citizenship. A sound body requires a sane mind. "Doing time" is a degenerative process. The compelling motives of a normal life are wanting. Dissatisfaction due to the thwarting of natural impulses causes the individual to seek escape from unpleasantness. Unless activities are provided which engage the attention, call forth a response, and furnish a forward outlook, the inmate is apt to indulge in emotional excesses and to form the habit of seeking the easiest way out of a difficulty. Substitution of imagination for actuality, or introversion, is one of man's most dangerous habits. It dissipates the energy, warps the judgment, and is a positive deterrent to achieving a goal. Unrewarded work will not overcome this difficulty. Activity which calls forth spontaneous response is essential to afford mental hygiene. Recreational activities serve to meet this need and in addition are direct aids in developing such desirable social habits as cooperation, participation and good sportsmanship.

3. THE EDUCATIONAL PROGRAM AT M'NEIL ISLAND

The manner in which these objectives are realized in practice may also be seen in the report of the Federal prison at McNeil Island:

School work is carried on both by classroom and by cell instruction. Five nights a week classes are conducted in lecture courses, elementary school subjects, citizenship, Spanish, shorthand, mathematics and drawing. Individual instruction in higher courses in English, mathematics, and special correspondence courses are given on the tiers. The work in the night classes is also largely individualized, the special needs of the student being determined by diagnostic testing. It is the aim to adopt instruction as nearly as possible to the individual needs and interests of the men. All subject matter is kept within their comprehension, and care is taken to make assignments definite and of reasonable length. Content is selected on a basis of meeting adult needs, and an attempt is made to hitch it up with actual life activities.

The extension courses put out by the department of education of the Commonwealth of Massachusetts form the basis for the courses of study. A mimeographed copy of each lesson is given out to each man enrolled in a given course. The student prepares the lesson and writes out a report, which is corrected by the instructor and returned. Men are encouraged to enroll only in courses for which they have ability. Special emphasis is laid upon the desirability of

perfecting themselves in fundamental subjects that they may enjoy the advantage of recognition and promotion when they become employed on the outside.

For the most part, the instructors are inmates who have been selected on the basis of mentality, conduct, knowledge of the subject and the desire to give service. In recognition of their work they are given special privileges. For obvious reasons, however, a sufficient corps of civilian teachers is necessary if well-organized work is to be accomplished.

That intelligent guidance may be given the student concerning the selection of his course, each man is given the new Stanford achievement tests in arithmetic, reasoning, language usage and word meaning. If there is considerable discrepancy in the various subject abilities, the Otis arithmetic reasoning and the Otis classification tests are given also. Since it has been found that there is a very high degree of correlation between mental and achievement tests, the rating of the individual is based on the average of all tests taken. These tests are excellent administrative devices; they not only tend to indicate general ability and point out those who need special consideration but they also prevent much misdirected effort on the part of the student and serve to protect the instructor against unfair criticism by inmates wo do not make fair progress. No test rating is given the foreign student who may have difficulty in reading understandingly or who must translate the English.

4. PRISON LIBRARIES

While all prisons have libraries, only a few make adequate use of even the poor resources they possess. Most prison libraries are makeshifts, collections of old, worn-out, dull, cast-off books. The number of books is insufficient; their classification is equally faulty. They are often poorly catalogued and still more poorly cared for. There are only a few prisons in the country which provide a modern library service. What is true of books is frequently true of newspapers and magazines—there are not enough of them. And when we consider that so large a portion of the men in prison life are idle the possible usefulness of a well stocked and properly administered library can hardly be overestimated. The library is also essential to any adequate system of adult education either cultural or vocational. This brings up the question of the control and direction of the library. Ordinarily the library is in charge of the chaplain. But the chaplain has many other

duties to perform which take, and ought to take, most of his energies. The library is therefore of necessity a secondary interest with most chaplains. Frequently he is merely the general supervisor and the actual library administration is in the hands of a few prisoners who have, generally speaking, no special training for the important task and have no conception of the possibilities of a good library organization. Every prison ought not only to have a good modern library, kept up to date, well arranged and catalogued, with adequate access to the books for all prisoners, but it ought to have a specially trained librarian. This has recently been recognized by the Federal prison bureau and a special librarian has been appointed at the reformatory in Chillicothe.

5. EDUCATIONAL RESOURCES

We can not insist too strongly upon the utilization of the educational resources of the institution. There is one prison which has nearly 150 college graduates and only provides a poor fifth grade schooling for a few men. This represents an enormous waste of opportunity and material—opportunity for the prisoners who could benefit by the willingness and ability of the more educated to teach, and opportunity for the less educated to learn. It represents at the same time a failure on the part of the prison administration to fill in the idle and unused hours of both the prisoners who would teach and the prisoners who would learn and take their minds off themselves—take them off their past careers and keep them from brooding about their lot in life. Here perhaps is the greatest opportunity for active interest-developing activity which would be useful to all concerned and would involve neither a great expenditure of effort or money on the part of the prison organization and would lead to the best of results in all terms, including internal discipline. It requires supervision and cooperation. But if every prison made full use of its internal educational possibilities in all the directions pointed out by its varied human resources, the whole atmosphere could and would be changed. Nor is it necessary to have either large classes or large school rooms. It is desirable and

essential to have a good library and a good supervising educator. Men can be taught, as they are in San Quentin, for instance, through the bars in the absence of adequate class rooms. In those prisons which as a matter of course group a number of men in the same cell, the cell may become the classroom. It only requires good light within the cell, an opportunity for possessing the facilities of writing and reading—the right to paper, pencil, slate and book—and an organized visiting teaching service at regular hours of the day. This is not ideal. Nor is it recommended as an objective. But there are thousands of men in our prisons at present who are locked in their cells the greater part of the day without any activity at all; and it is recommended that this time be occupied and organized with the internal educational resources of the institution. The prison as an organized institution for the education of its inmates may justly be criticized for failure to utilize its opportunities and resources. It indicates both lack of interest and lack of constructive imagination on the part of the warden to permit his men to sink into a sort of semiatrophy rather than use his opportunities as head of the institution for the promotion of the spiritual welfare of its inmates.

6. PRISON EDUCATION AT SAN QUENTIN

The achievements of the educational development at San Quentin prison in California are even more significant. Here again we quote directly, as it is important to see what is actually done in some prisons, in the hope that their practice may be copied by others. In this prison there are at present 1,700 men enrolled in classes.

During the biennium, we have completed eight school terms. The average enrollments for each term was 713, with an average number of completions for each term of 403 or 56.29 per cent of class enrollments completed. The percentage of completions would have been larger but changes of work, assignments to road camps, paroles and discharge caused the men to discontinue their courses. * * * Instruction is given in conversational French, German and Spanish. As during the previous biennium, Spanish is the most popular. Interest in this language has increased its enrollment rapidly, 955 inmates having completed courses in Spanish during this period, as against 312 for the previous biennium. This is an increase of 200.6 per cent. The following subjects are covered by this division: Spanish, French, German, advanced English, general history, philosophy, foreign trade and economic geography. The last five of the abovementioned classes have been added during the last quarter. There are 201 students in this unit. The objective of this department is dual: first, to give every possible means of equipping our students to increase their earning capacity; second, to divert their minds to think along modern constructive channels.

Starting as an experiment with 135 students engaged in studying three subjects with a total of six class periods per calendar week, this department has passed the stage of experimentation. At present it has an enrollment of 937 students engaged in studying 14 subjects with a total of 32 class periods per calendar week. All subjects that cover and pertain to trades show an increase over the former of 600 per cent.

Startling as it may seem, it is only the natural and healthy growth of a vigorous compaign, capably taught by experienced inmate educators, full cooperation by prison officials, enlarged quarters properly equipped for school purposes, a new enthusiasm thoroughly aroused with ambition tending toward self-improvement by over 50 per cent of this institution's population. The results justify all efforts and expenditures involved.

There are now 96 students engaged in studying agricultural subjects. This is an increase of 83, or 63.8 per cent. Two of these classes have been added during the last quarter and, as in the vocational classes, the increase enrollment is due to a vigorous campaign. Courses now being given are letter box courses in vegetable gardening and soil management, classes in practical farming, dairy farming, vegetable and truck gardening with marketing, and one course in landscape architecture.

The teachers in this division are men who have had education, practical and theoretical, in this field. Under their supervision, the following new courses are being prepared: Floriculture, horticulture, bee culture, rabbit husbandry, practical animal husbandry and practical fowl husbandry.

Less extensive but equally interesting is the development in the State prison at Waupon, Wis.:

With the constant increase of the population of the State prison during the period covered by this report, there was also a steady increase in the number of inmates making application for extension courses. Two principal factors have quite definitely kept the work from growing more rapidly than here shown. These are (1) the physical impossibility of one university representative visiting every

student fortnightly, and (2) the inability of the inmates themselves to pay for the courses.

The first of these factors has been overcome by having two university representatives visit the institution regularly. This has made possible a more complete check-up on each student biweekly and has been an important factor in bringing about a large increase in the percentage of completion. This percentage has increased from 57 per cent to 68 per cent.

The second factor has been partly compensated for by the authorization of Wisconsin Free Library reading courses during the first year of the biennium. Lists of books on any subject are arranged for interested inmates and the books are sent one at a time to the student in each course without charge. A written report is required on each book.

This service in addition to the very inexpensive penmanship course has caused an increase in enrollment from 192 in the first year to 367 the second year, or an increase of 91 per cent.

Perhaps enough has been said to indicate both the problem and the means of attacking it. Stated in the simplest terms the prison ought to be so organized as to find for each prisoner a teacher in some subject in which he may be interested and to find for each prisoner who is equipped to teach something useful, a pupil whom he can instruct.

From the point of view of program each prison needs an educational director. In the larger prison there should also be a vocational director. It may further be added that too much attention can not be given to the development of good library facilities.

7. THE PRISON COMMUNITY

The present-day penologist and prison administrator has become conscious that the prisoner is a human being with the multiple needs of other people and that he must be allowed to live as nearly normal and self-directing a life as is consistent with prison discipline. He will some day return to society and he must be prepared for it. By way of preparation his social nature should not be allowed to atrophy. It ought rather to be developed.

One student of the prison problem has this to say on the subject:

> Of the prisoner it is well to learn and understand his bent before he is assigned to employment or definite decision is made as to his place in the prison. It is thus in a free community. Why should it not likewise be so in the institution community? Men and women order their lives after their own inclinations, but in their youth their elders and the State itself exercised a degree of control and direction which in after life proves to be helpful. The spirit of repression and the exemplification of repression within the institution must be lifted. It can be lifted successfully. Too much government within the institution is as bad as too much government without. That institution is best governed that is least governed. The restraint that the institution imposes on its inmates should be the restraint of direction of energy and thought into healthful channels, having for its purpose the reeducation of the unbalanced mind and the correction of the misdirected mind. A prison will probably always be a walled city, but it may be a city within its walls, with houses, some small and some large, some stronger than others. It is not necessary that forts be erected for all the population because 10 per cent of them will not conduct themselves properly unless immured behind massive masonry and case-hardened steel.
>
> As the man outside makes up his day, so the prisoner should have facilities to make up his, a portion for recreation, a portion for study and reading, a portion for work and, if his education has been neglected, a portion of his time to be given to the schools. If he desires to learn a trade or to improve his knowledge of a trade he already knows, provision in the training schools must be made. The whole prison process must work together with one single aim and everything and everybody else must get out of its way; that aim is the return of the man to society with a correct attitude toward it and with an equipment adequate to self-support. And the prison and parole and scientific staffs should know him so well by that time that mistakes in placement will be few.

How such a program is approximated may be seen from the recent report of the Massachusetts prison colony at Norfolk:

> Small but well-equipped plumbing, paint, electrical and carpenter shops and a very serviceable sewing room have been set up in the basements of these buildings. The development of the usual programs for night schools, church services, athletics and entertainments has also formed an important, if minor, part of our life to date. The cooperation of officers, inmates, and especially the citizens in the neighboring towns and cities has made possible a variety and a quality in these activities which have been far above what might be expected in such restricted circumstances. The American Legion, men's clubs, churches of every denomination, athletic clubs, amateur dramatic societies, school and other public officials, and numerous individual citizens from Boston to the Cape have given us their aid in carrying out these projects. A small dispensary and a dental

clinic have been established with the aid of an unusually conscientious and able inmate physician under the direction of the officer-nurse. From nothing, a library of a thousand volumes has been built up and a modern system of cataloguing installed through the assistance of Miss Edith Kathleen Jones of the State department of education. Even a colony fire department and a watch organized by the inmates under the direction of one of the officers in charge have been instrumental in preventing a number of fires from doing serious damage and in helping to police the grounds. Although we are constantly reminded that we are "only a construction camp," the 300 men who have lived and worked and gone on from here in the past two years have the same joys and sorrows, the same aches and pains, the same desires and needs, the same weaknesses and capabilities as a community ten times as large. However, in the maintenance of our everyday program and in the evolution of our ultimate plan, we are literally pulling ourselves up by our boot straps, not without a humble recognition of the risks involved but continually encouraged by the rewards obtained.

8. GROUP ACTIVITY

The report above quoted goes on to describe a system of group activity and social education which deserves more attention than it has received:

As a direct outgrowth of the group system, an inmate organization, called the council, has developed and together with the staff constitutes the community government of the institution. This is not to be confused with the strictly penal administration of the colony, which is in the hands of the superintendent and his assistants. Also in contrast to inmate organizations in some institutions which are founded on the principle of self-government in the hands of inmates only, this community organization operates on the principle of joint responsibility in which both officers and inmates take part.

The council consists of 12 inmates, 3 nominated and elected by the inmates from each of the 4 houses for a term of 3 months. The three councilmen from each house and the house officers act as a house committee which meets weekly, and a weekly meeting is also held in each house with all members and the house officer present. Questions affecting the welfare of the house or the institution are discussed at these meetings. Such questions are then carried by the councilmen to the weekly council meeting and by the house officer to the weekly staff meeting. The council elects its own chairman and secretary and appoints its own committees on construction, education and library entertainment, athletics, food, maintenance, store, etc. The staff of 21 officers also has its chairman and committees on construction, education and library entertainment, athletics, food, maintenance, store, etc.

Questions relating to any of these fields of activity are taken up in weekly joint meetings of the respective committees and by them referred also to the weekly meetings of the council and the staff. The staff and the council meet weekly with the superintendent, who refers any action taken in the meeting to the other for confirmation when requested. The council has advisory power only, and final action always rests with the staff; suggestions may originate in either body, however, and are referred to both before final action. However, in the 16 months during which the plan has been in operation the two have never failed to agree finally on any decision. The plan does not always give the "best men" the leadership—frequently otherwise—and it has been interesting to note what responsibility does to these others. That the plan has not run into difficulties frequently encountered by inmate self-government organizations, where control has soon passed into the hands of the bold and unscrupulous, is due to the very important and sincere part played in it by the officers, who (contrary to the usual circumstances) are whole-heartedly a part of it and who act as a proper balance wheel. On the other hand, the very presence of the average man in the council demonstrates that it is not an "administration affair," and the very concrete advantages derived for the men by the cooperation of the council and the staff continually demonstrates its vitality.

Every effort is made to eliminate "politics" and "individual wirepulling" by holding the council strictly to the consideration of general policies and programs affecting the whole institution. Matters affecting individual house groups are settled by the house officers and the inmates affected. Individual matters are settled between individuals.

In general the plan has worked, although it is neither an "honor system" nor "self-government," because it is founded frankly on a basis of results for both staff and men. In several crises the question of whether the council should continue or not has been raised, and each time it has been answered in the affirmative, solely on the basis that both the staff and the men can operate more satisfactorily with it than without it. Neither officers nor men give up their independence or their responsibilities, and each continually checks the other to insure square dealing; but both agree that cooperation works better than opposition where men must work and eat and live together, whatever the circumstances.

To date the success of the plan is evident, both in the morale of the man and in the results achieved. Not only have grievances been aired and ironed out before they became acute, but constructive measures initiated, either by the staff or by the inmates, have been carried out with much greater success than would otherwise have been possible. During the first six months production on construction was doubled by actual record, due to the cooperation of the committees on construction, and the entire program of the institution in

all its activities has been given an impetus and a vitality not otherwise possible.

Cooperation and constructive service, instead of opposition and destructive enmity, on the part of both inmates and officers, continually break through the traditional prejudice of keeper and convict. And it is through such rifts in the old armor that one glimpses the normal, human, living body, the restoration of which is the aim of our whole endeavor.

Reviewing what has been said as to organization of penal institutions, whether we look at the various activities in different institutions with respect to classification, labor or education, we find scattered instances of the most progressive features. If it were possible to combine in one institution the best features actually in use in different institutions, there would be a model prison. It is not that there are no progressive institutions. It is rather that an institution which shows amazing courage and progress in one direction will continue old practices and out-of-date methods in other respects. For the future we need not go outside of experience in the development of our prison program. We need but extend to all prisons the best practices now employed in particular institutions. When we have done that we shall have a different prison system than the one described in the first part of this report.

V. PAROLE

1. THE EXTENT OF PAROLE

Parole is the principal means by which release from imprisonment is now granted in the United States. Of the 44,208 prisoners who were set free by American prisons and reformatories in 1927 only 42 per cent had been held to the expiration of their full sentences, 49 per cent were paroled, and 9 per cent were released by all other means. Many States rely heavily on this method of release. In 1927, 66 per cent of the releases in California and Michigan, 70 per cent in Pennsylvania, 76 per cent in Ohio, 79 per cent in New Jersey, 83 per cent in Illinois, 86 per cent in New York, 87 per cent in Massachusetts, 89 per cent in Indiana, and 98 per cent in Washington were released by parole. Florida, Mississippi, and Virginia are the only States in which no prisoners are paroled.

2. DEFINITION

Parole may be defined as a method by which prisoners who have served a portion of their sentences are released from penal institutions under the continued custody of the State upon conditions which permit their reincarceration in the event of misbehavior. It is to be distinguished from probation, which provides, like parole, for freedom under supervision, but which, unlike parole, is granted before, rather than after, a period of imprisonment. It is also to be distinguished from pardon, which, unlike parole, affords a restoration of citizenship and complete freedom, under no supervision, without the right of reimprisonment.

3. ALTERNATIVES TO PAROLE

Most prisoners must be released at one time or another. A few convicts, it is true, are hanged or electrocuted. But society will permit this only in the case of one or two ex-

tremely serious offenses. A few are held in confinement until they die. But sentences long enough to accomplish this result are rarely imposed. Most prisoners walk out into the world again, to their families, to their friends, to their work, and, perhaps, to their careers of crime. Social security necessitates their confinement under the watch of armed guards within stone walls and iron bars on Monday. On Tuesday they are at large in the community. If the limitations of parole are not imposed upon them, under what conditions will they be released?

Suppose the prisoner is held to serve the last day of the period exacted of him by law. He must then be released. He may be a feeble-minded, epileptic, or psychopathic offender. He may be an habitual or a professional criminal. Still he goes out, an almost inevitable menace to the peace of the community. He goes out with the feeling that he has paid his debts to society in full, that he must proceed at once to levy tribute on his fellows for the time he feels he has lost. He goes out without work, without a home, perhaps without friends to help him. If he makes for himself a useful place in the life of the community, it is little less than miraculous.

Suppose the prisoner has been released under the operation of an automatic time allowance for good conduct within the institution. Here, again, society is guaranteed no adequate protection, for it is the universal testimony of penal administrators that the most dangerous of criminals to society invariably maintain the best of prison records. Under the mechanical operation of the commutation measure, release must be given before the prisoner's whole term has been served. There is no possibility of exacting from the more dangerous men that greater period of confinement which may be required under the system of parole.

There is but one other means by which prisoners are regularly returned to society. That is by the exercise of executive clemency. The governor's pardon, however, carries with it the implication of innocence, of society's forgiveness for the offense which has been committed. It, therefore, should never be used as a regular process, applicable to every prisoner.

These are the alternatives to parole. If a convict be pardoned, if he be released under the operation of the "good time" statute, or if he be held to serve his whole term and then turned loose, he goes out as a free man. The State has lost its control. Society is no longer safe. Unless we are to extend greatly our use of capital punishment and life imprisonment, we must choose one of these four methods of release. Certainly hard common sense should dictate the adoption of that administrative expedient which possesses the greatest protective value. The safest of these four possible methods of release is parole.

4. THE PURPOSE OF PAROLE

Parole is not leniency. On the contrary, parole really increases the State's period of control. It adds to the period of imprisonment a further period involving months or even years of supervision during which the offender may be reimprisoned without the formality of judicial process. In addition to this, the records in nearly every commonwealth where information is available reveal that the application of the parole system has lengthened the time served by the convict within prison walls. The recent report on prisoners issued by the Federal Bureau of the Census shows clearly that the extension of the indefinite sentence has been accompanied by an increase in the time served. Parole, then, does not operate as a favor to the criminal. Its chief merit, in fact, is that it offers society a far greater measure of protection against him than any other means of release which has yet been devised.

A properly administered system of parole aims to insure society against a renewal of criminal activity by the scores of convicts who are being released daily from our penal institutions. Under such a system the prisoner will not be released until the authorities have been assured that work will be provided him by a reputable employer. Subsequent to his release, he will be required to report periodically to a designated official, stating, in considerable detail, the work he has done, the money he has earned, the money he has

spent, the money he has saved, the manner in which his leisure hours have been occupied, and so on. Certain conditions will be imposed upon him. He will not be allowed to engage in certain types of activity. He will not be allowed to associate with certain people, to visit certain areas. Numerous other restrictions will be placed upon his daily conduct. The State will see to it that he observes these conditions. An agent will visit his home and discover whether he is providing for his family. His employer may be interviewed to determine whether he is constantly on the job. Other contacts will be made in the community in order to get a line on his general behavior. The parolee will find himself continuously under the eye of the State. Society need not wait until he is convicted for the commission of another crime in order to lock him up again. The slightest deviation from the straight and narrow path will bring him back within the prison walls. Parole may be a method of punishment, but, more than that, it is a method of prevention second to none.

For this reason supporters of parole generally believe that every convict who emerges from a prison should be compelled to serve for a certain period under these conditions. The idea that parole should be given to good prisoners and refused absolutely in more serious cases arises from the mistaken notion that it is nothing more than a form of leniency. Many States, in fact, have so designed their laws that a period of parole must be served in all cases. In Massachusetts, for instance, all prisoners are sentenced for indefinite terms, both the maximum and minimum of which are set by the court. The board of parole may release any prisoner when he has served two-thirds of his minimum term. This right is exercised in about one-quarter of the cases which come up for consideration. But the law further provides that the board must release at the minimum and hold on parole until the maximum every prisoner who has behaved himself within the institution. In this way the State makes sure that convicts shall not leave its prisons without a further period during which their conduct is subject to definite social control.

It must not be understood, however, that parole is merely a detective measure. It does involve, to be sure, the somewhat negative activity of watchful waiting, of receiving reports, of enforcing the conditions under which liberty has been granted. But it involves far more than that. Good parole work should be a positively constructive process of social rehabilitation. It should aim to help the individual to find a place in the community, a place which will entitle him to respect himself and to be respected by others, a place which will enable him to make the most of himself and to discharge his responsibilities to those dependent upon him and to the community as a whole. The accomplishment of this purpose requires a continuous process of helpfulness, guidance, and friendly assistance. The parolee must be encouraged to continue with the education which was begun within the institution. Contacts must be made for him which will bear within themselves the seeds of future regeneration. The prisoner must be protected against the community quite as much as the community against the prisoner. Each must be made to understand the other if the convict is to be reestablished within the society against which he has offended.

The world into which the prisoner goes is a difficult one. His plight has been well described by Bernard Shaw:

> He is, at the expiration of his sentence, flung out of the prison into the streets to earn his living in a labor market where nobody will employ an ex-prisoner, betraying himself at every turn by his ignorance of the common news of the months or years he has passed without newspapers, lamed in speech, and terrified at the unaccustomed task of providing food and lodging for himself. There is only one lucrative occupation available for him; and that is crime. He has no compunction as to society; why should he have any? Society, for its own selfish protection, having done its worst to him, he has no feeling about it except a desire to get a bit of his own back. He seeks the only company in which he is welcome; the society of criminals; and sooner or later, according to his luck, he finds himself in prison again. The figures of recidivism show that the exceptions to this routine are so few as to be negligible for the purposes of this argument. The criminal, far from being deterred from crime, is forced into it; and the citizen whom his punishment was meant to protect suffers from his depredations.

The released convict is usually given five or ten dollars, a suit of prison-made clothes, and a railway ticket to his home. Beyond these, he has few resources. His community contacts have been broken. He is met with suspicion and distrust. Even though he may desire to find work, to live an honest life, it is no simple matter for him to do so. At this moment, as at no other, he needs a friend. At this moment, as never before, society needs to assure itself that he will not revert to criminal activity. This is the moment when careful parole supervision must be applied. Parole will be employed, not through any softly sentimental desire to pamper the offender, but with the object of accomplishing his reformation, that law-abiding citizens may be guaranteed a greater measure of security in the legitimate enjoyment of their lives and property.

Parole avoids the peril which inheres in the otherwise abrupt transition from the prison to the outer world. It enables the State to complete the work of reformation which it has begun within the institution. It is a continuation of the educational process which should be initiated when the convict is admitted to the prison. It is the concluding phase of the program which is demanded by the modern philosophy of penal treatment. From the day of his reception the prison will advance the convict from greater to lesser restriction, from maximum to minimum security, gradually approaching toward the conditions of free life. From the iron discipline of the fortress to the greater initiative and responsibility of the barracks, the camp, or the cottage outside the walls; from this minimum detention to parole; from parole to freedom—these are transitions which may be made with greater prospects of success. On parole, the prison's work of education may be tested as it can not be tested within the walls. By parole the prison may carry the process of social reconstruction through to its necessary conclusion.

5. PAROLE SELECTION IN PRACTICE

The work of parole involves, first, the selection of prisoners who may safely be given their freedom, and second, arrangements for personal supervision for a specified period.

Ideally, parole selection should be based, in part, upon knowledge gained through careful social investigations, and supervision during parole should utilize the methods of social case work. Those who believe in the use of parole, therefore, assume that boards of parole will be created, that they will make an exhaustive and painstaking study of each case before granting release, and that a sufficient staff of field agents will be provided to insure continuous, efficient, and sympathetic supervision. But few American States begin to measure up to that standard.

In 20 States parole is treated merely as a form of executive clemency, and is granted by the governor or by a board of pardons. In 12 other States it is treated as an incidental item of penal administration, release being granted by State or institutional administrative boards. Only 14 States have created agencies to deal specifically with parole. Six of these rely on part-time, unpaid, or ex officio boards, and three use a single official to select prisoners for release. Only Illinois, Ohio, Massachusetts, New York, Texas, and the Federal Government have full-time salaried parole boards.

The prevailing methods of parole selection were described by the commission's Director of Research, Dr. Clair Wilcox, in an article in the Journal of Criminal Law and Criminology in November, 1929. Doctor Wilcox is the author of a survey of parole administration in the several American States, which was published by the Pennsylvania State Parole Commission in 1927. We quote:

> How are prisoners actually selected for parole in the American States to-day? The simplest thing, of course, is to release nobody or everybody. A few paroling authorities pursue the policy of refusing nearly all applications for parole. Such action is tantamount to a repeal of the parole statute and imperils social security by engendering ill will among prisoners and then releasing them without supervision or the right of reincarceration. Other parole boards release everybody at the earliest possible moment. Here the parole law becomes an automatic reduction of all sentences, a thing which is even worse, perhaps, because it gives liberty without reference to fitness for liberty and reduces the period during which stone and steel guarantee society protection from those who endanger its peace. This policy is sometimes adopted because of the inadequacy of a State's penal equipment. Parole is used as a means of turning men out of

cells to make room for others who are crowding in from the courts. Where legislatures refuse to appropriate adequate funds for correctional institutions, penal officials can scarcely be criticized for attempting to meet their problem in this rather desperate way. The obvious remedy for the abuse here is not the revision of the parole law but rather the provision of a more nearly adequate penal plant.

Those parole boards which do not choose to release everybody or nobody must attempt to separate the sheep from the goats; to liberate certain prisoners and hold others. There are certain factors which generally influence this decision. Of these, prison conduct is usually given greatest weight. In many places those who behave well in prison are freed almost automatically when their time comes. This is all very well in encouraging good discipline in prison, but it may have very little to do with the future security of the community, since the greatest rascal in the world may be able to walk the line for a few brief months if he knows that such action will speed his return to his pals and his mischief, while many a stupid youngster who could be released with perfect safety may be held for an undue length of time merely because he has proved troublesome to the guards.

Another factor generally considered is the nature of the crime for which the prisoner was committed. Some parole boards are particularly severe with those who have been guilty of this or that certain crime, without reference to the facts entering into the individual case. Such a general rule simplifies parole procedure but, it may be feared, at the expense of good judgment. For there is no necessary connection between the title of the crime committed and the degree of safety with which the particular individual guilty of it may again be turned into the community.

Parole boards almost invariably announce that they do not retry the case at the time of parole, and just as invariably they do that very thing. The difference is that their review of the case is hasty, without attorneys or witnesses or any adequate consideration of the evidence. While the law has thrown all sorts of safeguards about the manner in which a man may be committed to prison in an original trial, it is still possible that his time of imprisonment may be unduly shortened or extended far beyond the average by the haphazard and even capricious action of a board of parole.

A third item which generally has weight with paroling authorities is the prior criminal record of the applicant for parole. Usually they guess that the old offender is a poor parole risk. And it is probable that they are usually right. But it does not follow at all that the so-called first offender is a good parole risk. He may not really be a first offender at all. And if he is, he may be a very unsafe man to release. But boards of parole are nevertheless turning men into the streets every day on this basis alone.

The only other factor generally entering into parole decisions is the appearance, personality, or general demeanor of the applicant. Truthfulness, square shoulders, a good voice, or a steady eye may go far toward winning a scoundrel his freedom in more than one State. Members of parole boards are human, like the rest of us, and are often inclined to congratulate themselves on their ability to read character at a glance. And so, shrewd but experimental guesswork, prejudices, and hunches many times decide whether a boy is to spend another two or three years behind prison walls or to be allowed to circulate among us. It seems reasonable to conclude that the unsupported guess of a board of parole forms a shaky foundation upon which to return forgers, blackmailers, and thieves to the community.

Little attention is yet given in many States to a scientific selection of prisoners for parole release. Too much emphasis is placed upon such matters as the nature of the crime, prior criminal record, prison conduct, and the personal appearance of the applicant. Too little use is made of psychological and psychiatric tests and of social case work investigations. Too little attention is given to preparation of the parole environment.

6. PAROLE SUPERVISION IN PRACTICE

Methods of supervision are similarly inadequate. Eighteen States attempt to keep in touch with paroled persons by correspondence alone. Printed rules are announced but are not enforced. Written reports are required, but there is nobody to check on the accuracy of the replies. The parole officer becomes a mere clerk of record. Men who are on parole find it easy to beat the game. They are not watched and they know it. Parolees are seldom recommitted unless they are caught in a new crime. The whole paper system becomes a huge joke and parole comes to be nothing more than a speedy manner of emptying prison cells. This is unfortunately the case in the majority of the American States to-day.

Seven States do attempt to supplement their paper control of the parolee by requiring sponsors, employers, or "first friends" to guarantee his good conduct. But these persons are generally unknown to the paroling authorities, are in no way qualified or trained for the work which they are asked to do, and are not responsible to anybody for its proper performance. In the long run no such system of sponsorship can offer an adequate substitute for a real parole

system because mere sponsorship can not guarantee to the community the degree of security to which it is entitled.

Other methods of supervision have been attempted. Sheriffs, constables, detectives, and police officials have been pressed into service. These men are generally overloaded with other work, are by no means peculiarly qualified to advise and assist the prisoner in regaining his place in society, and, finally, since unpaid, are generally inclined to neglect the work or disregard it entirely. In other States parolees are required to put in a periodic appearance at an office, a perfunctory performance which assures the officer that they are on the ground but does little more. Some States lean very heavily on philanthropic, religious, and welfare organizations, allowing private charity to undertake the task of parole supervision. Many of these bodies have made a very creditable showing within the limits of their means, but it must be insisted that the control of convicts is a public responsibility that must eventually be shouldered by the State itself and should by no means be left to the voluntary efforts of any private group.

Fourteen States have no parole officers. Thirteen States have only 1 officer. Six others have but 2, 3, or 4 agents each. Even where field agents are employed, the positions are often filled by men who are not adequately qualified for the task. Little, if any, training is provided or required. The parole officers are almost always underpaid and they are invariably overloaded with work. Many officers are being asked to supervise the social rehabilitation of 300, 600, 800, and in one case as many as 2,000 parolees. Such a task is a human impossibility. The officer who is charged with it becomes, perforce, little more than a policeman whose only work is to return to the prison old offenders who have again run afoul of the law. In only eight States—California, Illinois, Massachusetts, Minnesota, New Jersey, New York, Ohio, and Pennsylvania—do we find any substantial numbers of field agents working under central supervision. It is less than reasonable to expect a parole system which is so undermanned, overworked, and ill equipped as is that of many an American State to show anything very substantial in the way of results.

7. EFFECTIVE PAROLE ADMINISTRATION

The essential elements of good parole work have been outlined by the Advisory Committee on Penal Institutions, Probation and Parole, whose report is appended hereto. The selection of a person to be paroled, says this committee, should be based upon scientific examination, complete social information, and the "preparation, in advance, of a suitable environmental situation into which to release him." Methods of parole selection are not beyond improvement. A full-time, highly paid central board, composed, not of politicians, but of experts, should be able to judge the individual applicant with much more skill than that generally exercised by many of the present paroling authorities. It is not too much to hope for the development of an expert paroling technique. It might even be possible for such a board to establish tests which would serve as a real criterion of reformation. If adequate staffs of investigators and examiners were employed, there is much in the way of previously neglected but pertinent information which might be obtained and used for this purpose. Obviously parole boards should inform themselves concerning the applicant's mental condition in order that the unbalanced prisoner should be held and only those who are sane and responsible be given their freedom. In the same way the board should aim to procure the completest possible information on the offender's background, his crime, his previous record, and the nature of the environment into which he will go upon release, all matters closely related to the probability of success or failure on parole. It should also consider the prisoner's accomplishment in the courses of educational, moral, and vocational training provided within the institution. By the preparation and careful use of complete statistics it should attempt to discover exactly how significant these and many other items may be in determining whether a prisoner should or should not be released. There is nothing fancy or new-fangled about the idea that science should be made to assist in the difficult task of judging men. This is a thing which has already been done in business. It is just as important that it should be introduced into penal administration; for here we are deal-

ing with decisions that involve human happiness and misery and even human lives.

The Advisory Committee on Penal Institutions, Probation, and Parole has listed in its report the requirements of an effective system of parole supervision. It calls for "the maintenance of an adequate number of officers to insure that the number of parolees being supervised at any one time will not exceed 75, and, if much traveling is to be done, 50." It recommends "the appointment of officers possessing, as nearly as possible, the following qualifications: A high-school education, and, in addition, one of the following: (1) At least three years' acceptable experience (full-time basis) in social case work with a social agency of good standing, or (2) a college education, with at least one year of satisfactory training either in a social case work agency of good standing or in a recognized school of social service." The committee recommends, further, that parole officers be paid salaries commensurate with their training, abilities, and duties; that supervision be made careful and intensive, partaking of the nature of social case work; that improved techniques of supervision be developed; that responsible organizations be established for the direction of parole work and the enforcement of standards. The committee urges that release from parole should not be granted automatically at the expiration of a certain period of time, but should depend upon the offender's demonstrated ability to conduct himself honestly; and it calls for the prompt reincarceration of those who fail to meet the conditions of their parole.

Substantial improvement in the equipment for parole supervision may be made along these lines. The great majority of the States require the services of more parole officers. Each officer should be responsible for a smaller number of parolees. These officers should be selected from among those who are qualified by knowledge and experience for the work. They should be men who know their community and its resources, men who can handle men, men who possess the ability to develop the technique of social case treatment. They should be specifically trained by the State for their work, work which requires a knowledge and a skill which passes beyond both the strength and courage of the policeman and the sympathy of the sentimentalist. They should be given tenure on good behavior, be well paid, and rewarded for proficient service. Without such provision the parole law remains little more than an empty expression of pious intent upon the pages of the statute book. With it we may hope to procure a parole service which can turn criminals into honest men, with whom the rest of us may safely live and do business.

8. RECENT LEGISLATION

Five States—California, Illinois, Massachusetts, Minnesota, and New Jersey—have long provided field agents for the personal supervision of large numbers of parolees. The parole work of two of these States—Minnesota and New Jersey—is described in the Report of the Advisory Committee on Penal Institutions, Probation, and Parole. Four other States—New York, Ohio, Pennsylvania, and Texas—and the Federal Government have recently made provision for the expansion of their parole activities. An account of the new Federal parole system appears in the report of the advisory committee.

New York State in 1930 established a new board of parole as a division of parole in the executive department. This body consists of three members, each of whom is required to devote his whole time to the work, at an annual salary of $12,000. The board is given the assistance of 10 social investigators, who are to supply it with information which may serve as a basis for its decisions. It is also required by law to consider the prisoner's social, physical, mental, and psychiatric condition and history and his progress within the institution when passing upon his application for release. Substantial provision is made for a staff of field agents. The law requires the appointment of a number of officers large enough to establish a maximum case load of 75 parolees. The personal and training qualifications that these agents must meet have been written into the statute. The supervisory staff includes an executive officer at $9,000, a chief parole officer at $6,000, 3 case supervisors and 1 employment director at $4,000 each, and 30 field agents in addi-

tion to the 10 field investigators already mentioned. The executive director is required by law to "formulate methods of investigation and supervision * * * and develop various processes in the technique of the case work * * * including interviewing, consultation of records, analysis of information, diagnosis, plan for treatment, correlation of effort by individuals and agencies, and methods of influencing human behavior."

Ohio, by a law approved by the governor on May 1, 1931, abolished its former Board of Clemency, which had consisted of two members who served at salaries of $4,000 each, and established within its Department of Public Welfare a new board of parole composed of four members, each at a salary of $6,000. The statute provides that "The board shall have the continuous powers to investigate and examine or to cause the investigation and examination of persons confined in the penal or reformatory institutions of Ohio, both concerning their conduct therein, the development of their mental and moral qualities and characteristics, and their individual and social careers, and the board's action shall take into account the results of such investigation and examination." The board is empowered to appoint such social investigators as may be needed to enable it to carry out this policy. Ohio had already provided, two years earlier, for the centralization of parole supervision by removing jurisdiction over parole from the several institutions of the State and giving it to the Department of Public Welfare. The Director of Public Welfare was then given authority to consolidate the parole staffs of all penal, correctional, and reformatory institutions and to appoint and supervise field parole agents.

Texas, by a new law passed in 1929, vested the paroling power in the newly created Board of Pardons and Paroles, consisting of three members appointed by the governor and serving at an annual salary of $3,000. The information which this board is required to have before it in passing on parole applications includes "reports as to the prisoner's social, physical, mental, and psychiatric condition and history," and a report from the warden or manager of each prison or prison farm "as to the extent to which such prisoner has responded to the efforts made in prison to improve his mental and moral condition." One member of the board is designated as a supervisor of paroles and is charged with the duty of procuring complete physical, mental, and social data on all prisoners at the time of commitment, studying them during their confinement, making recommendations concerning their fitness for release, securing employment for them upon release, and supervising them during their period of parole.

Pennsylvania in 1929 centralized its work of parole supervision, previously carried on separately by the several penal institutions of the State, by giving to its Board of Pardons complete jurisdiction over paroles. The attorney general, who is a member of this board, is authorized to appoint a supervisor of paroles and "such field agents as may be necessary." The Board of Pardons is required to establish standards to govern the selection of field parole agents and the work of supervising prisoners on parole and to divide the State into parole districts, assigning one or more parole agents to each district. If requested to do so by the boards of trustees of the penal institutions, who have the power of parole, it must order its agents to supply them with "detailed information concerning the personal, family, social, and industrial history of any prisoner and his probable environment during parole."

These programs are highly significant. If carried through and extended gradually to other Commonwealths, they will go far to make of parole something more than the mere perfunctory routine which it still is in many American States to-day.

9. THE INDETERMINATE SENTENCE

The growth of parole has necessarily limited the power of the court absolutely to fix the time which the offender must spend within prison walls. In some States original sentences are still definite in character, but administrative officers may release prisoners on parole before they have served their full terms. In others courts are required to impose general sentences and paroling authorities are given the power to grant early releases or to exact terms of service

which exceed those generally required under the definite sentence. At times the spread between the maximum and minimum limits of the sentence imposed is so small that boards of parole are given little discretion with regard to the time at which prisoners may be released. In other cases, however, the spread is large and considerable authority is vested in the boards. Generally, the indefinite sentence and parole have gone hand in hand, and, as a consequence, boards of parole have come more and more to take over the sentencing function of the courts.

The dominant purposes behind the imposition of the definite sentence a generation ago were retribution and deterrence. Courts endeavored to make the penalty fit the crime rather than the criminal. The penalties which they imposed served to avenge society against the offender and to stand as a warning which should prevent other men from committing a similar offense. The proponents of the reformatory system challenged this point of view. They argued that the protection of society should be the object of penal administration; that this protection was to be secured through reformation rather than through revenge; that sentences should therefore be reformation sentences. Since no court could determine in advance the time at which the prisoner's reformation was to be effected, it followed that sentences should be indefinite and that the power to discharge prisoners upon reformation should be taken from the hands of the court.

The argument for the indefinite sentence is based upon an analogy which is drawn between the prison and the hospital. Persons who are physically ill are committed to hospitals from which they are released when they are cured. In the same way, it is believed, the socially ill should be committed to prison and released therefrom when they have regained their social health. Physicians, upon discovering disease, can not name the day upon which the patient will be healed. No more can judges intelligently set the date of release from prison at the time of a trial. There is much pertinent information concerning the prisoner which the rules of legal procedure exclude from their consideration. Little knowledge is at hand concerning the prisoner's past career or mental condition at the time of his trial. Often the preparation of such information is the work of months. No judge can accurately foresee the offender's reaction to the prison or reformatory routine. That is a question which time alone can answer.

Those who believe in the indefinite sentence and parole contend that the paroling authorities, rather than the courts, are the ones best qualified to fix terms of imprisonment. By virtue of a centralization of authority they are enabled to dispense justice with impartiality between man and man. Through this agency release may be based upon fitness for free life. Boards of parole can study the prisoner during his confinement. They can procure information concerning his social history, his criminal career, his mental condition. By watching his conduct during imprisonment they can judge whether or not he will behave himself if returned to a life of freedom. Within their discretion they can grant a comparatively early release to youths, to first offenders, to particularly worthy cases who give high promise of leading a new life. Such action represents a gain, not only to the prisoner, but to the community as well. Paroling authorities, on the other hand, may keep vicious criminals in confinement as long as the law allows. Through the wise exercise of their power they may afford society far more adequate protection than that which would be provided under a system of definite sentences.

No State has yet seen fit to provide for an absolutely indeterminate sentence. Indefinite sentences, where they are required by law, generally fix a minimum term which the prisoner must serve. They invariably fix a maximum term, at the expiration of which he must be released. Many students of the problem have recently urged that all sentences should be made absolutely indeterminate; that they should specify neither maximum nor minimum limits of imprisonment; that administrative authorities be empowered to release a convicted offender within a month, a week, or a day,

or to hold him for life as they may judge that the security of the community requires. Under this plan the court would be restricted to determining the issue of guilt or innocence. The issue of disposition would become entirely a matter of administrative determination.

The recommendations on this subject which have appeared in the various surveys of criminal justice were reviewed by Alfred Bettmen, Esq., in his Surveys Analysis, which the commission published in connection with its Report on Prosecution.[1] The proposal also appears in the Report of the Advisory Committee on Penal Institutions, Probation, and Parole, which is appended hereto. We quote:

> We believe that it is an eminently proper question for the American people to consider: Whether the specific imposition of sentence, as now practiced by courts in most jurisdictions, should not be taken away from judges and the sentencing power of judges restricted to "committing the offender to the custody of the State," or suitable governmental authority. * * * Such a plan would involve the thorough application of the indeterminate sentence or the sentence which places no restriction on the length of time an offender shall serve.
>
> In its most complete form, the recommendation which we are making would be that the function of the court should stop entirely with the determination of guilt or innocence and that offenders should be turned over to another sentencing authority, charged with the duty of diagnosis and treatment. This might be a board composed of educators, physicians, prison superintendents, psychiatrists, psychologists, lawyers, and others.
>
> The procedure would be, as we say, for the court to commit the offender to the custody either of the State or of such an authority, without control as to the institution in which he was to be held or the length of time he was to serve. The board, after studying and observing him, would prescribe such treatment as the State's institutional facilities afforded. This board, or its properly designated representatives, would perhaps also determine the question when the prisoners should be released * * *.

The logic of the program of penal treatment we have set forth in these pages inescapably commits us to the principle upon which this proposal is based. We believe that an absolutely indeterminate sentence, administered with scientific precision by an expert tribunal, affords an ideal toward which

[1] National Commission on Law Observance and Enforcement, Report on Prosecution, No. 4, pp. 166–171, inclusive.

the penal policies of the American States might well be directed. We join with Mr. Bettman in recommending the—

> gradual development of special tribunals for passing upon the disposition issue, with special qualifications in the personnel of such tribunals to pass upon the disposition or treatment problem, and with appropriate procedure and appropriate informational bases for the solution of the disposition problem in the case of each individual offender.[2]

But we are not convinced that the immediate and widespread adoption of an entirely indeterminate sentence is either possible or desirable. The court works in the full light of day. Its personnel is generally competent. Its procedure assures the offender that his legitimate interests will be protected. The board of parole must work in relative obscurity. Its personnel may often be comparatively incompetent. It is always tempted to overemphasize considerations of penal discipline; to free the "good prisoner"; to hold the inmate who has broken prison rules. Its decisions must be based on considerations which are as yet largely intangible. The psychological and psychiatric examinations, the social case investigations, the records of educational progress which should furnish the basis of its judgments, are as yet in a formative stage. It is certain that the technique of parole selection must be made to approach far more nearly to the accuracy and impartiality of science before our penal administration can generally command a sufficient degree of public confidence to permit the adoption of a sentence which has no definite limits.

[2] Op. cit., p. 181.

VI. PROBATION

1. THE PURPOSE OF PROBATION

Probation, like parole and imprisonment, has as its primary objective the protection of society against crime. Its methods may differ, but its broader purpose must be to serve the great end of all organized justice—the protection of the community. Like parole and confinement, it is post-judicial treatment; it commences when the court has heard the defendant's case and found him guilty. Unlike them, it begins before, rather than after, commitment to an institution. It differs from both parole and imprisonment in another important respect. Instead of surrendering the convicted individual to a penal institution, in some jurisdictions the court retains control for as long a period as it sees fit, or as prescribed by law. Thus probation is an extension of the powers of the court over the future behavior and destiny of the convicted person such as is not retained in other dispositions of criminal cases. It is therefore an addition to the older functions of the court and an increase of the court's responsibility. This is true whether supervision is under a State, county, municipal or court directed probation service, inasmuch as the power of the court to sentence for failure to comply with the conditions of probation remains unimpaired.

The point of departure in probation is the recognition that in certain types of behavior problems which come before the courts confinement may be both an unnecessary and an inadequate means of dealing with the individuals involved; unnecessary because in that particular case the end sought, i. e., the protection of society, may be achieved without the cost of confinement, and inadequate because the prison sentence may create difficulties and complications which will make more, rather than less, doubtful the reinstatement of that particular individual as a law-abiding citizen.

2. THE EFFECTS OF IMPRISONMENT

The alternative to probation is institutional confinement. But institutional confinement raises complicating problems which may be avoided by probation. Probation avoids the shattering effect upon individual personality which so frequently follows imprisonment. Probation keeps the man's personality in its old moorings; it makes no violent and sudden wrench in his daily habits; it does not destroy his family relations, his contacts with his friends, his economic independence. All that is good and desirable in his old habits are retained; every contact, interest, emotion, and habit which can be utilized to keep the individual's relations with his community within the expected norm come automatically into play and become powerful factors in straightening the individual's habit patterns back to normal. The crime for which the man was arrested is not dramatized and used as a reason for disrupting the rhythm of his life.

Quite the opposite takes place when a man is sentenced to prison. Sentence automatically terminates the current flow of contacts and loyalties which make up the daily round of ordinary adjustments. The sentenced man loses the contacts which his job, his friends and his family provide. All the associations, formal and informal, which make up so much of life are made to disappear. Moreover, the stimuli and values which these contacts involve also disappear.

He is suddenly forced to adjust his personality to a new definition of himself which is given him by the prison. The individual act which may have been an incident in his life—an incident which with time might have disappeared and been submerged in the larger personality—is suddenly given a significance to himself and to society which it did not have before. The whole organized machinery of the community comes into action on the assumption that the most important fact in that particular individual's life is the act for which he has been arrested and for which he has been sent to prison. That may, however, not be the case at all, especially in the many semiaccidental and incidental ways in which first-timers frequently find themselves in conflict with the law. An act which may have had no particular significance

in the habit career of the individual is thus suddenly drawn from his total scheme of habits and dramatized, emphasized, talked about. This may happen to such an extent that the individual takes over a definition of himself, until then altogether foreign to him, and identifies himself as the person he is credited with being.

That, however, is only one of the difficulties that come with imprisonment. Another is that life in a penal institution is not comparable with the ordinary world in which a man has to live and make a living. The behavior demanded from an individual inside of a prison has no necessary counterpart in the behavior exacted in the outside world. The reactions and patterns a man takes on inside the prison may not only be of no service to him when he is ultimately released, but may actually prove to be a hindrance in the attempt at readjustment which he then will have to make. The administrative organization of the prison exacts little, if any, initiative. It provides him with most of those things which in the outside world call for self-direction, ambition, effort. The food, shelter, clothing and security which call for so much activity outside are here freely given, and what is exacted in return is mainly acquiescence in the institutional scheme of things. With the limited amounts of employment which our penal institutions are able to provide for prisoners, the prison inmate is frequently not even expected to work for the food, shelter and clothing given him. Being a good prisoner means, all too often, being an uncomplaining and pliable one, showing no particular evidence of any activity, developing no particular character in any direction. In other words, the habit pattern, the response to the institutional stimuli which is accepted and approved, is obviously not the type which the prisoner can utilize in the world after his release.

These responses, exacted as the price of good treatment and described as "good behavior" inside the prison, are, moreover, a new and a different set of habits from those desirable habits which the man may be assumed to have had before coming to the prison as a first timer and which all men, by and large, must have if they are to continue living in our organized world.

The habit system of the prison is no help to readjustment. It develops just those qualities that make for lack of adjustment. It is here that the reasons for much of the prison failures are to be sought and found. The habits given the men inside the institution are such as to unfit them for ready return to a normal scheme of living and working. This factor, plus the new attitude developed toward the returning criminal, the expectancy on the part of the community that he will continue as a criminal, the notion that "once a thief, always a thief," the dramatized and exaggerated significance of the one act in the life pattern of the individual, of which we spoke before, become real impediments. Unfortunately they tend to become true in practice. It is difficult upon release to shed these new influences that have come with confinement. Associations within the prison develop a series of contacts with the crime world—friendships, information, belief and attitude that make more difficult the normal readjustment, encourage continuance in the career of crime into which he was initiated by his first, mayhap incidental, act, identified by his arrest and confirmed by the prison sentence.

3. THE METHOD OF PROBATION

The probation system avoids these difficulties. It falls back upon those interests, contacts, and habits which the individual has in his own little world and utilizes them for the submergence of the act which has brought the individual into conflict with the law and gradually readjusts him to the continuance of the normal life which went on before the act took place and which, it is hoped, will continue after the period of training has passed.

Probation does not add to the difficulties by raising a series of new issues in the life of the individual which have no place in ordinary existence; it does not distort the personality of the individual by exaggerating the significance of some single act and it does not pull the personality out of the pattern of life which many years of living and association have developed. It utilizes this pattern as a source

of strength in dealing with the individual delinquent. The community agencies become aids rather than hindrances in the process of adjustment. It is here that the value of probation as a method of correction and guidance is to be found.

This analysis of some of the psychological and social implications of probation acquires added significance when we compare the extent of legal control involved in the alternative use of imprisonment. It seems generally to be assumed that the question is one of absolutes, as if imprisonment and probation were not comparable in terms of supervision by legal agencies. As a matter of fact, generally speaking, it is a question whether the individual should be immediately released under supervision of the court or whether he should be released within a comparatively short period without supervision and after unwholesome contact with the criminal population in a penal institution.

Taking the prison and reformatory population of the United States as a whole, something like 97 per cent of the inmates are subject to release. Excepting those who will die while in confinement, all of these will be released. The average time served in our reformatories and prisons, excluding jails and workhouses, for those freed during 1927 was 2.18 years. The prisoners with the heaviest sentences in our State and Federal prisons and reformatories, those who served over 10 years, were only 1 per cent of the total. Over 40 per cent served less than a year and nearly two-thirds served less than two years.

It is, however, to be noticed that reformatories and prisons had, in 1923, received only 10.8 per cent of all the prisoners reported as admitted to all penal institutions. If we assume that the present ratio of admissions between reformatories and prisons and other penal institutions is the same as it was in 1923, then some 90 per cent of all the prisoners in the country pass through institutions where on the average the sentence is considerably less than in the reformatories and prisons. In 1923 more than 67 per cent of all jail and workhouse inmates were let out in less than one month, more

than 98 per cent were freed in less than a year, and only 1 per cent of the jail and workhouse population served more than one year. This is significant in view of the fact that either by law or practice the courts on the whole only place on probation those prisoners convicted of lesser crimes and ordinarily subject to receive comparatively light sentences. While there are many exceptions to the general rule, the fact still remains that it is the lesser culprit, the one who would be a short-term prisoner, who is ordinarily given the benefit of probation.

The evidence, however, indicates clearly that the length of probation, even for persons subject to prison sentences but placed on probation, is, on the average, equal to and possibly exceeds the average length of time served by those who are imprisoned. The issue, therefore, is whether a man should be sent up for a short period of imprisonment—exposed to contacts with the criminal community of which he may be completely ignorant; his normal life be interrupted; his job, his business, his personal reputation, his self-respect, his place in the world be jeopardized, if not ruined, for the sake of a short imprisonment, with results that have from experience been proved in most instances to be undesirable—or whether he should be given an opportunity for readjustment to the community where he has his whole life to live, for returning to a normal relationship with his particular world under the sympathetic supervision which the probation system can supply.

This question becomes the more pertinent when a responsible commission of the State, that has had more than 50 years' experience with probation, testifies (Massachusetts Senate, 1924, No. 431, p. 12) that of all those released on probation in 1915, only 12 per cent were subsequently committed in Massachusetts to institutions. This is in sharp contrast with the later careers of a group of former inmates of the reformatory in the same State, 44.3 per cent of whom were found to have been subsequently sentenced to penal institutions. This failure of the prison to reconstruct the habit

pattern of the inmates is by common agreement true of all our penal institutions. No one acquainted with the facts seriously claims for them a reformative influence. This report could be filled with testimony of responsible prison administrators and students of prison problems to the same effect. In contrast with this is the general agreement that probation is successful in a very much greater proportion of all cases which are given this type of supervision.

4. RECENT ORIGIN OF PROBATION MOVEMENT

Massachusetts passed the first probation law as early as 1878 requiring the appointment of a probation officer for the city of Boston and as early as 1891 by law required the criminal courts of the State to appoint probation officers. But most of the other probation legislation now in operation was enacted after 1900. Only five States adopted probation legislation before 1900 and of these only three dealt with adult probation. In spite of its recent development adult probation has spread with great rapidity and is now to be found in 36 States, the District of Columbia, and the Federal Government, in most European countries, as well as in a number of the States of South America, Asia, and Africa. This rapid adoption by the world of an essentially American invention in the handling of certain types of criminal cases is in the nature of a tribute to its usefulness and validity. It is also important to notice that in the years since probation was first placed upon the statute books of Massachusetts there has been no retrogression, and the experience of some 30 years in other States merely confirms the usefulness and vitality of this new method of criminal treatment. There have naturally been criticisms, modifications, and changes, but no abandonment of the initial process.

The importance of probation as an instrument in court procedure is indicated by the fact that "a recent count shows approximately 3,700 probation officers in the courts, regularly appointed and more or less paid."

The following table shows the growth of the probation movement in the United States:

States with adult probation laws

	Year		Year
Massachusetts	1878	Wisconsin	1909
Missouri	1897	District of Columbia	1910
Rhode Island	1899	Virginia	1910
New Jersey	1900	Delaware	1911
Vermont	1900	Illinois	1911
New York	1901	North Dakota	1911
California	1903	Arizona	1913
Connecticut	1903	Montana	1913
Michigan	1903	Alabama	1915
Maryland	1904	Idaho	1915
Maine	1905	Oklahoma	1915
Georgia	1907	Oregon	1915
Indiana	1907	Tennessee	1915
Ohio	1908	Washington	1915
Colorado	1909	Wyoming	1915
Kansas	1909	North Carolina	1919
Minnesota	1909	Arkansas	1923
Nebraska	1909	Utah	1923
Pennsylvania	1909	Federal Government	1925

5. DIFFERENCES IN STATE PROBATION LAWS

Probation must be considered as having become a permanent and fixed feature of our attempts to deal with the problem of crime; but the range of its applicability, the character of its administration, and the specific machinery best adapted to its use are still in an experimental stage. They are experimental in the sense in which most of our activities dealing with the problem of crime are experimental. We are always seeking new ways and new methods for the handling of specific problems.

Differences in the probation laws of different States are in part explained in that local conditions warrant different legislation. They may also reflect differences in specific legal or procedural traditions. But they are perhaps most largely a reflection of the gradually accumulating experience in the field of probation. State laws are becoming more comprehensive, their specifications more definite, their demands upon judges and probation officers more concrete.

While the differences in legislation are the natural product of the conditions under which the legislation has developed and of the lessons of experience, yet there are practices which work well and might be expected to have general applicability which are adopted in only a few places. For example, the States differ sharply in the range of offenses which may be subject to probation. It is interesting to observe that 7 out of the 36 States place no limitation on the offense for which probation may be extended; 4 exclude capital or life imprisonment offenses, while others limit probation more strictly by excluding specified serious offenses, some limiting probation to offenses punishable by less than 10 years imprisonment, some making it available only for misdemeanants, while the States of Alabama, Kentucky and North Carolina permit probation only for minor offenses. It is probably true that such sharp differences between the States on the question of the specific type of crime for which probation may be allowed is not warranted by the local situations out of which the crimes develop. The States which permit the courts the broadest discretion in the matter of probation are those on the whole that have had the longest experience with it. It is clear too that the present tendency is to widen the range of offenses for which probation may be granted.

As in the case of the crime, so in the case of the criminal himself, the States vary greatly in the extension of discretionary powers to the court to use probation instead of imprisonment. In New York State conviction on a fourth felony, in six States convictions on a second felony, in two States any previous imprisonment, constitute barriers to the use of probation. A curious and striking contradiction in the policy of two States in the use of probation is to be found in the laws of Iowa and North Carolina. The first makes probation of a person afflicted with a venereal disease impossible, the second makes probation possible only in the case of a person afflicted with a venereal disease or convicted of second degree prostitution. It is evident that the differences are partly accidential and arise from insufficient experience with the method of probation as an instrument for the correction of the delinquent and the protection of society.

6. SELECTION OF SUBJECTS FOR PROBATION

Who should be placed on probation? Which of the many hundreds or even thousands of individuals who come before the court during the year may safely be released under supervision? Upon the satisfactory answer to that question will largely depend the effectiveness and utility of probation. The law may set limits on probation by excluding all prisoners convicted of a fourth felony, or of a second felony, or liable to life imprisonment. That is merely an arbitrary limitation of the legal class of individuals who may be considered for release under supervision. But of those who are considered, which shall be released under probation? Experience has proved that there are certain prisoners who are less fitted for release than others. It is clear from evidence available that drug addicts, persistent alcoholics and feeble-minded prisoners with strongly developed criminal habits are not easily amenable to probationary treatment. It also seems clear that prisoners who have had long previous experience in criminal activity, who have wide contacts with the underworld, courts, police and prisons, are less amenable to probation than are those who come to the courts as first timers. The court, therefore, has at present the already proved experience that certain well-defined classes make greater probation risks than do others. But this is not conclusive evidence that even these classes may not be proper subjects for probation. The only conclusion which the evidence warrants is that with our present knowledge and with our present supervising staff these classes are not good risks.

It is admitted by all concerned that probation services are almost everywhere understaffed. While the best practice would limit "the case load" of a probation officer to 50 cases, in many jurisdictions "the case load" is many hundreds of cases, making any supervision difficult. The "failure" un-

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der probation may really represent a case of inadequate attention during probation rather than an absolute inability to make a new adjustment. There is responsible opinion among experienced probation officers that this is true in many, possibly most, instances of failure. This is important to remember because the alternative of imprisonment has already been tried in many of these instances without result and in many cases with decreasing effectiveness, and with increasing expense.

When we have made our first classification between the greater and lesser risks from the point of view of probation we still have the large mass of individuals coming to court who are not drug addicts, persistent drunkards, habitual criminals or feeble-minded. Are all of these proper subjects for probation? In terms of our present experience we can not say. It is clear from the testimony of prison and judicial officials that there are many men in prison who would have made good risks for probation. "For there are thousands of prisoners now confined in our State prisons who could be discharged without fear of recurring crime." This is the assertion of the warden of one of the largest and best known prisons in the country. The decision in each case must therefore depend upon a scrutiny of the various elements in the case itself.

It is here perhaps that probation is making its greatest contribution to the court, as well as its most significant contribution to the general science of penal and correctional treatment of the unsocial individual. Probation is in essence a method of individualization. It compels the court to search into the background of the individual, his relation with the world as a whole. Questions of the most intimate and personal sort are asked. Why did he become a criminal? What can be done about setting his steps right in the world again? Is it a personality difficulty subject to correction? Is it a family difficulty? Is it a physical deformity, occupational maladjustment, or some combination of these? What is the man's previous history, not necessarily as a lawbreaker, but as a human being? To the adequate answer to these and many more questions the court must adjust its action in deciding between imprisonment or probation. If imprisonment, for how long; and if probation, under what conditions? That is, the case history placed before the court by the probation officer is bringing into the records a body of information which may not be otherwise admitted. It is clear that probation is significant not only with respect to what is done after release but for its investigation of the case for the information of the court before sentence is imposed. Adequate sentence by the court is more likely to be achieved if a complete history of the individual is placed before it. "The conclusion seems warranted that on right investigation depends right sentencing in important cases, and on right sentencing depends the effectiveness of the whole process of criminal prosecution itself. Probation so understood assumes an importance as a necessary adjunct to criminal justice that is realized by but a few." Here the contribution toward socializing court methodology is of great value for the future. It makes the individual—the individual as a whole—subject to review before sentence is imposed.

7. APPOINTMENT OF PROBATION OFFICERS

The first probation officers were volunteers. That was natural and logical in a movement having its origin in voluntary and private efforts of individuals to save men brought before the courts from careers of crime. It was a personal relationship between the volunteer officer and the prisoner before the court. As such it was natural that with the enactment of legislation making probation a part of the formal machinery of the court the older volunteer system should continue to play an important part. This has continued in places even to this day. While the volunteer probation officer has been of the greatest service in the development of probation and, while it is probably true that without the fine public spirit displayed by the volunteers the development of this system of treatment would have made much slower progress, it is also true that with the increase of the range and responsibility of probation the volunteer has proved increasingly ineffective and inadequate. The

larger probation systems, such as that of the municipal court of Philadelphia, have more than 200 officers. Under a system as complex and many sided as that, it is impossible to expect a volunteer service to satisfy the exacting needs of a large and busy court. It is true that the volunteer is still useful and may, perhaps, because of the peculiar closeness of the personal relation in probation service, always find a place in the scheme. But the development of the service and its continuance must depend upon a professional, paid and supervised staff.

In the earlier development of probation an attempt was made to utilize the police of the larger cities as probation officers. This was done by assigning a number of specified members of the police force to probation duty. This however was soon discovered to be a mistake in policy. Probation and police duty are essentially different in their nature and few if any can serve both of these functions fully. But even if the police were to be found who could combine the helpful, encouraging, and sympathetic relationship as well as the ordinary watchful, suspicious, and apprehending functions it is doubtful whether the individual on probation could well adapt himself to the policeman as a "friend, guide and counsel." The experience in New York State proved convincing in this matter. The State Probation Commission reported in 1906 that "the police officer, as a rule, has no expectation that offenders will reform. His chief duty is in the enforcement of the law—repression, not reformation. He has little conception of what probation work means, and, as a rule, little or no aptitude for it * * * and hinders the development of the real probation work in these courts."

Hence in the development of probation in the future the paid and specially trained probation officer must play an increasing part. It is fortunate that training facilities are gradually developing either in schools of social work or in universities. The probation officer must have a broad general training with special emphasis upon social problems and social work. His appointment, whether by civil-service methods under the auspices of a general State probation service, by some sort of voluntary merit system as is the

case in some of our larger municipalities, or directly by the court, ought always to presuppose adequate training and ability. The question of what is the best method of appointment is perhaps difficult to adjudicate arbitrarily. Appointment by the court seems the simplest and the most logical. After all, a very confidential relationship between the court and the prisoner is involved, and in consequence the court must have implicit confidence and faith in the integrity of its probation officers. On the other hand, the comparatively short tenure of judges in many jurisdictions, the lack of acquaintanceship with probation and its methods in others, the danger of political influence, the need for general standards, the need for comparative judgment upon the effectiveness of the work of the probation service in the different courts, the need for supervision, seem to argue for some sort of more general and centralized guidance than is possible when probation officers are merely responsible to the courts which have appointed them for the time being.

8. CENTRALIZATION OF SUPERVISION

It is desirable that the States should feel their way toward a more centralized system of probation supervision and control. It has been argued that "Probation is one of the State's methods of controlling offenders quite as much as putting them in prison or releasing them on parole. One is quite as much a concern of the State as the other. As it is an inherent function exercised in connection with the courts of the State, it is obvious that it is a State function and not anything that has to do with the locality." State supervision, guidance and control are needed for the setting of state-wide standards, for the laying down of conditions of appointment, for criticism, investigation and evaluation. Local need and experience, to be sure, will have to guide the development of the method and form most fitting for the particular situation. But all efforts to secure federation, the mutual exchange of information and experience, and the raising of the professional character of the probation service ought to be encouraged so that even where

State centralization does not exist in law some of its benefits may be achieved in fact through voluntary organization.

For a careful consideration of the standards of good probation work and the forms of State organization which are best calculated to promote it, reference may be made to the report of the Advisory Committee on Penal Institutions, Probation and Parole which is published herewith. There, also, will be found an account of the recent development of probation in the Federal courts.

9. THE MEASURE OF SUCCESS IN PROBATION

Some idea of the measure of success achieved by the use of probation may be obtained (1) from a consideration of the behavior of persons placed on probation during the term of probation and (2) from a consideration of their behavior after their discharge.

The reports of probation officers give information on this head. For example, the report of the Cook County (Illinois) Adult Probation Department for the year ending September 30, 1927,[1] shows that of 5,701 persons discharged from probation during the year, results described as "satisfactory" were achieved in the cases of 4,027 (71 per cent), "doubtful" in the cases of 216 (4 per cent), "unsatisfactory" in the cases of 1,322 (23 per cent); while 103 (2 per cent) were sent to institutions and 33 (less than 1 per cent) died. The report of the New York State Department of Correction, Division of Probation, for 1927[2] showed that 71 per cent of the men and 77 per cent of the women passed from probation during the year were discharged "with improvement," 8 and 3 per cent, respectively, were discharged "without improvement," 10 per cent of both were "rearrested and committed," 10 and 9 per cent, respectively, "absconded" or were "lost from sight." The report of the Essex County (New Jersey) Probation Department for 1929[3] shows that 68 per cent of those placed on probation

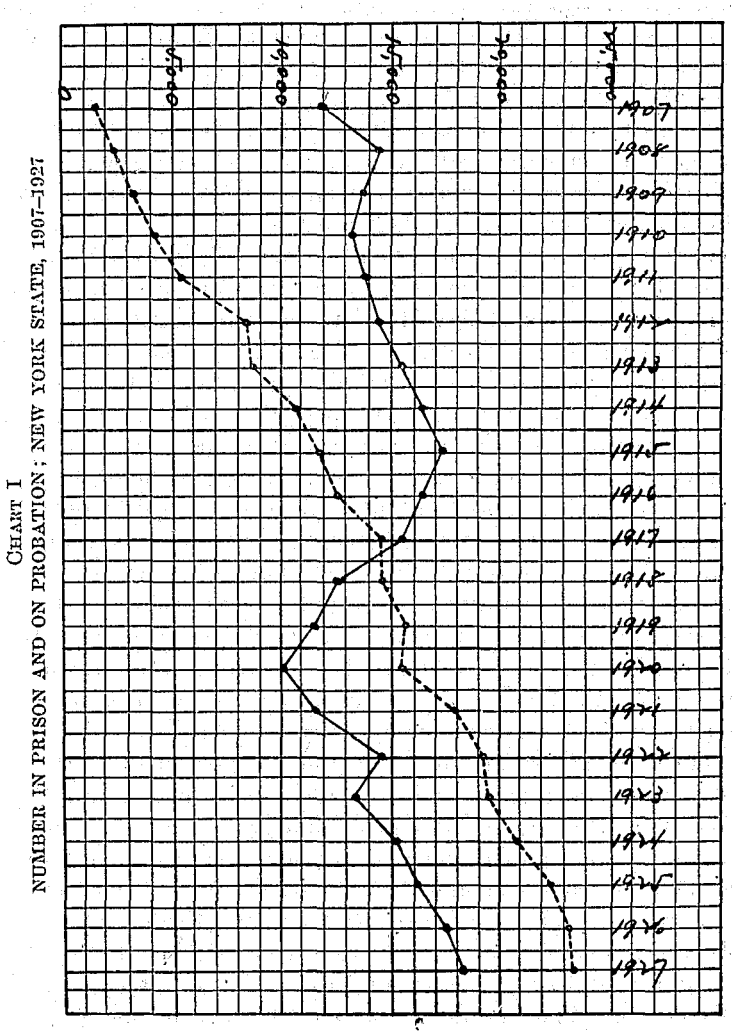
[1] Sixteenth Annual Report, p. 13.
[2] Twenty-first Annual Report, p. 40.
[3] Twenty-sixth Annual Report, p. 109.

were discharged "with improvement," 7 per cent were discharged "without improvement," 14 per cent were "resentenced and committed," 9 per cent "absconded," and the rest either "died," "were released by court order," or were "transferred to other probation department." In Detroit during the 3-year period ending June 30, 1927, of 7,889 persons discharged from probation to the recorder's court of Detroit, 70 per cent were "discharged with improvement," 10 per cent were committed either for new offenses or as violators of the terms of their probation and 18 per cent were "discharged without improvement," absconded, or were suspended from supervision by statutory limitation of the period of probation; about 2 per cent either died or were discharged through appeal for a new trial.

While these reports represent the probation officer's own estimate, some supporting evidence as to the percentage of successes is found in the reports of studies made by commissions and other independent bodies, although it is not clear that the latter always represent an independent appraisal of the results achieved. The Baltimore Criminal Justice Commission[4] shows that in a group of 305 probationers 49 per cent of the cases were not successful. The results of this study should probably be received with caution, inasmuch as a question has been raised[5] as to how much the comparatively poor results recorded are due to poorly administered probation rather than to any inherent weakness in the system of probation. A study in 1924 of the cases of 383 men placed on probation in Massachusetts[6] showed that 59 per cent "made satisfactory response during the probation period," while 18 per cent made a "less satisfactory" response, and only 9 per cent "so far failed as to be surrendered by the probation officer to the court and committed by the court to institutions"; 13 per cent "disappeared." "Judged further by commitments to institutions subsequent to probation, only 12 per cent are known to have been committed."

[4] Quar. Bulletin, Sept. 30, 1926, pp. 9, 10.
[5] See Report of the Crime Commission, 1927, State of New York, Legislative Document (1927) No. 94, p. 270.
[6] Mass. Senate Document No. 431, Report of the Commission on Probation (1924), p. 27.

The evidence as to the measure of success achieved by probation on the basis of the behavior of persons after they



have been released from probation is very meager. It has been said:[7]

[7] State of New York, Report of the Crime Commission, 1927, Legislative Document (1927) No. 94, p. 269.

A number of studies have been attempted. Some were abandoned, others were not published, as it was felt that probation as a system should not be judged by them, as they were based on probation administration that was decidedly deficient.

Other studies have been opposed because they involve the risk of revealing to friends or neighbors a man's past life which he has lived down.

In Erie County, N. Y., a study made in 1920 [8] of 200 former probationers showed that 111 (72 per cent) of those discharged as improved had continued to show improvement. This estimate represents not only absence of arrests but better economic and social adjustments. The Baltimore study above referred to showed only 11 per cent of those released from probation as "successful" to have been problems to the social agencies afterwards and only 29 per cent to have been later convicted. In the special sessions study in New York City covering the period from 1912 to 1919,[9] in a group of 125 persons it was found that probation had been "satisfactory" in 65 per cent of the cases where fingerprint records permitted subsequent identification of probationers. "Satisfactory" in these cases meant satisfactory as shown by the probation record during probation and without subsequent records in the files of the police department, magistrates' courts, department of correction, State prison department, or United States Federal Bureau of Criminal Identification. In the Massachusetts study above referred to it was found that there was no subsequent court record as to 65 per cent of those placed on probation and no subsequent institutional record as to 88 per cent. A study in Wisconsin in 1926 of 65 cases discharged from probation in 1922 showed that of the 52 that could be found only 6 had been subsequently arrested for serious offenses. As to 33 there was "satisfactory evidence of good conduct and living conditions."

Increasing confidence in probation as a method of correction on the part of the courts of New York is illustrated by the consistent increase in the total and relative number of cases placed on probation. Since 1908 the New York courts have placed 357,559 adults on probation. (See Chart No. 1.)

[8] State Probation Commission, Annual Report, 1920, p. 31.
[9] Court of Special Sessions, Annual Report, 1925, p. 29.

In 1907 there were 1,672 prisoners on probation, as against 12,053 in penal institutions. In 1927 the number on probation had increased approximately fourteen times to 23,302, while the number in correctional institutions had only increased by about 50 per cent to 18,110. Between 1918 and 1927 there were for each year more people on probation than in correctional institutions. This is evidence of increasing confidence of the courts in probation as a method of control and supervision.

The most striking evidence of the success of probation is supplied by the courts of Massachusetts. It should be remembered that this Commonwealth has had more than 50 years of experience with probation. Between the years of 1900 and 1929 the number released annually on probation has increased approximately five times from 6,201 in 1900 to 32,809 in 1929. During this same period, when the number on probation increased fivefold, commitments to institutions actually decreased from 27,809 to 19,650. During the last 20 years we see that the actual number of persons placed on probation almost tripled and that the proportion of probations to all dispositions by the courts rose from 9.4 per cent to 22.4 per cent. This increase is the more significant as an estimate of the value of probation when we note that in spite of the rapid increase in both actual and relative numbers released by the courts on probation there has been no decrease in the percentage of successes in probation. The satisfactory cases in 1900 stood at 75 per cent of all released; they stand at present at 80 per cent of all cases. This is especially significant because experience must have led to higher standards of judgment.

These figures show that an increase in the relative number of probation cases is not necessarily accompanied by a decrease in the efficiency of probation. At least in the cases under discussion it was possible to triple the number on probation without lowering the ratio of successful cases. There is further evidence that the confidence of the Massachusetts courts in the efficacy of probation was justified. While the number of persons placed on probation was increasing and the number of prisoners in penal institutions

was decreasing, the total number of serious crimes against the person and against property was decreasing in spite of an increase in population. In 1915 there were 29,280 cases of serious offenses commenced in the courts of Massachusetts; in 1928 these had fallen to 21,625, or a total decline of 7,555.[10] A comparison of the homicide rates of cities of the United States[11] shows that while the highest for any city was 69.8 per hundred thousand population, New York had 6.7, Chicago approximately 15, Minneapolis 8.9, and Boston (which has the highest rate in any city in Massachusetts) only 3.4. In 1904 there were for the country as a whole 68.5 persons in prisons and reformatories per hundred thousand population; by 1927 this number had risen to 79.3. For Massachusetts during the same period the number of prisoners has actually fallen. It was 64.5 per hundred thousand in 1904 and 45 in 1927.[12] For the country as a whole the prison population of State prisons and reformatories has increased 78.2 per cent during this period,[13] while in Massachusetts it has decreased 4.6 per cent.[14]

This raises the question whether it is possible to assume that probation cases might still further be increased with a continuous rise in satisfactory outcome. On the present evidence there is no reason to assume the contrary. On purely theoretical grounds success in probation is determined not by the number of cases but by the care with which they are chosen and by the character of the supervision which they receive after release. It would be perfectly possible to have a large percentage of failures with a small group of probationers if they were poorly chosen and badly supervised. It must also be remembered that many of those most competent to judge are of the opinion that there are many men in prison who would have made good probation cases.

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[10] Loc. cit., p. 99.

[11] Apparently for 1929. See report of speech of the Hon. Sanford W. Bates, published in Indiana Conference on Law Observance and Enforcement (Indianapolis, 1929), p. 100.

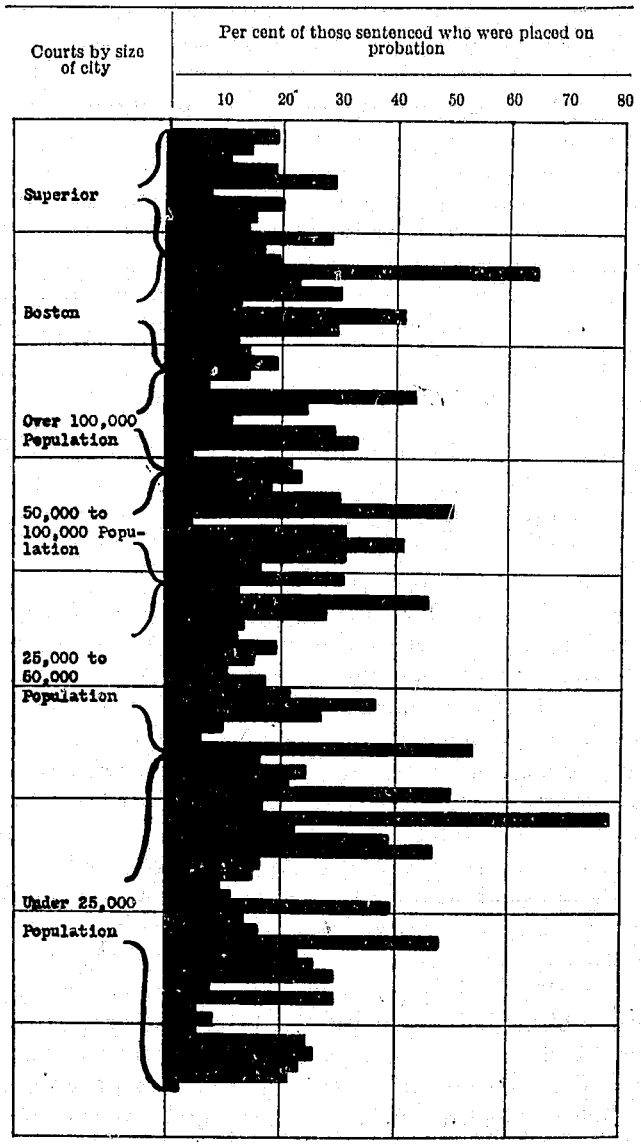
[12] Loc. cit., p. 200.

[13] From 55,429 to 98,795. U. S. Dept. of Com., Bur. of the Census, Prisoners, 1927, Table 2, p. 4.

[14] From 1958 to 1966, loc. cit.

CHART II

USE OF PROBATION BY THE COURTS OF MASSACHUSETTS, 1927



It is worth while to examine the practice of the Massachusetts courts in the use of probation. Courts of the same type and of the same jurisdiction, courts in similar cities and under comparable social environments, differ widely in the frequency with which they make use of probation as a method of disposition of the case before them. Chart No. II brings out graphically the great divergence between similar courts. It also makes clear that such differences are accidental and incidental, reflecting the personal attitudes of the court in question. It may be true that some of these courts make too ready a use of the probation method. But it is also true that many of the courts could largely increase the number of men they release on probation without seriously threatening the efficiency of the probation procedure.

10. FAILURES IN PROBATION

Failures in probation result either from inadequate judgment by courts of the "risk" represented by the individual in question—which may in part be due to the insufficiency of the information made available to the court—or from the inadequacy of the supervision provided.

There is fair reason to believe from the evidence cited above that some 70 per cent of all probation cases are finally readjusted to the community without further conflict with the law. This is a much higher average than any would claim for imprisonment, and at much less cost; but, even so, a failure in 30 per cent of the cases must be considered high. It is here that the most careful study is needed: Why do the 30 per cent fail? The answers in each case would of course be different. But it is fair to argue that a part—and we can not say, but perhaps the greater part—is due to lack of adequate supervision. "One officer bluntly states that lack of supervision was at the root of much violation of probation." The particular probation officer may not have been the most adequate choice for that particular case. Perhaps the case needed much more attention than was given it by the probation service, or it may have needed a treatment which the service was not cognizant of or did not

seek to provide. It might be argued that every failure which is not due to the faulty exercise of judgment by the court is a failure, not of the individual to adjust, but of the probation service to supply the directed supervision which would have made adjustment possible. The failure reflects not so much upon the individual—he has already failed once. This is certainly the case when it is possible for mature judgment upon one of the large city probation organizations to assert: "The probation department of the men's criminal division is a probation department in name only. The work being done by that division at the present time can not be dignified by the name of probation. The writer was unable to learn what the officers do with their time, or what are the real activities of the chief of the division."

11. THE COST OF PROBATION

It has been estimated that in New York imprisonment costs about nineteen times as much as does probation. The institutional cost of confinement was estimated in 1926 at $555.72 per inmate, as against $29.34 for probation supervision per case. In Ohio for the same year probation cost $32 as against $236 for imprisonment. In Massachusetts the difference in cost is $35 for probation and $350 for incarceration. In Indiana the cost comparison between these two methods of treatment has been estimated at $18 for probation against $300 for imprisonment. This cost comparison, though striking, is only partial. It does not include the investment by the State of millions of dollars in the land, buildings and equipment of the original prisons. An example of the possible initial cost of housing per inmate is indicated by the following: "If the plans for the Attica Prison in New York State are carried out to provide adequately for 2,000 inmates, the cost per inmate would be undoubtedly $5,000."

But even an inclusion of the original investment by the State in prison construction would still leave the comparison of costs between probation and imprisonment incomplete. To it would have to be added that under probation the man

not only supports himself but maintains his family and keeps them, as frequently happens, from becoming dependent upon public charity. To this important factor another should be added. The probation officers, as part of their duty, collect large sums of money, representing payments on fines imposed, costs taxed, restitutions ordered, etc. In Massachusetts in 1926 probation officers collected $1,828,111.28. "The collections were $1,339,673 more than the cost of service." In New York State, where the entire "estimated cost from public funds for the probation system in 1927 * * * was $792,636.17," the probation officers collected $3,971,799.17.

In any account, therefore, in terms of cost the expenditure for probation as against imprisonment per individual is so much lower as to make imprisonment, when it can possibly be avoided without injury to society, an unwarranted waste of public funds. It must be clear that only when we have taken the means and the effort to spend as much money upon probation supervision in our most difficult cases as we spend on an average on all prison cases, and have had an equal number of failures as it is generally admitted must be credited to the prison, may we admit that with equal expense and effort both methods are equally ineffective in those specific instances which are known to be most refractory. Not until we have done that can we assume, and *much less assert*, that probation is as ineffective in the recalcitrant cases as we know institutional treatment has proved to be.

VII. CONCLUSIONS AND RECOMMENDATIONS

1. We conclude that the present prison system is antiquated and inefficient. It does not reform the criminal. It fails to protect society. There is reason to believe that it contributes to the increase of crime by hardening the prisoner. We are convinced that a new type of penal institution must be developed, one that is new in spirit, in method and in objective. We have outlined such a new prison system and recommend its adaptation to the varying needs of the different States.

2. We consider it both unwise and unnecessary for the States to spend large sums of money in the construction of maximum security, congregate prisons of the Auburn type. Experience has amply demonstrated that only a small proportion of the prison population requires fortress-like buildings. With proper classification of the prison population, the present overcrowded conditions can be relieved by housing a large number of the inmates in simple and inexpensive buildings of the minimum and medium security type. The millions of dollars now employed to construct elaborate maximum-security prisons could, with much better advantage, be used in the development and proper financing of adequate systems of probation and parole.

3. We find the present sanitary and health conditions in our prisons inadequate and consider that no proper attack can be made on these essential problems without a classification and separation of the prison population into special problem groups.

4. No proper penal system can be developed until means are found to remove the tubercular, the insane, the venereally diseased, the feeble-minded, the drug addict, the sex-pervert, the aged and the feeble from the general prison population for such permanent or temporary treatment as may be required.

5. The remaining penal population ought itself be separated into groups which may be housed in maximum, medium and minimum security buildings. Within each of the groups further differentiation is both possible and desirable. This can best be worked out in connection with a varied program of prison labor.

6. We find our present system of prison discipline to be traditional, antiquated, unintelligent and not infrequently cruel and inhuman. Brutal disciplinary measures have no justification. They neither reform the criminal nor give security to the prison. We recommend that they be forbidden by law. We wish to repeat that classification and segregation are prerequisite to the solution of the problem of discipline.

7. The changes here suggested can not be carried through without an improved official personnel. This involves the more careful selection, better compensation and training of prison officers. The prison officers' training school now maintained by the Federal Government is a step in the right direction. Greater security of tenure is also needed. It will be difficult, if not impossible, to reorganize our penal system if prison officers are subject to change with every change in political administration.

8. Though we recognize the difficulties of transition to a new system of prison industry we commend the Congress of the United States for the passage of the Hawes-Cooper bill and consider the agitation for its repeal as ill-advised and contrary to the public interest. The contract system is essentially iniquitous and its disappearance from our prisons is most earnestly to be desired. The prison will serve the State best if it surrenders the idea of profit-making and turns its attention and energy to the less arduous task of discovering means of becoming economically self-sufficient. In so far as the prison has to employ labor for other than local consumption we recommend the "State use" system and the employment of prison labor on public works as most advantageous to the State and least injurious to outside capital and labor.

9. We recommend that some wage be paid to the prisoner, not merely as an incentive to good work, but as a means of maintaining his dependents and promoting his self-respect.

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10. Education in the broadest sense is the profoundest responsibility and opportunity of the prison. Unless the prison succeeds in educating—educating in character, in industry, in habits, in new attitudes and interests, in capacities and abilities—it fails. It is therefore urged that every possible agency that may be utilized for the educational progress of the prison inmates be employed and developed.

11. Individualization is the root of adequate penal treatment and the proper basis of parole. For proper individualization it is necessary that a comprehensive personal study covering every important detail of his career should come to the prison with the prisoner. It should be amplified by the prison record, kept up to date by periodic revision, and ultimately used as the basis for parole.

12. An indeterminate sentence is necessary for the development of a proper institutional program and essential to the establishment of an adequate system of parole. It is not possible to require the prison to rehabilitate the offender if its hands are tied by an obligation to release him at a time when it feels that such release is contrary to the public interest. It must, however, be held to view that an absolutely indeterminate sentence is a powerful instrument in the hands of prison administrations and ought not to be extended to any group of men without the greatest safeguards for the protection of the individual, and not until the prison system is so built up as to make the prospect of character reconstruction within the prison much more nearly a certainty than it is to-day. To give the typical penal administrator the right to say whom he will release and when, would not be consistent with the best public policy. We therefore suggest the granting of the broad powers implied in an absolutely indeterminate sentence only with the greatest caution and only after the prison system itself has been sharply reconstructed along modern lines.

13. Parole must be considered the best means yet devised for releasing prisoners from confinement. It affords the safest method of accomplishing the ex-prisoner's readjustment to the community. No prison system, no matter how well organized, can be expected to achieve its best results without the cooperation of a well-staffed, well-financed, and properly organized system of parole.

14. A number of States have already established full-time, well-paid, central boards of parole, with full power to decide on applications for parole release. We believe that many other States might profitably follow their example. Every effort should be made to guarantee these bodies an expert personnel and freedom from political interference.

15. Of even more importance is the skillful and sympathetic supervision of the prisoner who is on parole. It is not enough to write a parole provision into the statutes. Persons of technical competence must be employed and trained to supervise parolees in the field. Such agents must be provided in numbers sufficient to guarantee the adequate and effective oversight of every prisoner who is released on parole. Without this, parole amounts to little more than an automatic reduction of the sentence. With it parole may become a positive force for social security.

16. Probation must be considered as the most important step we have taken in the individualization of treatment of the offender.

17. The success of probation is dependent upon the care with which cases are originally chosen and upon the sufficiency of later supervision.

18. No man should be sent to a penal institution until it is definitely determined that he is not a fit subject for probation. To this end it is urged that every effort be made to broaden probation and provide more and better probation supervision. With adequate probation staffs the number of persons who might be placed on probation with success can be materially increased. It is clear that probation, where it is applicable, is much less expensive and, from the social point of view, much more satisfactory than imprisonment.

19. Those States that have not as yet made provision for probation should do so.

20. Central supervision of probation should be provided for and measures looking to some sort of state-wide standards should be encouraged.

21. Only persons possessing adequate technical training and experience should be selected to serve as probation officers. They should be freed from other duties and allowed to give all of their time to their duties as agents of the court in the supervision of probationers. The "case load" of many probation officers is at present too high to permit effective oversight. Sufficient officers should be provided to keep the number down.

22. There are now seven States where no legal limit is set upon the discretion of the court in the use of probation. Experience shows that such discretionary powers have proved ample protection against the release of the anti-social and degenerate criminal while at the same time they make it possible to "temper justice with mercy," where mercy is justified. The extension of this prerogative of the court is recommended.

23. We call attention to the recommendations made by the Advisory Committee on Penal Institutions, Probation and Parole, in its report which is appended hereto. We indorse these specific recommendations with the single exception of that which calls for an absolutely indeterminate sentence. We consider this proposal ideally desirable, but are not ready to recommend its adoption, as a practical matter, until such a time as the community has so completely reorganized its penal system as to warrant the transfer to an administrative agency of the great powers of sentence now exercised by the court.

GEORGE W. WICKERSHAM, *Chairman.*
HENRY W. ANDERSON.
NEWTON D. BAKER.
ADA L. COMSTOCK.
WILLIAM I. GRUBB.
WILLIAM S. KENYON.
MONTE M. LEMANN.
FRANK J. LOESCH.
KENNETH MACKINTOSH.
PAUL J. McCORMICK.
ROSCOE POUND.

JUNE 23, 1931.

REPORT
OF THE ADVISORY COMMITTEE ON PENAL INSTITUTIONS, PROBATION AND PAROLE

TO

THE NATIONAL COMMISSION ON LAW OBSERVANCE AND ENFORCEMENT

HASTINGS H. HART, *Chairman*
WINTHROP D. LANE, *Secretary*

HERMAN M. ADLER.
SANFORD BATES.
AMOS W. BUTLER.
EDWARD R. CASS.
CHARLES L. CHUTE.
O. H. CLOSE.
EDWIN J. COOLEY.
CALVIN DERRICK.
WILLIAM J. ELLIS.
BERNARD GLUECK.
IRVING W. HALPERN.
JESSIE D. HODDER.
C. W. HOFFMAN.
JAMES A. JOHNSTON.
RUFUS B. VON KLEINSMID.
LEWIS E. LAWES.
OSCAR LEE.
HERBERT C. PARSONS.
ELLEN C. POTTER.
JOSEPH M. PROSKAUER.
LOUIS N. ROBINSON.
WALTER N. THAYER.

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I. THE PRACTICAL APPROACH TO PENOLOGY

Crime is human behavior; criminal acts are the acts of human beings. Crime and criminal acts, therefore, come within the scope of a scientific approach to conduct.

People leave prison as well as enter it. At any given moment the number of people coming out of prisons in the United States is substantially as great as the number entering them. Except for those executed, those completing life sentences, and those dying during their terms, everybody else comes out of prison. To put the matter bluntly, massive prison gates swing both ways. To put it dramatically, every time a judge says "I sentence you to prison," a prison gate opens somewhere and a man steps forth to freedom.

The implication of this for treatment is obvious. The benefit to society is little if the man comes out no better than when he went in. Society has shut him up, only to turn him loose for further depredations. It has gained a period of respite from the criminal acts of this particular individual; but others have been coming out meanwhile, and new criminals have been taking the places of those sent to jail. Mere incarceration, with release of the offender at the end of his sentence, is of small assistance to society in combating crime.

We are not discussing in this report measures of any kind that ought to be taken to prevent people from becoming criminals. That subject falls to other studies being made under the auspices of the National Commission on Law Observance and Enforcement. Our subject is "Penal Institutions, Probation, and Parole." It is obvious, therefore, that we are dealing with the convicted offender—the person who has already committed a crime (one or perhaps many) and whose disposition is the immediate problem facing the judge.

We say, therefore, that the treatment of the convicted offender is the central problem of penology, and that a wise

and alert society should be interested only in such treatment as carefully, intelligently, and by the use of all possible scientific means for studying, diagnosing, and modifying personality and behavior, tries to restore men to their communities more law-abiding persons than when they were found guilty.

The uninformed criticism of those who advocate reform in the treatment of criminals is that they are sentimentalists. Among sentimentalists are those who, because of attachment to outworn or existing procedures or plans, wish to keep such plans. The realist is the person who is willing to face the facts—not only some of the facts, but all of the facts. In our opinion existing methods of handling criminals are largely defective. We believe, therefore, that the sentimentalist in respect to matters of handling criminals is the person who insists on present methods, or making them even harsher, without being aware that these methods have failed, and that the realist is the person who is willing to approach the matter in a calm, unprejudiced, scientific manner, desirous to find out just how a tendency toward crime can be stopped or a criminal himself made a law-abiding member of society.

Our particular criticisms of the current attitude toward the criminal, and of current methods of dealing with him, will be given in later parts of this report. Here we wish to say only that incarceration is; for the most part, a formless and automatic procedure, without regard to differences among individuals; penal institutions, by and large, do not really seek either to learn or remove the things tending to cause crime in the lives of the persons committed to them. Prisoners become numbers, and, as such, spend their days in profitless or dehumanizing activity or inactivity. We treat offenders *en masse;* we should treat them as individuals. We impose punishments with an eye to the crime, whereas we should prescribe treatment with an eye to the offender who commits the crime.

The members of this committee thoroughly believe in both probation and parole when soundly practiced, but neither has been properly or adequately developed in the United States.

Studies of important aspects of the lives of offenders frequently reveal factors contributing toward their criminality. The nature of such studies, and the techniques for making them, are no longer the mysteries they once were; much improvement has been shown in the past two decades, and much will be shown in the next two or three. Here we wish to emphasize the point that so far our methods of handling criminals have been well-nigh impervious to such a point of view or approach.

To-day sciences dealing with human conduct are on a useful and permanent basis. Everyone knows that medicine, biology, psychiatry, psychology, and sociology are useful in shedding light on the causes of conduct and in providing techniques for the alteration of human behavior. Some persons become criminals through difficulties in their environmental situations which can be changed, and some through mental or emotional disturbances which can be cured; there are many factors contributing to crime. A conscientious and searching social case work is the technique to be applied to the rehabilitation of the criminal. When courts and institutions for handling offenders begin to use such techniques, not only will knowledge of personality and human beings become greater but cures of criminality will become more effective.

We give further details concerning this in the body of our report. Even where it is impossible to put a finger on the causes of criminality, something better than mere vindictive punishment can usually be offered, for vindictive punishment commonly makes worse the thing it tries to help.

Here we wish to say that prompt and sure conviction is, in our judgment, a help toward reducing crime. We agree, therefore, that technicalities, court practices, and interference (whether political or otherwise) which unwarrantably delay trials or prevent quick and accurate decisions should be swept away. On the other hand, the "bargain day" in court and haste in disposition that defeat proper inquiry and understanding should be deprecated. We repeat that the gravest question having to do with the disposition of offenders is the treatment accorded them after conviction to

the end that when released they will become more law-abiding members of society. We advocate, therefore, a speedy judgment, as prompt as is consistent with an accurate diagnosis of the individual accused and the proper preservation of his liberties.

Conscientious, scientific, and remedial treatment of criminals is quite likely to cause more severe restraint and to produce longer periods of control than other kinds of treatment. The current philosophy of our penal procedure is to punish a man because he has committed a certain kind of crime; one result of this is that in New Jersey the maximum penalty for burglary is seven years and in North Carolina it is death. Nearly every prisoner is released sooner or later, many at the end of arbitrary, fixed sentences, without any knowledge on the part of authorities as to whether the individual is a better or worse person than when he entered. Scientific treatment aims at no such result. Scientific treatment looks at the criminal, not the crime. If it appears that the offender is not ready for release he will be held. Under the indefinite or indeterminate sentence properly applied (which means that the offender can be held as long as necessary) he will be under continuous study and observation and will be released only when there is reason to think he can adjust himself in the community and go straight. Not only that, but if such a time never arrives, he can be held much more readily for life under a scientific plan, based on the indeterminate sentence, than under a plan which leaves life sentences to legislators, judges, juries, and prosecutors. One is sensible, conscientious treatment of the individual; the other is guessing in the dark and in advance. Not a few irreclaimable persons, released (at present) after short periods of imprisonment, would in all probability (under such methods as we advocate) be held for much greater periods or for life.

On the other hand, youthful or hopeful offenders who now receive unduly long sentences simply because they commit certain types of crime would get more intelligent treatment—and much waste of human values would be avoided. Nothing is more tragic than the practical abandonment, so often seen to-day, of reclaimable human beings by the vindictive and stereotyped methods of procedure now in vogue. Available statistics, though inadequate, indicate that something like three-fourths of the criminals in the United States commit their first offenses before they are 25; large numbers commit such offenses in their teens. It is in the interest of reclaiming the more hopeful cases that we particularly stress the importance of the scientific approach.

Obviously our interest is in society. We wish to prevent the release from penal institutions of persons who will continue to commit crime—an object to which the present machinery of justice is substantially indifferent—and we wish to reclaim for society such salvagable material as the ranks of criminals present.

Hopeful demonstrations of possibilities have already been made, and we mention these in our report. Here the purpose is to emphasize our fundamental point of view.

It becomes evident that punishment as such, in this point of view, is efficacious in the treatment of the offender only in so far as it is therapeutic.

We propose to do nothing hastily. Habits and convictions of centuries can not be turned over in a decade. At the same time new information and new procedures have been developed, and it will be an error to ignore them. Reform must be gradual. One step must follow another, and all changes must be tested by experience. We are sure that a careful reading of our proposals will show that we have been guided by intelligent conservatism.

Laws must be obtained that will help give effect to the scientific interest in, and treatment of, criminals. These laws must be animated by the new philosophy, not the old. Points of view retained by many law schools, judges, lawyers, heads of penal institutions, and others must be changed. Progress has been made, but there must still be radical revision in fundamental ways of thinking about treating criminals held by the main body of the public.

II. PROBATION

Since probation precedes both incarceration and parole in the treatment of the offender, we take that up first. Moreover, we confine ourselves to adult probation, for juvenile courts and juvenile probation are being considered in another report to the national commission.

A. Probation Defined and Explained

Probation is a process of treatment, prescribed by the court for persons convicted of offenses against the law, during which the individual on probation lives in the community and regulates his own life under conditions imposed by the court (or other constituted authority) and is subject to supervision by a probation officer.

Length of the probation period varies, and is determined by the court, some States placing statutory limits to the period of time a person may remain on probation. While an individual is on probation he remains in the power of, or under the control of, the court, and the judge may (1) alter the conditions of probation, (2) release or discharge the offender, (3) shorten or lengthen the period of probation, and (4) impose a sentence or order the carrying out of the original sentence, such as a term in a penal or correctional institution, which was suspended when the person was placed on probation. The individual placed on probation is called a probationer.

Under most probation laws at present probation involves, and is accompanied by, suspension of either the imposition or execution of sentence; that is, the court either defers naming any sentence, or if it names one, suspends the execution of such sentence and places the offender on probation. If the offender violates the conditions imposed upon him, he may be called into court again, admonished, sentenced, or receive an order that the original sentence be

carried out. The offender is at liberty, therefore, on good behavior. Suspension of sentence does not always imply probation, for in some jurisdictions sentence may be suspended without an offender being placed on probation.

The essence of probation, therefore, is treatment. In many instances it is an alternative to incarceration, though not in all, for some offenders would merely be fined if no provision for probation existed, and probably the element of constructive treatment in probation frees some judges and juries from the reluctance to find prisoners guilty which, without probation, they would feel.

Probation is a form of treatment for persons considered capable of being restored to well-ordered, law-abiding lives without the extremity of shutting them up, for longer or shorter periods, in institutions. The term of probation need not be the same as the period for which the individual might have been sentenced to an institution, for an individual may be sentenced to a house of correction for three months, or placed on probation for two years. In application probation is usually restricted to (1) children, (2) youthful offenders, (3) persons convicted for the first time, and (4) others who, in the opinion of the court, will respond to such treatment.

Theoretically, therefore, probation is the application of modern, scientific case work to individuals, outside institutions, with the authority of the law behind it. It calls for careful study of the individual and intensive supervision by competent, trained probation officers. It is not merely "letting the offender off easily." It is not giving him his liberty when he might otherwise, and perhaps better, have been sent to a reformatory or prison. In the conventional attitude of our criminal law it is a form of punishment, but the purpose back of it is educational, reformative, reconstructive; to use a scientific term, it is therapeutic.

Like parole, probation expresses in actual operation the advance toward extra-mural dealing with the offender which marks correctional policy in all civilized countries.

Three steps are important in probation: First, careful investigation of persons to be placed on probation; second, in-

telligent and well-considered action by the judge; and third, skilled supervision of probationers. Detailed consideration will be given to all three of these later.

B. PROBATION NEITHER PARDON NOR PAROLE

Probation should be clearly distinguished from pardon, which is the remission of a penalty attached to a crime. The pardoning power is usually exercised by a high executive official, such as the governor of a State or the President of the United States.

Probation should also be distinguished from parole. The latter is the conditional release of an individual who has already served part of a term in a penal or correctional institution; the theory underlying it is that it supplies a period of adjustment to life in the community. Probation, on the other hand, is a form of treatment, or punishment, for persons who have not yet been sentenced to terms in institutions—not, at any rate, for the offenses for which they are placed on probation.

C. INADEQUATE DEVELOPMENT OF PROBATION IN THE UNITED STATES

The members of this committee are unanimously agreed that, properly conceived and administered, probation is a very valuable instrument indeed in the handling and treatment of offenders. We believe it is a disservice to probation, however, to make claims for it which the facts, in view of its inadequate application, do not justify.

Because probation has been inadequately financed and poorly staffed; because 14 States still have no adult probation laws; because, even in most States possessing such laws, many courts make no use of probation; because probation officers, in general, have been underpaid, untrained, and chosen with little eye to their fitness; because volunteer probation officers have been used too widely; because the "case load," i. e., number of probationers being looked after at one time, of probation officers is usually too heavy; because supervision of the probationer is therefore lax and perfunctory; and, finally, because judges and lawyers often cooperate grudgingly with the probation system and judges place on probation persons who should not be placed on probation—for these and other reasons probation has fallen short of its promise in the United States so far.

It is unfair, therefore, to say that probation, as a method, is not useful or that it has failed, for the simple reason that probation has never been fully tried or adequately applied in the United States.

We furnish later suggestions as to how the administration and effectiveness of probation may be improved. In some jurisdictions probation has been carried to high levels of efficiency with good results. Among these are the courts of Massachusetts, where there is a well-developed state-wide system of probation; the Court of General Sessions in the City of New York; the Detroit Recorder's Court; Essex County, N. J.; and Erie County (Buffalo), N. Y.

D. MAIN ARGUMENTS IN FAVOR OF PROBATION

When properly staffed, financed, and administered probation has the following main arguments in its favor:

1. It reclaims individuals who probably would not otherwise be reclaimed. The alternatives to probation are usually either a fine or imprisonment. The superiority of probation to imprisonment for certain types of offenders or personalities is now well recognized.

2. This fact need not be left to guess. In the first place, plenty of histories of offenders could be cited to show the actual reconstructive effect upon individuals of skilled probation service. Statistical proof of the good effect of probation is difficult, because criminal statistics are notoriously poor in the United States. And yet Massachusetts, the first State to adopt probation, supplies probably the best proof in this direction. (Massachusetts adopted the first probation law in the United States in 1878.) In 1915 the number of prosecutions for serious offenses begun in the lower courts of Massachusetts was 29,280; in 1928 the number of prosecutions was 21,625. Here was a noticeable decrease in the num-

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ber of prosecutions, despite an emphatic increase in population. Yet during this time probation was used more and more widely, and the population of penal institutions actually decreased. In the course of the 13 years the number of persons on probation increased from slightly more than 15,000 to more than 21,000, or an increase of 6,000. Meanwhile prison population went down from 6,663 to 5,928, an actual diminution in spite of the so-called crime wave. Not only that, but Massachusetts has not built an additional prison cell in 25 years and has closed five institutions for the incarceration of offenders. Here, therefore, we have a situation in which (1) probation has been in operation for a longer period than anywhere else, (2) the number of people on probation has steadily increased, (3) the number of persons incarcerated has gone down, and, finally, (4) crime as measured by prosecutions begun in the lower courts has also diminished. These figures, if they prove nothing else, prove that probation is no gateway to an increase of crime. The truth is that they constitute strong evidence that probation helps to diminish crime.

3. The advantage of probation over imprisonment is that (1) it avoids instilling that bitterness of spirit into a person which penal institutions often instill; (2) it keeps him in normal social relationships; (3) it does not shut him up in very close confinement with other offenders, from whom he can learn all that he does not know about crime; (4) it withholds the stigma (from both him and his family) of having "served time" or been a "convict."

4. Applied only to those who are suitable prospects for probation, it keeps the offender's hope alive (an important condition for reform), it enables him to work out his problems of adjustment under normal conditions of life, and for many types of offenses it is entirely sufficient as warning or punishment.

5. Were probation abolished, accommodations at penal institutions would have to be greatly increased. In view of the overcrowding now in many prisons and reformatories this would lead to building expenditures which probably few people have ever seriously thought of. To take the single State of Massachusetts, for instance, the number of persons in penal institutions is 5,775, whereas the total number of persons on probation exceeds 20,000. In other communities the number of persons on probation is so large that, if any substantial number of these had to go to prison, institutional plants would have to be doubled or trebled. Resulting expenditures would be overwhelming.

6. On the other hand, the cost of probation is perhaps one-tenth of the cost of maintenance in an institution. Even when probation is as expensively organized as it ought to be, the cost is about $40 per year for each person on probation. Maintenance in an institution costs varying amounts, ranging from $300 to $550. Probation is not only efficient and humane, if properly organized, but also economical.

7. The economic aspect of probation does not stop there, however. While the offender is on probation he is earning money; it is nearly always made a condition of his probation that he shall have employment. Thus he is helping to support himself and his family, and not only treatment by the State costs less but he is making a valuable financial contribution.

The effects of this are far-reaching: The offender is more self-respecting; society is benefiting from his productive activity; and members of the family are not so likely to be compelled to seek charitable assistance, which often happens to families whose breadwinners have been sent to prison.

E. NECESSARY STANDARDS OF PROBATION

So much for the arguments in favor of probation. To be effective probation must achieve certain standards; otherwise the arguments in its favor do not fully hold. We enumerate some of the essential standards of probation:

1. Power lodged in every court to place adult offenders on probation; there should be no hampering restrictions in the law as to whom courts may place on probation.

2. Careful investigation of all offenders before they are placed on probation. This means investigation of their court and criminal records, their family background, their developmental history, their education, their habits, their physi-

cal condition, their emotional peculiarities, and their mental condition.

3. Selection of persons to be placed on probation by judges solely with a view to the probability that these persons will benefit from probation and that this is the best treatment for them.

4. Use of thoroughly trained and competent probation officers. The qualifications of such officers should include, preferably, graduation from college (or its equivalent) or from a school of social work, and in any case at least one year's experience in social case work under competent supervision. The proper type of personality, tact, and resourcefulness are essential. The probation officer should be neither too sentimental, nor should he be merely a policeman.

5. Supervision of male offenders by male officers, female offenders by female officers, and (where practicable) of juvenile offenders by officers specially trained to deal with children.

6. Enough officers to make sure that the "case load," i. e., number of probationers in charge at one time, shall not exceed 50 for each officer.

7. Careful intensive supervision by the officer. This means not merely receiving reports periodically from the offender, but visits upon the offender by the officer frequently enough to make sure that the offender is doing well and keeping the conditions of his probation. It means social case work. It means helping the offender to solve his problems and bring about adjustments to his situations. It means making use of the educational, industrial, health, recreational, social, and religious facilities of the neighborhood.

Return of the probationer to court, with commitment to an institution, is necessary if the probationer again commits crime or shows that he is likely to become a menace to the public.

9. Administratice organization and staff, office equipment, and funds adequate to carry out these purposes. Also reviews of its work to discover whether results achieved are satisfactory.

F. PRESENT STATUS OF PROBATION IN THE UNITED STATES

There are two ways in which probation, as it exists at present in the United States, can be analyzed: (1) One is to review legislation establishing probation and see to what extent our laws permit probation or require its use; (2) the other is to review administrative machinery set up in response to these laws, i. e., to see how far the laws are taken advantage of or carried out. Needless to say, administration does not always keep pace with the provisions of the law, and to know what a State or community can do is not necessarily to know what the State or community actually does.

We undertake the first task first.

1. *Legislation dealing with probation.*

Adult probation laws exist, at present, in 34 States and the District of Columbia. There is also a new Federal probation law.

The 14 States having no adult probation laws are Arkansas, Florida, Louisiana, Mississippi, New Hampshire, New Mexico, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, and Wyoming.

Though these States have no adult probation laws, all 14 of them have "suspension of sentence" laws, and the courts may, if they choose, attach any conditions they wish to the suspension of such sentence—and among these conditions may be the requirement to report to a so-called probation officer, social worker, or some one in authority.

In the States having adult probation laws, provisions vary about as widely as they could. The States of the Union have gone their own way in the matter of framing such laws with the result that one State adopts what another rejects and there is really only a wild miscellany of provisions, very little being discoverable in the way of uniform or consistent policy.

Take, for example, the court placing an offender on probation. In some States all courts (if the court has jurisdiction over offenses for which probation is permitted) may place offenders on probation. In other States the use of probation is confined to courts of record or, as in Oregon, to

circuit courts, or, as in Alabama and Kentucky, to courts having juvenile jurisdiction only. (In these two States courts having juvenile jurisdiction may place on probation adults found guilty in nonsupport cases, contributing to juvenile delinquency, etc.)

More striking are the differences in respect to offenses subject to probation. Six States (Maryland, Massachusetts, New Jersey, Utah, Vermont, and Virginia) place no restrictions whatever upon offenses subject to probation. Most States, on the other hand, do, but even here one finds less uniformity than one might expect. Three States except from the operation of probation only offenses carrying death or life terms as punishments; New York excepts these offenses and felonies in which the offender was armed with a deadly weapon; three other States except offenses punishable by more than 10 years' imprisonment; Alabama, Kentucky, and North Carolina allow probation only in the cases of a few minor offenses; and Connecticut and Georgia permit it to be used only in the cases of misdemeanors. Probably such great differences of opinion are inevitable if the probation law itself undertakes to draw too close distinctions as to the kind of offense for which a person may be placed on probation.

Still more striking are the differences in respect to the offenders, as distinct from the offenses. Montana and Pennsylvania refuse to permit probation to be applied to any person previously imprisoned for a crime; California, Idaho, Illinois, and several other States exclude persons previously convicted of a felony; Michigan, Missouri, Wisconsin, and the District of Columbia exclude persons convicted of a felony for the second time. A remarkable divergence is that exhibited by Iowa and North Carolina, for Iowa stipulates that no one having a venereal disease may be placed on probation in that State, whereas North Carolina makes special point of the fact that the only persons who may be placed upon probation there are persons having venereal disease and those found guilty of second-degree prostitution.

We could go on citing similar differences. In some States the length of the probation period is left to the discretion of the courts; in others maximum periods are named in the statutes. Qualifications of probation officers vary widely from one State law to another; so do the duties and powers of these officers; so does the number of officers which the law permits to be appointed. In some States the salaries which may be paid probation officers are specified in the statutes; other States leave the naming of such salaries to courts or local fiscal boards. Four of the thirty-four States allow the appointment of only volunteer probation officers.

We cite these differences here only to show the relatively chaotic condition in which adult probation legislation exists in the United States at this time. Not only is greater uniformity desirable, but each State ought to think out its probation problem in a way that few States have done.

2. *Administration in practice.*

Unfortunately, it is impossible to give a thoroughgoing picture of the machinery of probation as such machinery has been established in this country. The facts for such a review or summary do not exist. Information concerning localities is at hand, and some unbiased studies have been made of the operation of probation in certain districts. But no comprehensive picture is possible. Statistics concerning probation, like statistics concerning nearly every other aspect of work with offenders, are distressingly inadequate in the United States.

Some of the questions which we can not answer with respect to the whole country, for example, are these:

1. Number of persons on probation in the United States—either the number on probation at any given time or the number placed on probation in the course of a year.
2. Percentage of convicted offenders who are placed on probation, though this information is available for a few States.
3. Number of courts using probation.

4. Number of paid probation officers—or the number of volunteer ones, for that matter.[1]

5. Percentage of probationers who are returned to court for violation of probation.

6. Percentage of such persons who are then sent to either penal or correctional institutions.

7. Percentage of probationers who complete their terms of probation without getting into further difficulties.

The matter is not so serious as it might seem, for the purposes of this report, since the real development of probation is well known to persons who have studied the subject, and we find ourselves at no loss to say what, in general, is the actual state of affairs with respect to administration of probation in the United States.

Some phases of the relatively dark picture presented by probation development so far have already been suggested. We have also mentioned places where probation has reached a high level of efficiency. In addition we have indicated the standards which must be attained by probation everywhere to be genuinely successful. We now wish to be more particular in our criticism of probation as practiced.

The main respects in which probation has fallen short of its possibilities are the following:

1. Too many courts have failed so far to see the value of probation.

2. Of those using it, not enough have given sufficient attention to (*a*) the standards which should govern the supervision of persons on probation, and (*b*) the care necessary in selecting persons who are to be treated in this way. This does not mean that too many people are placed on probation but that the selections are defective.

[1]At the moment of submission of this report the National Probation Association publishes a directory of probation officers in the United States and Canada, showing 4,035 officers in the United States, nearly all of whom are paid. The number of volunteer officers not included is large, though many of these do very little work. Moreover, this number, 4,035, includes officers attached to juvenile as well as adult courts, and it is probable that the number actually performing adult probation work in the United States does not exceed 1,200. Great variation and inconsistency in the use of probation is shown among the different States. At one extreme is Massachusetts with one or more paid officers in every court, and at the other is Wyoming with no probation officers.

3. Individuals chosen as probation officers have been too often untrained, lacking in the suitable point of view or personality, and unpaid or underpaid. In many jurisdictions they are little better than political pensioners. Reliance upon volunteer probation officers, while better than a total lack of service, has generally proved unsatisfactory. It is essential that the officer have an abiding sense of responsibility as a part of the judicial system.

4. The probation service, as a whole, has not developed adequate standards, method, and objectives.

5. In many jurisdictions probation officers are overworked; that is, they have too many probationers to look after at one time.

6. The period spent on probation is frequently too short.

7. Aside from salaries, probation is in other ways underfinanced.

8. The preliminary investigations by which judges are guided are frequently inadequate and rather perfunctory.

9. Probation degenerates at times into mere legal oversight.

10. Supervision is lax, there being no genuine attempt on the part of the probation officer to see that his probationer really effects a proper readjustment to the difficulties that have brought him into conflict with the law.

11. There is inadequate use of (*a*) community facilities for education, health, etc., and (*b*) of the services of psychiatric clinics and mental diagnosis and treatment.

12. Distrust of probation by many public officials and by the public generally.

13. Laxity in making sure that the probationer keeps employed.

14. Legislative provisions are, as we have seen, often too restrictive.

15. In places, and at times, probation is hampered by legal precedents, traditions, and the punitive point of view.

We quote from the carefully considered findings of a commission appointed to study probation in an eastern State:

> The standard of probation work varies from well-organized and well-conducted departments to work so inadequate that it defeats its own purpose of preventing crime and reforming the criminal. * * *

Salaried probation officers are serving in all counties except one, but more than one-third of the counties have only one part-time officer.

Probation officers in a number of counties (are) not properly qualified by experience, training, or outlook for the important responsibility of their office.

In several counties (there is) an insufficient number of probation officers, a condition which requires each officer to supervise so many cases that constructive and successful work is almost impossible.

In giving these illustrations we refrain from mentioning the names of the States because probation has been inadequately developed in nearly every State and there seems no reason, therefore, to single one State out from another.

An accurate account of probation in another State reads in part as follows:

The previous equipment of the probation officers in these counties varies widely. * * * Lawyer, teacher, insurance agent, candy manufacturer, clergyman, nurse, relief agent, jail warden, sheriff, district attorney, court clerk, county detective, constable, tipstaff, janitor, Red Cross worker, wheelwright, one reads in the list of the other gainful occupations of those serving as part-time probation officers. Old men and women, even aged men and women, are found in the service. At times the appointment seems to be used as a pension or to be considered as a sinecure. These part-time probation officers receive $5, $25, $40, or $50 a month for services. There are some who receive the maximum salary of $1,800 per annum for partial service. * * * The work of the probation officer seems to be and often is a dead-end job without professional reward or status.

It can not be too emphatically stated, on the other hand, that there are places where very good probation work is done. Even in places where the work is not of a uniform high order instances can be found of excellent probation service being rendered.

In a few jurisdictions, such as those mentioned earlier in this report, standards have been set for probation which are worthy for other communities to follow. We should not be giving an accurate description of probation in the United States if we did not stress this fact.

G. PROBATION IN THE FEDERAL COURTS

When this committee began its deliberations, probation in the Federal courts was in an extremely unsatisfactory

condition. Since then Congress has in effect passed a new probation law and the situation is very much better.

Probation is just as important in Federal criminal courts as it is in State or local courts. There are 144 Federal judges in 91 judicial districts in the United States. Before 1916 many of these judges placed offenders on probation. In that year the Supreme Court held, in the famous Killits case, that Federal judges had no power to suspend sentence and no power to put offenders on probation.

From 1916 to 1925, therefore, Federal judges put no offenders on probation. In 1925 the national probation law, so called, was passed. This act authorized Federal judges to use probation, but it limited each judge to the services of not more than one salaried probation officer. It also placed probation officers under the classified civil-service list. Many judges expressed the opinion that they ought to have the right to fill such a confidential post in the same way that other court positions are filled.

Under that law development of Federal probation was seriously hampered by the small sums appropriated by Congress for probation expenses. In 1927, 1928, and 1929 the sum of $25,000 was appropriated each year. Allowing for a salary of $2,600 and a small expense account, it was possible to appoint only eight salaried probation officers from this appropriation.

At the beginning of 1930 there was, therefore, one salaried officer in each of the following districts: Massachusetts, southern New York, southern West Virginia, Georgia, eastern Pennsylvania, western Pennsylvania, eastern Illinois, and southern California. At one time the probation officer in Boston had 440 persons on probation, in New York 380, and in West Virginia more than 1,600.

Many volunteer officers were appointed under the provisions of the law, but the testimony of the judges was that the work of such officers was usually very unsatisfactory.

Under the act of June 6, 1930, already referred to, the situation is much improved. This law (1) authorized each judge to appoint one or more salaried officers, and, when more than one is appointed, to designate one as chief pro-

bation officer; (2) provided that money may be appropriated for clerical services for probation officers; (3) increased the powers of the Attorney General to supervise the work of probation officers in Federal courts and in other ways to raise standards. Incidentally, it removed appointment of probation officers from the civil service, and while this may have been justified in view of the immediate circumstances, the general wisdom of such a policy is open to question.

With this law in effect, Congress appropriated $200,000 for the Federal probation service for the year beginning July 1, 1930. It is estimated that this will provide salaries and expenses for 40 probation officers—five times the number ever heretofore employed in Federal courts. On March 1, 1931, 51 officers had actually been appointed. Chosen by the judges themselves, some of these were officers of high quality, others fell below the standard of qualifications set in this report. In addition, an efficient administrative office for the direction of this probation service has been established in the Department of Justice, with a competent supervisor of probation in charge. Increased appropriations will undoubtedly be justified next year and in the years following—and it is to the interest of the country, as well as to the proper treatment of criminals, that this service be expanded to the point of greatest usefulness. Probation in Federal courts has entered upon a new era.

H. SUGGESTIONS FOR THE IMPROVEMENT OF PROBATION

1. *General observations.*

We have sketched in the general picture of probation in the United States to-day. Now we come to proposals for its improvement.

In section E we enumerated some of the essential standards of probation. These are standards that must apply no matter what may be the nature of the administrative organization supporting probation, the source of the appointing power for probation officers, where the money for officers' salaries comes from, etc. In other words, they are independent of organization.

Among these essentials were: (1) Power lodged in every court to place adult offenders on probation; (2) use of thoroughly trained and competent probation officers; (3) careful investigation of all offenders before probation; (4) selection of persons to be placed upon probation solely with a view to the probability that this is the best available treatment for them; (5) assignment of male offenders to male officers, female offenders to female officers, and of children to officers qualified to handle children; (6) employment of enough probation officers to make sure that the number of probationers being looked after by a single officer at one time shall ordinarily not exceed 50; (7) thorough supervision by the officer to the end that the offender will be permanently reclaimed to a law-abiding life or, if his response to treatment is not satisfactory, his return to the court and (if necessary) commitment to the proper correctional institution.

In this section we expect to deal mainly with matters more purely administrative in nature. The most important part of our recommendation is that the State, as distinguished from the county or other local unit, take a much more active and vital part in the development of probation than, speaking generally, it has so far done in the United States. Only in the direction of fuller State participation, we believe, lies the hope for that sturdy, well supervised, and adequately financed extension of probation that must be desired by all who wish successfully to treat criminals and cope with crime.

We shall also raise the question whether probation is properly a judicial function at all or not.

To begin with, we wish to call attention to several obvious facts. All who have journeyed thus far with us in this report must agree that, in the main, probation has remained a local or county matter. Four States have established what may be called state-administered systems of probation, and State supervising departments of greater or less authority have been set up in other States; but, in the main, probation has been left to counties to organize as they see fit.

It is true that most States have laws dealing with probation, but these laws leave it to local courts and counties (for the most part) to initiate the use of probation, to choose probation officers, to fix their salaries, and, in a word, to assume responsibility for answering the questions: Shall we have probation, and if so, what kind, and how far shall we apply it? To our minds, this is one of the main causes of the ineffective and uneven development of probation in the United States. Obviously, it is a huge task to get all of the counties of the country to agree upon probation policies, standards, methods, and extent of application.

This situation has produced, in our judgment, the following effects, among others:

1. Each county (nearly everywhere) decides for itself whether it will have probation or not.
2. Machinery for enforcement is set up by the county.
3. The probation officer is responsible primarily (and in many jurisdictions solely) to the judge or court appointing him.
4. Salaries are borne wholly by local treasuries.
5. Qualifications of officers are determined for the most part by local notions concerning the importance of probation.
6. There are about as many ideas concerning the standards of probation service as there are localities or counties making use of probation.

One consequence, seen in many States, is that a single county in the State may have a fairly good probation service and throughout the rest of the State the service is poor, indeed.

One other fact seems obvious. That is that the State, as an administrative and political unit, has a stake in probation. We see no reason whatever to regard probation as simply a local function. When an offender is placed on probation he has usually violated a State law; this gives the State both an interest and a responsibility in what happens to him. Moreover, if an offender be sent to a penal or correctional institution—this is more than likely to be a State institution—in other words, incarceration is properly and generally regarded as a State trust. Probation is simply

another way of treating offenders—and we see no reason why probation is not, in an ultimate analysis, very much a part of the State's responsibility just as incarceration is.

For that reason we believe there should be a fuller participation by States in the growth and control of probation.

Added force is given to this argument by a consideration of recent tendencies in State government. It is now widely admitted to be sound policy, from the point of view of State government, to render assistance to local services of an administrative or educational nature. One has only to mention the enormous sums spent annually, for example, by States in the support of local education. In 1927 the State governments, out of State treasuries, spent $447,000,000 for purposes generally designated as "education"; of this, $292,000,000, or 65 per cent, was expended in the form of subventions to counties, cities, and other minor civil divisions "for the support of local public schools." There is no State in the Union that does not spend money in this way, and some of the States spend much higher percentages than the one mentioned above, which is an average for all States. Moreover, States assist minor civil divisions in highway construction, as well as in pensions to widowed mothers, support of local charities, and other forms of local enterprise.

Vital questions affecting probation are: What shall be the nature of the State participation in probation, and how far shall this participation extend?

We consider it demonstrated by the history of probation that the State should get into probation with zeal and a determination to see that this essential means of handling criminals should be raised to high standards and introduced into every court of criminal jurisdiction. We wish the State not only to have definite powers concerning supervision and control of probation work but to assist probation financially, and to be in a position to withhold its financial aid if satisfactory standards of probation service are not maintained. Specific recommendations to this effect are submitted later.

It is a significant fact that four States in the United States have established what may be called State-administered sys-

tems of probation. These States are Wisconsin, Utah, Rhode Island, and Vermont. In Rhode Island the State probation officer, appointed and directed by the State Public Welfare Commission, appoints and directs the work of all probation officers (adult and juvenile). In Utah the State system applies only to officers in charge of juvenile cases. The State Juvenile Court Commission, with executive secretary, has general control and supervision over juvenile courts and probation officers, appoints and removes the judge and one probation officer for each court, pays their salaries and expenses, and requires annual reports showing the number and disposition of delinquent children. In Vermont the commissioner of public welfare is the State probation officer and appoints and directs the work of both adult and juvenile probation officers. In Wisconsin the State Board of Control appoints and directs the work of State probation officers serving in the higher criminal courts (except in Milwaukee County, where probation remains in the control of county authorities).

In all of these States the State pays the salaries of probation officers in whole or in part. In a fifth State, Alabama, one-half of the salary of the local probation officer in 62 counties is paid by the State, the other half being paid from the county treasury.

It is thus evident that the idea of State participation in probation is neither new nor untried. But the story by no means ends there. In seven States a State commission, bureau, or office is established to supervise probation work. These States are Arkansas, California, Connecticut, Indiana, Massachusetts, New York, and Ohio. In nine other States supervision is carried on (in greater or less degree) by a State welfare department having other duties—Georgia, Nebraska, Illinois, North Carolina, North Dakota, Oregon, Pennsylvania, South Carolina, and Virginia. In 21 States, therefore, there is some form of State participation in probation, either adult or juvenile.

The difficulty is that much of this supervision is halting and limp. To be effective it must be vigorous, thorough, sustained—and must be accompanied by financial aid to local probation work.

Nevertheless, States that have made progress toward the establishment of State supervisory systems should develop and perfect such systems, for a large measure of State participation is necessary to the best growth of probation. There is more opportunity for local political influence (e. g., in the appointment of probation officers) when the unit of administration is small. Moreover, the probation officer working alone in a county, depending perhaps for guidance only on the court, does not receive that assistance which he may properly expect from a well-conducted State office or a competent State commissioner of probation. And it has been clearly demonstrated, in our opinion, that outside of a few of the more wealthy centers most counties will not pay (or have not paid) for competent probation service.

Clearly, in all of this matter the question is involved whether probation is the judicial function that it has so far been regarded or not. When an offender is sent to a penal institution the judge does not undertake to say what treatment shall be accorded to him there; the sentence imposed by the judge may, and usually does, control, to some extent, the length of time the individual spends in the penal institution—though the wide use of the indeterminate sentence and the full power given some parole boards restricts even this power. But the actual treatment accorded the individual is quite out of the hands of the judge; he has passed the offender over to a new authority, and to all intents and purposes his participation in the situation is ended. The institution may put the offender at any kind of work; it may discipline him as it pleases; it may bring to bear upon his welfare all of the social, medical, and other scientific resources of its staff; it may require him to attend the school of the institution or it may decide that for him such attendance is not important; in a word, the offender becomes a ward of the institution and both the wish and power of the judge to say what shall happen to him no longer in fact exist.

It is a reasonable view of probation that it should lie in the same relation to the court. Probation is one method of treating offenders, just as incarceration is another; if the

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judge does not control the conditions of incarceration, why should he control the conditions of probation? He would not think of issuing orders to, or appointing, or fixing the salary of the warden of the institution; why should he possess authority in respect to these same matters over the probation officer? We raise these questions only to indicate the possible line of development of probation. Fundamentally, probation is now regarded in this country as a judicial function, as a mere extension of the authority of the judge, to whom the probation officer is responsible, and who really, in theory, controls the treatment that is called probation. But he does not control the treatment that is called incarceration. Is it not logical to suppose that probation, like imprisonment, will some day be no more of a judicial function than is spending an indefinite period of time behind the walls at the present time?

Before we enumerate specific proposals, we wish to cite, as an illustration, one item of British experience. By the Criminal Justice Act of 1925 Great Britain put the national treasury into the probation service of the country. This serves to illustrate the kind of assistance to local authorities we have in mind. Great Britain, of course, is not confronted by our situation of 48 States, but before the passage of this act the costs of probation had been borne exclusively by local authorities. As in this country, the result was uneven and unsatisfactory development of probation. Under the act of 1925, the expenses of probation are borne jointly by the local authorities and the Home Office. Each year the amount spent from the national treasury has greatly increased until now it is a substantial part of the whole. The result has been a wide extension of probation. In return for this assistance the Secretary of State of Great Britain is given power (*a*) to prescribe qualifications for probation officers, (*b*) to exercise a veto power on the appointment of any officer, and (*c*) to fix salaries of probation officers. This is the type of assistance to local authorities we consider desirable and inevitable.

2. *Specific proposals.*

Concretely, therefore, we urge (1) that the State assist to pay the expenses of probation and (2) that, in return for this, it be clothed with definite power to establish standards of probation service and to see that these standards are lived up to. If the standards are not lived up to, the State ought to be in a position to withhold its money; but that, in view of the type of organization we recommend, will be a contingency which the State will not often be called upon to face.

We do not outline any single stereotyped form of State administration, realizing that to expect all of the 48 States to follow exactly the same lines is impracticable, to say the least. Our suggestions, we believe, will benefit every State.

In outline form our recommendations follow:

1. A law so framed as to require every court dealing with offenders to have a competent probation service. In States where probation is most backward this law should give a reasonable time for reaching such goal; in other States the goal should be looked upon as attainable almost at once.

The law should specify that the State will help to bear the expenses of probation. The precise manner by which this is to be done will, of course, have to be worked out in the law, but we make no specific recommendations on that point here. Each State can work out its own procedure. The main items of cost will be the salaries and expenses of probation officers. Whether the State shall bear one-half the cost, or one-third, or some other fraction we leave to the different States to settle for themselves.

Our recommendation is that probation officers be appointed by judges from a list of individuals who have passed an examination held by the State probation commissioner or other appropriate State agency. As to the salaries of probation officers, these can be fixed in accordance with a scale prepared by the State commissioner or they can be fixed by local judges subject to the approval of the commissioner.

2. There should be a State commissioner of probation, to be appointed by the method found most desirable in each State. Above all, this commissioner should be qualified to

judge the merits of a probation service and should not in any sense be a political appointee. He should be as qualified in his field as an expert educational administrator is in his field. He ought to be independent of any other subordinate branch of the State service, and we suggest that he be appointed by the State Board of Public Welfare, State Board of Control, Commissioners of Public Welfare, or some other similar body in the State service.

3. Under the State commissioner there should be a field staff of persons capable of supervising the work of probation officers throughout the State.

4. In addition the office of commissioner ought to have a statistician, chief clerk, and such clerical assistance as is necessary to handle reports from probation officers and its own field personnel, and to prepare material for periodic reports on the progress of probation in the State.[2]

Powers of the commisisoner.—Among the minimum powers which the commissioner of probation should possess are the following:

1. To establish rules and standards for probation work throughout the State.

[2] In Massachusetts, which, as we have said, has an excellent probation system, an additional service exists, to be commended to most States. This is known as the "exchange of information" service. In essence it makes immediately available to every probation officer fairly full information concerning each person prosecuted in court.

The commissioner of probation receives, on the day a case reaches court, the record of the offender who is prosecuted—no matter what the offense. This record, therefore, becomes cumulative and is subsequently available to all courts and probation officers in the State. The information is received by telephone, though in larger States it might be received by mail.

The file so built up now contains nearly 1,000,000 names. Inquiries reach the surprising total of 100,000 a year. Steadily courts and probation officers use it more and more. To the probation officer it is an invaluable source of information concerning the previous history, or the court record, of offenders who have formerly appeared in court. It is also used in search of the record of every person drawn in jury service in Massachusetts, as well as by the civil service, licensing, and naturalization bureaus—and, under close restrictions, by social-service agencies.

Begun in 1914 for Suffolk County, it has now been extended to the entire State and includes, by law, the records of all paroles and revocations of parole. Its importance, with respect to probation, is that it places all probation officers in immediate contact with all others, in respect to every case that has appeared in court. Thus, it is much more than a bureau of identification. Recently a research division has been added to the office of commissioner of probation, making possible statistical deductions from this exceptionally inclusive storehouse of material.

2. To determine the qualifications for probation officers and to pass upon all appointments of probation officers.

3. To remove probation officers for cause after holding hearings.

4. To withhold financial assistance to local probation if standards are not satisfactorily met.

5. To prescribe records to be kept by probation officers and to prescribe the form of reports to be made by such officers to the State.

6. To supervise, through his field staff, the work of probation officers and of probation bureaus.

7. To make recommendations to courts and probation officers in respect to methods and standards of probation work.

8. To call conferences of probation officers and judges.

9. To establish schools or classes for training probation officers.

10. To exercise a check on the expenditures of probation officers, preferably through the approval of such expenditures by an auditor in his own office.

11. To publish annual reports.

No attempt has been made above to cover every aspect of a joint State and local probation service. We purposely leave some lines of development to the States themselves. We are convinced, however, that the State must play a greater part in probation, if this desirable and economical form of the treatment of criminals is to fulfill its reasonable promise. That probation is one of the most effective forms of caring for many types of criminals we have no doubt.

III. PENAL INSTITUTIONS

A. General Considerations

"People leave prison as well as enter prison."

This statement, placed at the beginning of our foreword, expresses a fundamental fact about penal institutions which civilized society commonly overlooks. If offenders spent their whole lives in prison, the problem of treatment would be totally different from the problem actually confronting institutional administration to-day.

If the thief was never released; if the burglar never again walked the streets; if the forger never again had an opportunity to falsify a document; if the assailant, the sex offender, the counterfeiter and the kidnaper remained behind the bars until death carried them to the grave, the interest of society in what happened to them in prison would be quite different from what it is to-day. Humaneness, with a decent burial, would be about all that could be expected.

The fact, of course, is quite different. At any given moment the number of persons leaving prison is substantially as great as the number entering. We who study prisons and run prisons are painfully aware of this. We see the offender leave without the resources either of personality, friends, or economic security, to face demands that have already proved too much for him, or to adjust himself to a society that he evidently does not accept or understand. Dramatically, as we say in our foreword, the matter can be put thus: Every time a judge utters the words "I sentence you to prison," some offender somewhere walks out of prison. Except for those who suffer capital punishment or die from natural causes behind the bars, all others are released. In figures, the number leaving prison in the course of a year is approximately 96 per cent of the number who, entering, hear the doors clang behind them.

This consideration must necessarily lie at the basis of any program of institutional treatment. A program of institutional treatment which does not take into account this fundamental fact is blind, sophistical, and opposed to the best interests of society. A common jibe at persons who, on the strength of such considerations, urge changes in present methods of handling offenders, is that they are sentimentalists.

Our reply is: You are sentimentalists who cling to present methods merely because they have the tradition of use behind them. Imprisonment, as we shall undertake to show later, has proved a poor protection to society; as a matter of fact, the result of imprisonment is too often to make offenders worse rather than better. We are the realists. As such, we prefer to face all of the facts, not merely a part of them, and to protect society by making full use of all the resources of calmness, science, and sound judgment. Our interest in the treatment of offenders is in the protection of society.

Under former methods of handling offenders this question did not arise in similar form. We shall make no long review of the history of penal methods, but we wish to say that when criminals were put to sea as galley slaves spending their lives at oars in the interior of boats, little opportunity arose for treatment of the type we are here considering. So for other ways of handling offenders. Banishment carried them to far-off places, and so long as the offender did not return, the banishing community doubtless felt that it had no cause to worry. Transportation to colonies, practiced by several countries, was only another form of banishment. Mutilation and torture—the slitting of noses, the cropping of ears, branding, cutting off arms, etc.—achieved its own purpose, and it would perhaps have been useless to try to devise constructive measures for persons so humiliated and disfigured. Similarly, the stocks, the pillory, and other forms of disgrace supplied little opportunity for any consideration of treatment. Death was its own treatment, and when a criminal was dead it was too late to exercise any influence upon him.

With the exception of death, these measures belong to the past. Modern civilized communities have turned to other

ways of handling criminals. We place them on probation; we fine them; we put them in prison. The conventional method of dealing with most of the persons who commit what are called the more serious crimes is imprisonment.

Most people, probably, believe that imprisonment is of ancient origin. The fact happens to be otherwise. True it is, of course, that prisons of one sort or another have always existed. But up to comparatively recent times these have been for political or religious offenders or for debtors, not for the ordinary run of what we call violators of law. Joseph, we read, was "cast into prison," and other historical references could be cited. While it is an impossible task to fix the exact date of the beginning of the use of prisons for ordinary criminals it seems clear that at the beginning of the eighteenth century imprisonment as a common punishment for crime was unusual; 75 years ago, by the middle of the nineteenth century, it had become the accepted practice of European countries and the United States.

Here we can not use space for a history of imprisonment. Springing partly from the old English workhouses, which were primarily institutions for vagrants, paupers, and partly from jails for the detention of persons awaiting trial, prisons really owe their origin to America. It is considered a distinctive contribution of the Quakers of Pennsylvania and west Jersey to have contributed materially to the substitution of imprisonment for other forms of punishment for criminals.

Prisons arose in Pennsylvania particularly in the second quarter of the eighteenth century. From then on they have spread throughout the civilized world.

In the development of methods of penology, thus, wholly new questions have arisen. These questions have to do with institutional treatment. Heretofore, no opportunity existed for the arising of such questions. However desirable protracted or constructive treatment might have been, methods of penology did not make their application possible.

Among these new questions are: What is to be the purpose of institutional treatment? How long are offenders to stay in prison? Who is to decide the length of their

incarceration, and how is it to be settled? Particularly, what is life in an institution to be like, and what measures are to be applied? In what condition are offenders to come out, and if they do not come out better than when they went in, what has society gained by their incarceration?

These questions, as we say, are intimately bound up with the present method of handling offenders. Of the philosophy of deterrence and punishment we have nothing to say; the subject assigned to us excludes this from our own particular discussion. In just what measure the fear of punishment keeps normal people from committing crime we do not know. Nor do we think this is primarily a question for penal institutions; it is a question on which there is much conflicting opinion, which awaits further exploration by sciences treating of human motives, and which is a more general question of State policy than the one of treatment in institutions. We are clearly of the opinion, however, that there is plenty of penal value in any conviction for crime and subsequent life in an institution; if punishment will win a man from crime, the course of treatment suggested in the following pages measures up to such punishment. Our problem remains, therefore, simply and solely the question: How to turn out lawbreakers better men and women than when they entered institutions.

We conclude this introduction, therefore, as we began it, by saying that nearly everybody leaves prison, that unless they leave better than when they entered, society has gained little by their incarceration, and that the fundamental purpose of penal and correctional institutions is to restore criminals to the outside world better equipped to meet the complex demands of socialized life than when the judge said "I sentence you to prison."

B. MORE SPECIFIC STATEMENT OF PURPOSES OF INSTITUTIONS

With these considerations in mind, we submit a list of the more important purposes of institutional treatment:

1. Safe-keeping of the offender, i. e., security of confinement.

2. Maintenance, or restoration, or both, of his physical health. This means not only attention to individual illnesses and defects, but the keeping up of good sanitary conditions and the provision of food on which health can be maintained.

3. Careful attention to the needs and progress of each prisoner. Institutions for criminals, like all institutions for the residence of human beings, whether schools, hospitals, or what not, ought to provide for the progress of the individual toward the goal that is peculiar and desirable for that institution. In the case of penal institutions, this goal is of course adjustment by the offender to social environment outside and the leading of a law-abiding life. The prevailing practice of such institutions to pay little or no attention to the progress of individuals, and to look upon and handle the whole body of prisoners *en masse*, is clearly to be condemned and is opposed to the best interests of society.

4. Academic education of each offender, when desirable.

5. Such provision of opportunities for work, and such organization of industries, as will tend to develop habits of industry and, when possible, will equip the offender with knowledge of a gainful occupation which he can follow outside of prison and at which he can, if followed, earn a reasonable living. (With such a group as those in prisons, there are limitations to which this purpose can be accomplished. We discuss the matter later under the heading, Prison Industries.)

6. Lodgment of power somewhere to keep particular and exceptional offenders under custody or control indeterminately, subject to appropriate court review in case of abuse. This is closely related to the question of the indeterminate, as contrasted with the fixed sentence, discussed in greater detail in our final section, on parole. Here we wish to emphasize the importance of keeping dangerous and incurable members of society from preying on their fellows by holding them in prisons, or institutions suitable for their care, just so long as the risk of release seems too great. This question ought not to be decided by either the judge or the jury in advance, and it ought not to be decided solely on the basis of the offender's particular crime or criminal career. It ought to be decided on the basis of studies of the offender's personality and prospects. No decision can properly be reached, when an offender enters prison, as to how long he ought to remain there. His response to the institutional treatment is wholly problematical, and at the end of 1 year, 2 years, 3 years, 5 years, he may be ready for release—and he may never be ready for release. We might as well admit this, and provide means by which an answer to the question, with present and future knowledge, can be given. For the great majority of prisoners, short terms are as effective as long terms—and in some cases avoid the deteriorating effects of long terms.

7. Diagnosis of the causes of antisocial acts or series of acts, and treatment designed to remove those causes. This calls for application of measures approved by, or believed to be helpful by, sciences or disciplines dealing with behavior and conduct. The truth is, of course, that recognition of the causes of such conduct, and particularly of mental peculiarities and abnormalities, ought to come before the offender reaches the institution. Much misconduct could be saved if earlier recognition took place—and opportunities occur in home, school, and court for this; but we are here dealing with institutions. Treatment means the application of therapeutic measures, from education and psychiatry through social work to punishment. Mere diagnosis, or examination by psychologists and psychiatrists, is of little use unless application is made of the information thus acquired. Each institution ought to be a place of treatment, and in the present state of our knowledge each institution ought to be a laboratory or experiment station for the discovery of new methods and the development of new measures. Society will not reform criminals until it is willing to study the methods of reforming criminals. And, so long as it releases practically all offenders, its own interests require that it address itself to the task. Much is known already about how some offenders can be improved, and with proper encouragement much more can be known.

8. Release on parole, under competent supervision, when it appears that the offender is ready to rejoin society. This

ought to be regarded as the desirable method of discharge for nearly all offenders, rather than release without supervision. We discuss parole at length later. Here we wish to emphasize the fact that institutional treatment, from the first, ought to regard parole as the logical termination of a period of imprisonment.

C. SOME FACTS ABOUT PRISONS TO-DAY

Construction of prisons is dealt with later. What is the typical daily life of a prison inmate? To answer that question is to go far toward examining the type of treatment there given.

Penal institutions in the United States are of so many different kinds that it is difficult to describe them. First there are the major prisons, State and Federal, for persons who have committed what are considered the more serious offenses or who have been sentenced for the longer terms. Most of these are for men, though there are a few women's prisons. Next come the reformatories, for younger offenders, supposed to devote more attention to reformatory purposes; in truth, however, many are little different from junior prisons. There are men's and women's reformatories. In addition there are many local—city and county—penitentiaries, workhouses, and houses of correction. For even younger offenders there are the industrial and reform schools for girls and boys. Then come the great number of institutions for short-term offenders or misdemeanants—county jails, municipal jails, county farms and chain gangs, and State farms for misdemeanants.

No exact count of these different classes of institutions can be given. The Directory of State and National Penal and Correctional Institutions, issued by the American Prison Association, lists 102 Federal and State prisons and reformatories. According to the Bureau of the Census, the total number of institutions for short-term offenders in 1923 was 3,469, of which the great majority were county jails; there is no reason to suppose that this number has materially changed since then.

Neither can an accurate figure be given of the number of persons in these institutions at any given time or of the number received in the course of a calendar year. In 98 of the prisons and reformatories, according to reports received by the Bureau of the Census, there were 98,245 people on January 1, 1927; this number is undoubtedly slightly larger now. The number of persons committed by courts to these institutions during 1927 was 51,936. The latest census enumeration with respect to the group of institutions for short-term offenders is for the first six months of 1923; commitments in those six months numbered 144,422, or approximately 289,000 for the year. This does not in any sense stand for that number of different persons, since many persons are committed to institutions for short-term offenders more than once in the course of a year. It is probable that the total number of persons serving sentence in penal institutions in the United States to-day is about 150,000, and that the number of commitments in a year is approximately 380,000.

What is life in a typical prison like? To begin with, the group itself is abnormal, being composed entirely of one sex and being shut away from all contact with the world outside. The usual associations of family and friends are wholly absent. Each man wishes to regain his liberty and, except in rare cases, is resentful of the force that placed him in prison. Few of the motives that play upon people in normal society operate upon prisoners. They have been stamped with judicial and social stigma; and whatever may be their peculiar personalities, they are well aware of this fact. Usually they comprise a very great variety of people—experienced criminals with chance offenders, mentally normal persons with those who have every type of peculiarity and disability, the capable and the inefficient, persons who are well-to-do on the outside with those who are poor, those who mean to do well and those who intend to continue law breaking when released. Incentives usually assumed to affect conduct are hardly present; they will be fed, clothed and housed, no matter what they do, and their main purpose is to avoid too open a break with the prison rules and to obtain release as early as possible.

In most prisons the life of the inmate is controlled for him, and he moves in obedience to innumerable rules which leave him no chance for initiative or judgment. The treatment is *en masse*, not individual. Warden and guards are usually more interested in ease of administration than in giving attention to the individual needs of offenders. This not only leads to a great variety of rules but it results in a regimented life and routine that tends to unfit the prisoner for life outside. This, in fact, is one of the worst features of prison administration. Despite all that can be said in favor of the stabilizing effect of such an environment upon occasional individuals, the mechanical, treadmill quality of such an existence is not proper preparation for the resumption of a varied social life. Prisoners are expected, upon leaving, to lead normal lives in a complex social environment; but the institution does little for them to augment their ability to do this.

Glance for a moment at a typical day in many of the prisons in the United States. At a given time all prisoners arise either to the sound of a clanging bell or not. The prisoner's first duty is to dress and make his bed, the rules as to the condition in which he shall leave his cell being usually very exact. If he has a washbasin in his cell, he washes before he leaves; otherwise he marches with others to the central lavatory. After a fixed interval he is supposed to be ready to leave his cell, but before he does this he must stand at the front bars, with his hands placed in a prescribed manner, for the morning count. A rap of a stick at the end of the gallery announces that a guard is coming to take the count.

This done, doors are unlocked (by a master lever at the end of the gallery), and the prisoners step out into the corridor. In line they march, accompanied by guards, to the mess hall. They may not sit down, however, until permitted. Sometimes a rap tells them to pull out their stools, a second rap to sit down, and a third rap to eat the food that has already been placed on the tables; in some institutions a single rap takes care of the whole process. The rule of silence, though not as common as a decade ago, still obtains

in some prisons. Numerous guards stand around the dining room, keeping close watch. If additional food is allowed, the manner of the request is often for the prisoner to hold up one finger to show that he wishes a slice of bread, two fingers to show that he wishes potatoes, and three fingers to show that he wishes meat, or whatever the foods are. Time allowed for breakfast is usually about 20 minutes. At a given signal the prisoners rise and at another signal march from the mess hall.

If weather permits, a short exercise period is sometimes allowed after breakfast, the exercise often consisting solely in marching around the yard without permission to talk or smoke. After this the prisoners march to shops or other places of work. In the shops there is usually little relief from this monotony. The man can not move from his place of work except upon orders, and in some prisons the practice still prevails of prescribing the amount of work to be done each day. Work is seldom assigned upon the basis of the prisoner's experience, aptitude, or plans after he leaves prison. In some shops the men are required to work at high tension, and the chief if not the sole interest of the prison administration is to get as large a product out of them as possible.

When the whistle blows the men stop work, wash usually at a trough, and fall in line to march to the noonday meal in the mess hall. Here the same performance is gone through with as at breakfast. Often there is no exercise or recreation period at noon. As soon as dinner is over the men march back to their shops and begin the afternoon's work.

To most people the end of the day's work brings a moderate sense of satisfaction. To prisoners in many of our American prisons it means only return to the cells. After the evening meal the men are marched to the cells and locked in for the night. This is not the universal practice, for in some prisons the cells are not locked immediately and the men are allowed to walk up and down in the corridors. When locked in they do not again leave the cells until the march for breakfast starts the following morning. Lights

go out in all cells at the same time, commonly at 9 o'clock. Moreover, no prisoner may have his light out until every other prisoner has his light out. Thus a prisoner may neither retire comfortably earlier than others nor may he stay up later than others, no matter what his tiredness, the condition of his health, or his personal desire. Even if a prisoner wishes to sit up and read or retain his light for some other purpose, he can not.

It is obvious that for many persons this must be a stultifying routine, ill calculated to render them better citizens. But that is only one day. The week-end is often a still more barren stretch. In many prisons Saturday afternoon is now given over to unorganized recreation or leisure. Even if this privilege is allowed Saturday afternoons, the prisoners enter their cells at 4.30 or 5 o'clock of that afternoon and (in some prisons) do not come out until 7 o'clock Monday morning, except for an hour or two Sunday morning for religious exercises and for meals. Anyone who attempts to live in a prison cell 4 feet by 7 will know what this means.

To the person on the outside the thought of such a day as this is difficult; a week of it would probably be unbearable; a month would drive some of us insane. Let the reader imagine, if he can, what 2 years of it would mean, or 5 or 10, or whatever is the length of the offender's sentence. To thousands of human beings in prisons in the United States to-day it is bringing disuse of faculties and degeneration of personalities. That these people are criminals is no defense for making them worse. If society wishes to rehabilitate its offenders, it will have to adopt more constructive measures.

We wish to call attention to rules governing the lives of offenders which are enforced in some prisons:

Every prisoner admitted to this penitentiary will be furnished with a book containing the rules which are to govern his conduct during his term of imprisonment. Read and study these rules carefully. * * *

You must not be boisterous, but maintain a quiet and creditable demeanor at all times.

You may talk to your cell mate, if you have one, but in low tones only. Do not talk or call to men in other cells; do not whistle, sing, or make any unnecessary noise.

Keep your person, clothes, bedding, cell, and library books clean. You must not draw upon, paint, nor alter the walls of your cell. * * *

You must wear your outer shirt, and you are not allowed to work in your undershirt, unless by special permission of the warden or deputy warden while tending boilers, furnaces, etc.

When leaving or entering your cell, open and close the door without slamming. Stand at the cell door whenever required for count.

Do not go to bed in the daytime except by permission, and on account of sickness. Do not go to bed with your clothing on. Keep your shoes off the bed.

Tinkering in your cell is expressly forbidden.

When marching in line keep your head erect and your face turned toward the front. * * * Put your cap or hat on properly and keep your hands out of your pockets. * * * Making faces or insulting gestures will not be tolerated.

In speaking to an officer or guard, speak distinctly. Do not pass closely in front of an officer or guard, or between two officers or guards who are conversing.

At the sound of the first bell in the morning, rise promptly, make up your bed properly, clean your cuspidor, and sweep your cell; then wash your face and hands; await the call for breakfast. At the sound of the bell prepare to step out of your cell promptly as soon as unlocked, and at the command of the guard march out into the corridor, forming in columns of two, and in that formation marching to dining room in perfect order. Do not remain in your cell without permission.

On entering the dining hall take your seat promptly, position erect, with eyes to the front, until the signal is given to commence eating.

Conversation during meals is not allowed. * * *

Eating or drinking before or after the proper signals, using vinegar in your drinking water, or putting meat on the table is prohibited.

Wasting food in any form will not be tolerated. You must not ask for nor allow the waiter to place more food on your plate than you can eat. When through with meal, leave pieces of bread on left side of your plate. * * * Sit erect. When the signal is given to arise, drop your hands to your side and march out and to your place in line. * * *

When at work, give your undivided attention to it. Gazing at visitors, or at other prisoners, will not be allowed. * * *[1]

The very fact that these rules are commonly disobeyed is one objection to them. Prisoners, in prison, are subjected to a régime of law enforcement which no one can live up to;

[1] Quoted from the book of rules of a particular prison, but typical of many prisons.

this hardly promotes respect for law, nor does it send the prisoners out more law-abiding than when they entered. If the rules were actually enforced, it would reduce the offenders to automatons.

There is, however, a graver objection to them. The fact that they exist and can be enforced gives officers and guards the opportunity to "ride" prisoners; that is, to overlook infringements of the rules in some cases and to come down hard in others when the rules are violated. Thus, if a guard wishes to curry favor with his superiors or to make life difficult for a prisoner against whom he has conceived a grievance (and this, in prisons as they are conducted to-day, often happens), he has only to catch a prisoner in a minor infraction of the rule to reduce him from one grade to another, to cause the loss of good-conduct time, and thus to lengthen his sentence, or to compel the imposition upon him of some intramural punishment. Rules of this kind ought to be revised, and many of them ought to be abolished.

D. "REPEATERS" OR RECIDIVISM

It is appropriate at this time to give the figures of recidivism, as showing the extent to which institutional treatment is successful. Here we use the word "recidivist" to mean a person who has served or is serving a second term in a penal or correctional institution; that is, a person who, having served one term, was not thereby deterred from committing further crime and so being sentenced again. We do not contend that each term ought fairly to be considered as definitely and finally curative, but we do say that if the percentage of recidivists is very high the conclusion is inescapable that the present penological system is not adequately effective.

Figures on recidivism are very difficult to compile. In the first place, it is hard to know whether a person has served a prior term in a penal or correctional institution, for that is precisely the kind of information that most offenders wish to conceal, only an occasional offender being of the type that likes to brag about earlier commitments. Again, the facilities for gathering this information in the

United States are very inadequate. We do not here go into the question of criminal statistics, which are dealt with in other reports to the National Commission on Law Observance and Enforcement; but it is apparent, from reading those reports, that the compilation of criminal statistics in the United States is weak, indeed. Not only do police departments and courts fail to get full information in many cases, but they do not always make the information available to others when they get it. The prison, too, though frequently trying to compile the offender's previous record, fails in a great many cases, and so we do not have full figures for recidivism in the United States. Failure to utilize fully the services of State and Federal identification bureaus adds to the inadequacy of the statistics.

It is of the greatest significance, therefore, that the United States Census Bureau, gathering statistics from State and Federal prisons and reformatories, discovered that 44.4 per cent of all prisoners received by those institutions in 1926 were recidivists.[2] The figure for the following year, 1927 was 42.8 per cent.[3]

This figure is clearly and undeniably too low, for reasons already given. The Census Bureau itself emphasizes this fact, saying (p. 26 of the 1927 report): "Thus, the full number of recidivists must be materially larger than the number reported."

Precisely what an accurate statement of the fact would be we do not know. We have no doubt that for the country as a whole, speaking with respect to the major penal institutions, it would be more than half; studies made in individual institutions have shown this. It would not surprise us to learn that at least 60 per cent of all persons received by prisons and reformatories are "repeaters"— that is, have served earlier terms—and we think that, whatever else this shows, it shows that the treatment accorded law violators does not tend to make them more law-abiding, does not tend

[2] Prisoners—1926, U. S. Census Bureau Report, 1929, p. 16. The percentage relates to the number reported as to previous commitments, comprising about three-quarters of the total number of prisoners received.

[3] Prisoners—1927, U. S. Census Bureau Report, 1931, p. 27.

to produce that adjustment which permits them to rejoin the community without the desire, or compulsion, to commit further crimes.

"The most striking thing in the whole situation," wrote Dr. V. V. Anderson some years ago, "is the depressing fact that the majority of the inmates in our penal and correctional institutions are repeated offenders, persons who have been prisoners over and over again, in whom we failed to accomplish that which we have set out to accomplish—their reformation, and the prevention of future criminal conduct." [4]

E. SOME BETTER PRISONS

We do not for a moment contend that all prisons in the United States are exactly like the picture drawn above. There we attempted only to describe many prisons, and the accuracy of our portrait will, we are sure, be admitted by those who live in and run prisons. But improvements have occurred in a number of penal institutions.

Attempts are made in some to study the offender and to apply treatment fitted to his particular needs. These efforts are handicapped by inefficient personnel, by inadequate and archaic facilities, and by a lack of understanding on the part of the public. The greater part of the public has no conception of the necessity for treatment if criminals are to be returned to the community more desirable persons than when they entered—if, in other words, the public is to be protected. Still, progress is being made here and there.

Medical attention in some prisons is better than it used to be; by and large, prison physicians are of low grade, some of them being thoroughly incompetent and mere political hangers-on, but in some prisons able physicians have been obtained, and in a few the highest grade medical service in the country is to be found. This does not necessarily mean that the care reaching the average prisoner is so high, for medical attention may not be well organized and the hospital facilities may be either inadequate or out of date. Still,

[4] Journal of Social Forces, January, 1923, p. 93.

there are prisons where conscientious and reasonably successful efforts are made to maintain the physical health of prisoners and where it is understood that physical defect and illness diminish, rather than increase, a person's ability to hold his conduct to a level of social acceptability.

The same may be said of examination of the mental difficulties of prisoners and of what may be grouped generally as personality or emotional defects; with this qualification, however, that this is a newer subject; that the number of prisons and penal institutions recognizing its importance is much smaller than those recognizing the importance of physical defects; that here we are still largely in the stage of rough diagnosis; and that technique and facilities for treatment, which might be encouraged by experiment, lag because institutions will not apply them. It is discouraging to see institutions making studies of offenders, by psychiatric and other means, and then doing nothing about the matter because no attention has been given to planning a program which requires application of the recommendations of the specialists. We say no more about this here, since we discuss it more fully later. But the fact needs to be pointed out.

There are other respects in which many penal and correctional institutions have improved on the general picture given above. Some have considered carefully the question of food, and have followed the principle that there is no reason to punish a man's stomach because he is a criminal and that to underfeed a man, or place before him food which he can not eat, may satisfy the vindictive impulses of some people, but does not assist the offender. A few institutions have employed dietitians to plan menus and study the food requirements of the inmates, with good results; all institutions ought to do so. Questions of expense enter in here, and the amount of money spent on food by most institutions could be increased with immediate benefit to prisoners and ultimate benefit to the public which suffers from the acts of criminals. Methods of cooking food ought also to receive more careful attention and be improved in most institutions, for unpalatable food helps

nobody and merely adds to the prisoner's disgust with the institution and his desire to get even with society or his conviction that nobody cares what happens to him.

The rules governing conduct of prisoners have been modified in a number of major penal institutions, so that there are fewer petty restrictions and interferences and guards can not do so much "riding." The day's routine is broken up, movement by signal being less insisted upon and marching being less important. In various ways the amount of time spent in cells is shortened—particularly valuable in old prisons where the cells are small and less sanitary. Greater opportunities for recreation are introduced in some prisons, weekly movies being added to the baseball games and other arrangements for social intercourse being made. Work, of course, is more intelligently organized in a number of institutions, the required daily task or "stint" being dropped and the industries taking on a more vocational aspect. In still other ways prisons show a response to the idea that it is a good thing to keep alive the human sides of offenders, so that their ability to lead a social existence will be enhanced and not diminished on that important day when they leave the prison and mingle once again with society.

It would be easy to describe particular institutions. Rather than do that we prefer to give the essential features of a state-wide institutional program, now operating, which contains, we believe, many of the fundamental points of view and methods called for by the approach outlined in this report. By describing a program for a whole State we are rendering a greater service than if we discussed only one institution. Some parts of this program have only recently been put into effect; others have been in operation for a dozen years. No single administrative set-up is possible, of course, in States differing so widely in respect to laws, customs, etc., as American States, but many of the principles for which we are contending are exemplified in the State of New Jersey.

By order of the Department of Institutions and Agencies of New Jersey, each correctional and penal institution is required to organize a classification committee.[5] This committee is composed of the following officials and specialists: Superintendent, chairman; deputy superintendent; disciplinary officer; identification officer; physician; psychiatrist; psychologist; chaplain, director of education; director of industries and training; field social investigator; classification secretary.

The purpose of this committee is to plan an institutional program for each inmate. Held in quarantine for a time after admission, during that period each inmate is examined by the identification officer, disciplinary officer, physician, psychiatrist, psychologist, chaplain, director of education, and director of industries and training. This is routine procedure in the institutions and constitutes a more thorough study of each inmate than is the custom in most places. Each examiner is instructed to send a written report of his findings and recommendations to the secretary of the classification committee.

At the end of a month the committee meets to discuss the cases of new offenders. When it meets each member of the committee is supposed to have before him:

1. The identification officer's report.
2. The history of the crime and the legal procedure so far as it can be obtained within the month.
3. The social or family history of the inmate.
4. The medical history of the inmate.
5. The results of the physical examination and recommendation of the physician.
6. The psychiatric findings and recommendations.
7. The psychological findings and recommendations.
8. The disciplinarian's report with the conduct record up to the date of the meeting.
9. The educational director's report and recommendations.
10. The industrial director's report and recommendations.
11. The chaplain's report and recommendations.

[5] Because of provisions in the State constitution, the State prison is less subject to control by the Department of Institutions and Agencies than the other institutions, but under the present administration the prison is cooperating with the Department.

Such is the information each member of the committee is supposed to have before considering a case. Instructions issued by the department of institutions and agencies declare that "the recommendations of the physician, psychiatrist, and psychologist concerning the treatment and handling of each case will always be the ideal or best recommendation that can be made from the professional point of view. Any limitations in the carrying out of these recommendations should come from the committee meeting, and should not be taken into account by the specialist in making his report."

Scope of the various examinations is indicated by the following description, also taken from the instructions issued by the central department:

Identification officer.—The identification officer will determine the inmate's identity. He will make the necessary investigations to verify the birth date, age, birthplace, nationality, civil condition, residence, and previous criminal record. He will secure complete details of the offense for which the inmate was committed.

He will make specific recommendations concerning the custodial requirements of each case. He will also give his estimate of the desirability of transfer to another correctional institution.

Disciplinary officer.—The disciplinary officer will interview each inmate for the purpose of forming a judgment of his amenability and trustworthiness under institutional discipline.

He will make specific recommendations concerning the custodial requirements and any special disciplinary features which should be incorporated into the institutional program. He will state his opinion of the desirability of transfer to another correctional institution.

Physician.—The physician will inquire into the man's physical make-up from the standpoint of physique, health, and physiological constitution. He will obtain such information as will indicate possible sources of maladjustment from the point of view of physical constitution, such as chronic infirmities, acute disease, toxemias, constitutional abnormalities (both organic and functional), general health, and so on.

He will make specific recommendations for medical and surgical treatment, point out the bearing of the inmate's physical condition upon the question of transfer, and call attention to any limitations in the program which are indicated by his examination.

Psychiatrist.—The psychiatrist will inquire into the condition of the inmate's nervous system, personality make-up, and sanity. He will indicate the contributing influences of nervous pathology, defective personality, emotional disturbances, conflict, perversions, maladjustments, psychoses, psychopathies, epilepsies, dementias, and, in cooperation with the physician, he will determine the importance of syphilitic infection and the use of alcohol or drugs.

He will make specific recommendations for transfer and treatment. He will also make recommendations concerning the custodial requirements based upon his estimate of the inmate's stability and trustworthiness. He will make any recommendations relative to a suitable program which have a therapeutic significance.

Psychologist.—The psychologist will examine the man from the point of view of intelligence, aptitudes, character, and emotions. He will determine the prisoner's individuality from the point of view of intelligence level, intelligence type, temperament, emotion, judgment, inhibitions, and desire. In cooperation with the head teacher he will determine the degree of literacy and educational capabilities. In cooperation with the industrial supervisor he will determine motor aptitudes and trade skill. In cooperation with the psychiatrist and physician he will determine feeble-mindedness, constitutional instability, and the psychological aspects of psychopathy, including defective personality, judgment, emotional deterioration, mood, and the like. He will determine the level and type of the individual from the point of view of such mental processes as memory, association, and reasoning power.

He will make specific recommendations covering transfer, custodial security, and program. Under the heading of "treatment" he will recommend any additional examinations or special interviews which would be beneficial to the inmate in making a better social adjustment.

Chaplain.—The chaplain will interview the man to determine his religious attitudes, standards, and responsibilities. He will inquire particularly into the man's previous church and spiritual relations, with the purpose of evaluating their importance in influencing conduct.

He will give his opinion concerning the desirability of transfer to another correctional institution, the necessary custodial requirements, and indicate any special contributions which he feels his department could make to the institutional program.

Educational director.—The educational director will examine the man from the point of view of his knowledge and educability. He will inquire particularly into the degree of literacy and capability for advancement, academic interests, social ambitions, and suitability for further school training.

He will make specific recommendations for further schooling. He will give his estimate of the custodial requirements, and the desirability of transfer to another correctional institution.

Director of industries and training.—The industrial supervisor will study the man from the point of view of his previous occupational history, his present trade or industrial skill, and his industrial capabilities. He will inquire particularly into the present degree

of trade skill which the man possesses, his occupational ambitions, and their relations to his environment.

He will make specific recommendations for trade and industrial training and correlated schooling. He will give his estimate of the custodial requirements and desirability of transfer to another correctional institution.

Field social investigator.—The field social investigator will report the findings of the investigation covering the preinstitutional history of the individual. The home and neighborhood conditions will be described. He will give a detailed account of the social factors contributory to delinquency, in accordance with the best current information on the subject. In making recommendations the social investigator will pay particular attention to the occupational opportunities in the community to which the individual is to be paroled, and will specifically state whether or not the home conditions are suitable for return of the inmate.

As explained, each inmate is considered by the classification committee approximately a month after he arrives at the institution. The purpose of such consideration is to plan a program of life for him within the institution. Naturally, such program is held to the limitation of institutional facilities, and this emphasizes the desirability of varied institutional facilities if specialists dealing with human conduct are to be of definite use to an institution.

When an offender first comes before the classification committee, his case is considered under the following heads:

1. Transfer: Any recommendations for transfer will be considered and acted upon. (New Jersey law permits free transfer, when thought desirable, between one institution and another; not only from one correctional institution to another, but from correctional institutions to schools for the feeble-minded, hospitals for mental diseases, institutions for epileptics, general hospitals, etc.)

2. Medical, surgical, and mental treatment: Any professional recommendations by the physician, psychiatrist, and psychologist will be considered and acted upon.

3. Custodial requirements: The custodial requirements will be expressed in terms of three degrees of security, as follows:

A. Maximum.

B. Limited.

C. Minimum.

Maximum security implies confinement at all times behind a wall of the type now at the prison and Rahway Reformatory. *Limited security* implies that the inmate may be allowed to work outside the wall under guard, but must be returned to maximum security at night. *Minimum security* implies that the inmate is suitable to be sent out to live and work in an open institution, such as Bordentown, Leesburg, and Annandale. (Bordentown and Leesburg are prison farms and Annandale in a State reformatory without walls.)

4. Institutional program: The committee will map out a tentative educational, industrial, and disciplinary program in accordance with the findings of the various specialists.

At this meeting, explanation is given to the inmate that his length of stay in the institution depends in large measure upon his own conduct and his success in meeting the requirements of whatever program is laid down for him. Special note should be made of the fact that, except for criminals sentenced to the New Jersey State Prison (under recent laws), all offenders sent to penal and correctional institutions in New Jersey are given what are called indeterminate sentences; that is, sentences with maximum limits but no minimum limits. In other words, prior to the expiration of the maximum, the proper authorities can release an offender at any time—within a moment of his arrival, if necessary. This, of course, never happens. The law does, however, give to the authorities who are charged with the task of treatment the power to terminate or prolong a term of incarceration within the maximum. In our judgment this is a valuable power. It is the inevitable logical outcome of the theory of individual treatment.

The inmate then starts in upon the life mapped out for him by the committee. At once a "progress report" is begun. His response to the program is entered upon this report, as well as information reaching the institution from the outside about him. Reexaminations are held at stated intervals or, if necessary, oftener, and the results of these are also entered upon the progress report.

At the end of six months the offender is reconsidered. Reconsideration may come earlier, if requested by either a member of the committee or an officer dealing directly with the offender, but in the course of routine it comes at the end of six months. Called "reclassification," this means that the criminal's situation is once more placed before the committee, his progress discussed, his difficulties noted, his adjustment to the institutional environment observed, and changes in his

program ordered if the available facts about him warrant it. Prior to such reconsideration, at least two reports of his progress must be in the hands of each member of the classification committee. "These reports," according to instructions issued by the department, "will be brief accounts of the inmate's degree of success, attitude toward his work, attitude toward his officers and fellow workers, and a statement of his suitability to continue his assignment. The department heads will be responsible for these reports, which will be in addition to the daily credit marks which each officer is required to submit."

Following first reclassification, the committee at each institution sets a date for second reclassification, which is the earliest date they would be willing to consider the inmate for parole. At the meeting for second reclassification the committee again considers the progress made by the offender and examines afresh the question whether changes ought to be made in the program and conditions of his life in the institution.

Decisions of the committee in these respects are binding, except as they can, if necessary, under the New Jersey law, be changed by the board of managers of each institution, a contingency seldom eventuating in practice. If, on the occasion of second reclassification, the committee feels that the offender is not ready for parole, it sets a date for third reclassification, and so on, so long as the offender remains within the institution.

In other words, the procedure calls for, and demands, periodic reexamination of all factors bearing on the offender's situation, and periodic changes in his program. It is clear that here is a plan of institutional treatment, carried on by a whole State, quite unusual in the United States.

When the committee decides that the offender is ready for parole, it notifies the central parole bureau of the Department of Institutions and Agencies. This bureau has already, so soon as the offender reached the institution, begun to gather data about his home and social conditions. It now makes, through agents, "a preparole" home investigation. In addition, reexaminations are called for by the physician,

psychologist, psychiatrist, chaplain, educational officer, director of industries and training, and the disciplinary officer.

Before paroling offenders, classification committees are under instructions to review cases completely. They are instructed to pay particular attention to physical and mental health, industrial and educational competency, social adaptability, and the condition of the home to which the offender is to be paroled.

It is evident that New Jersey is trying to apply the method of individualized treatment in its institutions and to bring to bear upon the program of each inmate the skill and suggestions of specialists. New Jersey, like every other State, is handicapped by the physical conditions of her institutions, the attitude of the public toward criminals, and her inability to discover the personnel needed. Schools for the training of the members of the institutional staffs are needed. Suggestions contained in this procedure will, we believe, be of value to all who, familiar with the difficulties of institutions, ponder the advance which this represents upon customary penal practice.

F. OVERCROWDING IN SOME PRISONS

Leaving treatment for a moment, and before coming to certain questions concerning prison building, we wish to call attention to the enormous overcrowding that at present exists in some penal institutions. The public has heard of this in connection with recent riots and efforts to escape—Auburn and Dannemora, N. Y.; Columbus, Ohio; the Federal civil prison at Leavenworth; Canon City, Colo.; and the two Illinois State prisons, one at Joliet and one at Statesville.

To the head of a prison overcrowding is, of course, one of the last things that he desires. Not only is it bad for the prisoners, but it complicates administration, rendering many of his facilities less useful than they otherwise might be, and be very likely to increase the idleness of prisoners.

It is, however, one of the things which the warden or superintendent is least able to control. He can not say to a prisoner committed by the courts, "You may not enter; we have no room." He is bound to receive him. There is no

escape. The warden must take the offender who presents himself with the properly executed papers of sentence.

It is of the utmost importance, therefore, that the responsible government authorities not only try to avoid overcrowding but, when planning new buildings or alterations, have in mind the future of the prison population, and try to build for the needs of several years in advance and not only for the immediate current needs.

In 1926 the excess of population over capacity, as shown by the Bureau of the Census, was 11.7 per cent. In the course of the very next year this rose to 19.1 per cent.[6] "In 15 States only," says the report for 1927, "of the 39 reported in 1927 was the capacity not exceeded by the population. In one-quarter of the States which show overcrowding, conditions seem to have shown some improvement between the two years. The highest percentages for 1927 are 78.6 for Michigan, followed by California, 62.2; Oklahoma, 56.7; and Ohio, 54.1. The Federal prisons show a degree of overcrowding which is exceeded by only two of the States, the percentage being 61.7."[7]

Percentages are poor terms to use in connection with overcrowding, however. It is only when one actually visualizes the effects of putting people into space which they were not intended to occupy that one comes face to face with the real results of overcrowding. Then, too, the above figures are not the worst. There are prisons in the country where the population is more than double what it ought to be. We quote the following graphic description of overcrowding and some of its effects from the authoritative Handbook of American Prisons and Reformatories for 1929:

> Overcrowding is not a new thing in American prisons, but apparently at no time in the history of the country has it been so serious as at present. In a few States, it is true, the population has shown little or no increase since 1910 (see chart on population in the appendix), but in most of the States there has been a marked increase in prison population.
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> Overcrowding in the Federal prisons at Atlanta and Leavenworth is now over 100 per cent of the capacity of the institutions; Jefferson City (Mo.), Columbus (Ohio), Jackson (Mich.), and San Quentin (Calif.), are all seriously overcrowded, and the same condition may be found to a greater or lesser degree in the institutions of a majority of the more populous States. This overpopulation is met in various ways: In many cases it means putting two men in cells too small and inadequately ventilated for one; in a few institutions, in addition to double-deck bunks in cells originally intended for one man, a mattress is placed on the floor of the cell for a third inmate. In Walla Walla, Wash., in addition to doubling up in the cells, many of the men are locked in for over 20 hours a day, as there is no work for them to do. Such a state of affairs aggravates every problem of sanitation and puts an intolerable strain on the physical and mental health of every man so confined. In many of the States temporary dormitories have been developed, some of which are fairly satisfactory as temporary expedients. In Michigan City, Ind., there are one or two of this type, but in the warden's report the attention of State officials is called to the need for permanent housing facilities. In Jefferson City, Mo., some of the dormitories are fearfully overcrowded, and the ventilation is so defective that they are malodorous even when the men have been out of them for several hours.
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> In connection with overcrowding, two points should be emphasized. The Federal Government and many of the States have passed new laws which have inevitably increased prison population, but no accompanying legislation has been enacted to provide additional housing facilities. With the increase of population in so many States a corresponding increase in prison population might have been expected and provision made for it; failure to do this, as well as to provide for the increase in population due to new legislation, has created the unparalleled condition of overcrowding to be found in the prisons of many States and the Federal Government. Of the 8,227 prisoners confined in three Federal civil prisons and men's reformatory at the end of the fiscal year 1928, 4,696 were sentenced under legislation of recent years; under the drug act, 2,410; the motor vehicle act, 1,145; and the prohibition law, 1,141.
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> It is interesting to note that in many States the overcrowding has been aggravated by a very conservative parole policy. For instance, the 1925–26 published report of Jefferson City, Mo., indicates that approximately 50 per cent of the men committed during the past year had never had previous sentences of any kind, and about 50 per cent were serving sentences of two years or less. This suggests the possible use of parole power to reduce the grave overcrowding; but in place of a liberal use of parole power in Missouri, and in every other State where overcrowding has been so serious, the parole authorities have made the situation more serious by a very conservative policy. In not a single State have the parole authorities had the courage to advise the people of the State that until proper housing facilities were provided for the inmates of penal institutions a careful but liberal

[6] Latest year covered by reports of the Bureau of the Census.
[7] Prisoners—1927, report of the Bureau of the Census, p. 7.

use of their authority would be exercised in order to relieve conditions of overcrowding, in part at least.

Overcrowding has created a problem not only of providing proper housing facilities but for the commissary department and practically every other department of the institutions. In many prisons two, and sometimes three, sittings have to be provided for at every meal. It is surprising that under such conditions the commissary departments have been maintained in as good a sanitary condition as they are generally found to be. The medical departments face a similar problem, for in most institutions the medical staff and hospital capacity were inadequate even for the smaller population of previous years. Overcrowding not only puts a strain on every department of a prison but inevitably increases the restrictions and tension of prison life for practically every inmate. When overcrowding reaches 100 per cent or more, especially when accompanied by long sentences, stopping the earning of "good time," and an ultraconservative parole policy, outbreaks are almost inevitable. Perhaps the marvel is that more of them have not occurred.

G. SOME ASPECTS OF PRISON BUILDING

Overcrowding suggests the question of prison building. A prison, like every other institution or structure, ought to be built for use, and a close study of the way in which it will be used ought to be made before it is built. Moreover, the institutional system of a State ought to be carefully planned.

In general, prisons are too large—that is, they are built for too great a number of prisoners. This does not assist the process of individual treatment. In Europe at the present time penologists are taking the view that 500 is about the maximum number of offenders that ought to be housed in a single institution. Without questioning the wisdom of this figure, we suggest 800 as the maximum for American States and communities to have in mind in future building plans; we are thinking partly of recent increases in prison population and of the unlikelihood, practically, of attaining the 500 figure. Certainly the size of prisons should be materially reduced.

A still more important point is the type of housing accommodations. Maximum security for all inmates has been, in general, the principle that has controlled prison construction in the past. This has meant placing each prisoner in

a cell of the strongest possible, or feasible, construction, men's ingenuity being exercised to use materials and to devise bars, locks, doors, and other arrangements that will most closely confine the offender and be most likely to prevent his escape.

The history of prison construction is one of the most fascinating of the less well-known branches of the building and engineering industries. Each cell is a fortress in itself, being presumably escape-proof when a man is locked in; cells have varied in size from those in which the occupant can touch the opposite walls with his elbows to those 6 or 7 feet wide and 8 or 9 feet long, perhaps 8 feet high, in which the inmate has some room to move.

Such cells commonly stand in long rows, so that an observer in front sees a series of cages which might contain wild animals. Indeed, there is a very close analogy between the construction of a prison and the construction of the more dangerous parts of a park or circus menagerie; except that it is doubtful if any lion ever went to sleep in as strongly built a cage as that of a forger or a pickpocket.

This is not all, however. One row of cells tops another, so that what we have is a series of tiers of cells, rising one above the other, there being sometimes five tiers, with the ceiling appearing to be very high above the head. The number of cells in a row varies from a few to several score, with the result that an observer, standing in front of the whole, can look at the fronts of cells containing hundreds of men. This is half a cell block.

Let the observer walk around back of these cells, and he will see an exactly similar piece of construction on the other side. In other words, what he has just been looking at is duplicated—and there are two sets of tiers, instead of one, built back to back. This is the conventional cell block. The whole edifice stands in the interior of a building, walls surrounding this block and a space or corridor of from 10 to 20 feet extending between the block and the walls. The windows are in the walls, light reaching the cells through them.

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This whole building is what is known as a wing. The typical fortress-like prison consists of several such wings, sometimes radiating from a common center, sometimes not.

This of course does not end the security. To pass from the cell block or wing into any other part of the prison, an offender must go past guards, through additional locked doors, and the grounds themselves are of course inclosed by a high wall. Conventional ideas of security, therefore, mean confining a man in an escape-proof cell which is in an escape-proof building which is perhaps part of a larger escape-proof construction, all of which is surrounded by an impassable wall. To meet the development of tools and ingenuity for getting out of such places, prison builders have introduced more and more expensive materials and more and more secure devices, until the cost of such a construction has become well-nigh prohibitive.

If modern penology has demonstrated one thing, it has demonstrated that security to this degree is not necessary for all the persons sent to prison. The traditional idea that such security is necessary for every prisoner is a gross error. Not only is it more economical to provide other types of housing, but such types assist the administration in its classification of offenders, in its attempts to meet the needs of specific individuals and groups, in its ability to promote offenders from one group to another, and in the gradual preparation of the offender for a return to society.

In planning prisons it is, therefore, serviceable to think in terms of various degrees of security. Each State ought to consider the nature of its prison population, and when new construction or alterations are to be made, try to adapt its construction to the needs of the elements comprising the population.

In each considerable number of prisoners there will be groups who can be housed under varying conditions. It is a mistake to reach decisions concerning such groups solely on the basis of the offender's criminal record, the particular offense for which he is now incarcerated, or the length of his sentence. It is better to take into account factors relating to his personality, mental make-up, attitude toward his sentence, health and physical welfare, etc.

Obviously security can range all the way from what we have just described to housing accommodations in which the offender is put solely upon his honor. We shall here discuss the matter under the headings of maximum, medium, and minimum security.

Maximum security implies confinement in a cell behind a wall. A cell need be neither as small, insanitary, nor uncomfortable as many cells in which prisoners now live. Neither need the institutional régime itself be as oppressive as is current in many prisons. But the type of housing should be such as to reduce the chance of escape to a minimum.

Medium security implies the maintenance of reasonable precautions against escape, but not the fortress-type of confinement just described. Security of this degree can exist under different conditions. Life in dormitories behind a wall is properly to be considered medium security; so is life in any cell or room which does not provide the usual maximum obstacles to escape. Such security would refer also to the institution without the typical and presumably impassable wall, but with housing conditions (barred windows, guards on duty, etc.) which reduce the possibilities of escape. Prisoners who leave the fortress prison for work during the day, under guard, and return to it at night, may also be said to be living under conditions of medium security.

Minimum security implies life in institutions of the farm colony type, reforestation and road camps, and wherever the individual is put upon his honor in respect to escape.

In two States studies have recently been made to attempt an enumeration of prisoners who can safely be housed under these three degrees of security. In New York, Dr. V. C. Branham, deputy commissioner of the New York State Department of Correction concluded, after examining more than 8,000 prisoners, that 41.8 per cent required maximum security, 34.7 per cent medium security, and 24.5 per cent minimum security. In New Jersey a study of 2,000 consecutive admissions to the State prison at Trenton indicated that maximum security was necessary for only 36.9 per cent and that 63.1 per cent were suitable for medium and minimum security housing.

It would seem that the maximum security type of confinement is necessary for less than half of the persons committed by judges to prison. The figures themselves need hardly be questioned, for several States are now housing large numbers of prisoners under conditions of medium and minimum security, with perfectly satisfactory results. Certainly the conclusion can not be escaped that the individual cell behind an impassable wall is by no means the essential thing that it has been heretofore regarded. As we say, each State ought to examine its own prison population and reach its own conclusion as to the types of housing suitable.

Moreover, indestructible construction of the kind now associated with prisons is unwise, for the treatment of offenders is changing and once a permanent structure is built it is very difficult to adapt it to programs and policies which may supersede those existing when the building was put up.

In recent years several States have begun to build prisons designed to supply maximum security for all inmates, and have found costs so prohibitive that they have modified these plans in the direction of more simple construction and lesser degrees of security for portions of the inmate population. Costs have risen tremendously since the World War. Before the war prisons of maximum security were being built at a cost of from $1,200 to $2,000 per inmate. To-day such construction costs $4,000 to $5,000 per inmate. Medium security units can be built for $1,500 or $2,000 per inmate and minimum security units for $1,000 per inmate or less.

We call attention to the plans for the Federal civil prison at Lewisburg, Pa., now under construction. Here it is planned to provide typical cells for only 25 per cent of the inmates; another 45 per cent will be housed in dormitories; 20 per cent in 4, 6, and 8 man wards; and 10 per cent in ordinary rooms. Further details of this are given in the section on Federal penal institutions.

H. WHO SHALL PRESCRIBE TREATMENT?

We wish now to discuss what we consider one of the most fundamental questions in the field of penology, touching not only upon penology, but upon the established traditions of

criminal procedure. This has to do with the sentencing of offenders, and with the means by which they shall be sentenced.

The court or trial in American criminal practice, as everyone knows, has two purposes—to settle the question of guilt or innocence and to pass sentence. There is no indubitable and indissoluble connection between the two functions. It is not inevitable that the official or person who is expert at presiding over a tribunal to settle a question of fact—whether the person accused did or did not commit the act charged—should also be qualified by experience, training, and temperament to prescribe treatment for the individual found guilty. It is not inevitable that a very competent judge should be so qualified. Neither is it inevitable that the processes of the trial itself should be such as to supply the information on which well-balanced dispositions of the offender should be made.

It is unnecessary here to recount the main features of a trial—selection of a jury, opening statement by the prosecution, questioning and cross-questioning of witnesses, control of the trial by the judge, fairly strict adherence to the form in which questions may be put, exclusion of certain types of testimony, angling by attorneys for position, occasional open breaks in court, final summing up speeches (with their not infrequent appeals to emotion), the court's charge to the jury, and the verdict. Not all criminal trials are held before a jury, and it is undeniable that the importance of the jury is growing less instead of greater in criminal practice in the United States. The point we wish to make here is that, however effective this process may be for determining the bare question of fact—did the offender commit this act or did he not—it ordinarily supplies little information about the antecedents, habits, personality, character defects, mental peculiarities and other traits of the criminal which serve as a sound basis for treatment. Even when the judge has reports of probation officers before him, or the observations of specialists, such as psychiatrists, he can not surely predict the response of the offender to institutional treatment; he can not say when he ought to be released, or

what his prospects of leading a law-abiding life will be 1 year, 2 years, 3 years, 5 years, or 8 years from the date of sentence. Usually he is not in a position to prescribe treatment, and he is practically never in a position to say definitely how long the criminal ought to remain behind the bars.[8]

We do not question that judges, by and large, are the most expert persons in the world to preside over trials, to apply the law of evidence, to hold level the balance of justice between contending parties, and to facilitate the arrival at an accurate determination of the offender's guilt or innocence for the act charged. All are trained as lawyers, and the professional training of most of them stops there. Invaluable as such training and experience is, we submit that it does not qualify a judge to pass upon intricate phases of conduct, to assess personality, to predict success or failure, and to determine, when the offender is convicted, how long he shall undergo treatment.

The passing of sentence, in the way in which it is now done in most jurisdictions, is without doubt a control of treatment. If the court (either judge or jury) specifies the institution to which the culprit shall go, treatment is thereby controlled, for institutions vary. If the court commits the offender for a specified length of time, treatment is controlled. If minimums and maximums are stated, treatment is partially controlled.

We believe that it is an eminently proper question for the American people to consider: Whether the specific imposition of sentence, as now practiced by courts in most jurisdictions, should not be taken away from judges and the sentencing power of judges restricted to "committing the offender to the custody of the State," or suitable governmental authority. We believe that many judges would be glad to

[8] Recent attempts have been made to elucidate the possibilities of predicting the success or failure of offenders, but these have been confined almost entirely to success or failure on parole. We consider such attempts a very significant development, and discuss them in our next section, the one on parole. As so far developed, they do not relate to prediction by courts, but to prediction by institutional or paroling authorities. In other words, they relate to prediction by those who have an opportunity not possessed by courts to study the offender over a period of time.

be relieved of deciding, when an offender is found guilty, to what institution he shall go and how long he shall stay. Individual judges are on record as favoring this proposal.

Such a plan would involve the thorough application of the indeterminate sentence, or the sentence which places no restriction on the length of time an offender shall serve. Our main remarks about the indeterminate sentence are made in the section of this report dealing with parole (Pt. IV). The principle of the indeterminate sentence is now accepted by experienced penologists in most countries; its value lies in the fact that the actual length of time served by offenders is controlled by persons who watch the offender from day to day, under treatment, and do not try to fix this time in advance. As we show in the section on parole, actual time served under the indeterminate sentence tends to be longer than time served under definite, or fixed, sentences by courts.[9] This forever disposes of the charge that the indeterminate sentence tends toward leniency. What it does is to place the question of treatment in the hands of persons who can make closer observations of prisoners, and reach more accurate conclusions concerning their prospects and conduct, than can judges and juries. It is gratifying to record that many American States have adopted, in one form or another, the principle of a partial indeterminate sentence—it still being considered necessary, usually, to affix maximums and minimums when the offender is originally sentenced.[10]

For purposes of record, we consider it desirable to state that the suggestion that the sentencing power of judges be limited was given prominence by Alfred E. Smith, then Governor of New York, in an address before the New York State Crime Commission, December 7, 1927. Governor Smith did not claim originality for his proposal. We append his words:

> In the first place, I believe that the power of sentence ought to be taken away from judges, entirely. * * * You know what a good, bright lawyer can do before a jury, how he can work on them. The

[9] See Pt. IV, pp. 298–299.

[10] For a discussion of the indeterminate sentence in States of the United States, see Pt. IV, pp. 300–303.

jury ought to determine guilt or innocence without anything in their minds except: Did he commit this crime or did he not?

And as soon as the verdict is rendered and he is found guilty, he ought to be turned over to the State of New York for such disposition as would be determined by a board of probably the highest salaried men that we have in our community.

I do not think it would be a mistake for the State of New York to set-up a board, properly constituted, of psychiatrists, alienists, lawyers, and students of criminology and let them make the final disposition of that man in the best interest of the State and the best interest of the man himself.

Thereafter the control and disposition would remain with that body, with the power to recommend parole or transfer, presumably to a State institution for the care of the feeble-minded or the insane. I believe you may have to have a constitutional amendment for it. I don't think you can do it under the Constitution. This body no doubt ought to have the power to recommend parole to the board of parole, in view of any extraordinary circumstances that come only to the observation of that board of trained men.[11]

In its most complete form, the recommendation which we are making would be that the function of the court should stop entirely with the determination of guilt or innocence and that offenders should be turned over to another sentencing authority, charged with the duty of diagnosis and treatment. This might be a board composed of educators, physicians, prison superintendents, psychiatrists, psychologists, lawyers, and others.

The procedure would be, as we say, for the court to commit the offender to the custody either of the State or of such an authority, without control as to the institution in which he was to be held or the length of time he was to serve. The board, after studying and observing him, would prescribe such treatment as the State's institutional facilities afforded.

This board, or its properly designated representatives, would perhaps also determine the question when the prisoners should be released, releases being presumably upon parole. Suitable provision should be made for appropriate court review in case of abuse.

[11] Progressive Democracy, Addresses and State Papers of A. E. Smith, New York, 1928, pp. 209, 210.

I. A DIVERSIFIED INSTITUTIONAL SYSTEM

This raises questions as to what the institutional facilities of a State ought to be. No comprehensive answer to that question can be given in the present state of knowledge concerning offenders. We are far less ignorant to-day as to what kinds of people are in our prisons than we were 25 years ago, but prolonged and painstaking research will be necessary before full advantage can be taken of facilities for treatment.

One thing can be said, that the classification of offenders by types of crimes committed is, for purposes of treatment, nearly meaningless. It means little to know that an offender is a burglar, a robber, an embezzler, a forger. It means little to know that he is a kidnaper, a rapist, a perjurer, or even a murderer. Some crimes are committed in the pursuit of other crimes. Broad distinctions of this kind are perhaps useful—such as that a person habitually commits sex crimes instead of crimes the purpose of which is to gain property. But generally speaking, the classification by name of the crime committed, by the particular offense for which he is now serving sentence, or by the section of the penal code violated, is of little use. It does not shed light on the causes of his antisocial conduct, and it does not supply suggestions for treatment.

Neither does it help much to classify a person as "hard-boiled" or not "hard-boiled," or as a long-termer or a person serving a shorter term, for these phrases convey equally little as to causes and treatment—and terms of sentence are not controlled by careful considerations of personality and prospects of later success.

Useful classifications of offenders have to do with the forces that move them to crime. To know why a person has come into serious conflict with the law is to take one step toward treatment. Clearly, therefore, study of individual offenders is essential.

Into such study should go information bearing on his heredity, parentage, development during childhood, first beginnings in crime, specific habit formations, health, mental

defectiveness or peculiarities, emotional maladjustments, economic stresses—in short, an assessment of his personal and environmental situation which will help in the calculation of treatment designed to benefit him.

Nearly every one knows that influences affecting people in their childhood control adult conduct to some extent. An unhappy home life is not the best preparation for social adjustment later. Emotional strains which the individual is unable to withstand lead to wayward behavior. Physical disease may produce vagaries of conduct. The forces of crime are numerous, and the causes (in an individual) are usually multiple, not simple.

Special attention has been paid recently to mental conditions among offenders, either as causes of crime or as factors controlling treatment. Studies have shown high percentages of nervous and mental disorders, of mental defect, and of peculiar mental and emotional conditions among inmates of prisons. These studies, made by different investigators, have not always been comparable. Diagnosis of mental peculiarities, while a new movement, is very valuable. The importance of diagnosis for classification and treatment is incalculable.

It is evident that we are attempting no analysis of the causes of crime. We are interested, rather in a diagnosis of prisoners, and in the outlines of a State system of institutions for the treatment of persons who, under present policies, are actually committed and need to be confined for a time in institutions. Laws change; lengths of sentence change; crimes leading to incarceration change; and from time to time the nature of prison populations may change. To-day the study of offenders leads to the conclusion that each State ought to provide special types of treatment for certain groups. The classification of these groups will shift as study of offenders becomes more intense and skillful. We are making suggestions for the present, not for the time when new information will call for a new institutional set-up.

The outlines of such a system will change from time to time. They will be controlled by practical considerations,

such as (1) the size of the institutional population; (2) availability of competent personnel to handle the different classes; (3) progress made by science in diagnosing the nature and peculiarities of prisoners; (4) development of useful methods of treatment.

At the outset, there should be in such a system a central receiving station or institution, to which all (or most) prisoners would be sent for an initial period of study and observation. To this station offenders would come from the courts. The object of study here would be (1) to assess, as accurately as possible, the factors contributing to the offender's delinquency, and (2) to plan a program of treatment based on those factors and on personality characteristics. Only by such study can treatment be intelligently planned and directed, and hope held out for a cure which at present in our penal and correctional institutions is so remote a prospect.

In addition, there should be specialized treatment for different classes of offenders. On the basis of studies so far made of offenders it may be said that every competent institutional system, in addition to regular custodial institutions, ought to include institutions offering special treatment for the following groups:

1. The male prisoner, normal so far as can be discovered, whose case seems to call for the stabilizing effects of confinement, for acquiring habits of industry, and for the learning or pursuit of a definite occupation or trade. For such offenders, whether old or young—though most of them will be in the first half of life—there ought to be suitable institutional provision characterized by broad educational effort embracing vocational training. This will mean the establishment of varied shops and industries.

2. The male prisoner, normal so far as can be discovered, but older than the offender contemplated in the paragraph above, whose needs would seem to be met by agricultural work rather than shop or industrial work. Of such offenders there is always a considerable number in any large institutional population. This means the establishment of farm prisons. Younger prisoners ought also, of course, to be

free to follow farm work if that appears to be more beneficial to them than shop or industrial pursuits.

3. The defective delinquent: By this is meant the feeble-minded prisoner, or prisoner of low-grade mentality. Separate institutional provision should be made for him, both for his own sake and for the good of other prisoners, with whose work and progress he commonly interferes. Institutional provision for the feeble-minded prisoner ought to resemble, in some degree, the type of treatment, care, and confinement provided by the better schools for the non-criminal feeble-minded, with the added feature of all necessary security of restraint. The first demonstration of the possibilities of separate treatment of the mentally defective delinquent was made by the State of Massachusetts in 1911, followed in 1916 by the establishment in New York of the separate institution at Napanoch, and provision for such an institution has just been made by the Federal Government.

4. The psychotic, or insane, offender: It seems hardly necessary, at this day, to point out that such prisoners ought to receive special treatment and to be held in separate confinement from other prisoners; they are even more of an interference with administration of institutions designed for other offenders than are the defective delinquents. Moreover, methods in the treatment of the insane have so much improved in recent years that the prospect of cure is now one that ought to be followed with full perseverance by the State. Two arrangements will perhaps have to be made for persons suffering from insanity, or mental disease. Those who, upon examination, seem to require more or less permanent incarceration will be held in hospitals for the criminal insane—and there they will stay until it is safe to release them. Others, suffering from transitory mental disturbances and promising earlier recovery, might be kept in a specially constructed psychiatric pavilion in connection with the central receiving station; whatever provision is made for them, they ought under no circumstances to be kept among normal prisoners.

5. The psychopathic delinquent: Distinguishable from both the feeble-minded and the insane, the psychopathic includes

those border-line personalities who are so marked by temperamental instability, neurotic responses, and other forms of nervous or mental disorder that they require special study and special treatment. As psychological sciences advance, a clearer definition of their peculiar difficulties, and effective modes of treatment, will be achieved; in the meanwhile, many such persons respond to modes of treatment already known, and it is desirable that penal and correctional institutions do all that is possible to send them out better fitted to adjust to complex social environments than they were when they entered.

Whether these groups will be cared for in separate institutions, or whether some of them can be accommodated in different parts of the same institution, will depend in part upon the numbers involved. In the more populous States, having the larger numbers of prisoners, separate institutions will usually be desirable. In the less populous States single institutions, with different departments or branches, will probably have to suffice.

In addition, there must be separate institutions for women. The question of women's institutions has been so well discussed in the Handbook of American Prisons and Reformatories for 1929 that we quote the following passage:

> In over half the States women prisoners are still confined in sections of the State prisons for men. Their number is small in comparison with the male prisoners and they are generally provided for inadequately. * * *
>
> It is generally recognized that women have no place in prisons designed and operated primarily for men, where they are under the ultimate authority of male officials, who have little aptitude or training for their care and who frankly consider them a nuisance and a constant source of danger. In States where their number is so small that a separate institution is not practicable, proper provision for them presents a difficult problem. Granting the arguments against such an arrangement, they could better be given a separate section in a girls' reformatory than in a men's prison. It has been suggested that they be attached to State hospitals and employed in the domestic work of such institutions. It is certain at least, that the present situation should not be tolerated, and that in all States they should be given adequate quarters, supervision, and treatment.
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> In California, Georgia, Illinois, Missouri, and Oklahoma the prisons for women are semi-independent, although they are still a part of the

prisons for men. In these States the women's prisons are separated physically but not administratively from the men's prisons. None of the sections for women in this group reaches the standard set by the better women's reformatories. They should be made completely independent of the men's prisons and should be conducted on reformatory rather than prison lines.

In the following 12 States reformatories for women have been established: Connecticut, Indiana, Iowa, Kansas, Maine, Massachusetts, Minnesota, Nebraska, New Jersey, New York, Ohio, and Pennsylvania. The Federal reformatory for women at Alderson, W. Va., was opened in 1928. These reformatories represent a marked advance in methods of caring for women prisoners. From many of them, particularly those of Massachusetts, New York, New Jersey, Pennsylvania, Connecticut, and the Federal reformatory, the institutions for men can learn valuable lessons. The reformatories in general are characterized by a forward-looking attitude and a proper recognition of their function as that of rehabilitation. Most of them make their aim education in its broadest sense. An effort is made in the work of the institution to give vocational training, especially in domestic occupations, and to select industries which have training value. Academic education, while usually limited in scope, is more often correlated with practical activity than in men's institutions. Music, dramatics, pageants, physical education, directed recreation, and other broadly educational activities are promoted. Some form of inmate community organization is in existence in all the more progressive reformatories and is considered an essential aid in the development of a sense of responsibility to the social group.

The reformatories for women usually have good buildings, with attractively furnished living rooms and dining rooms, and individual bedrooms instead of cells. The grounds and buildings of the Federal reformatory, for example, would be a credit to a fine school or college.

Individual analysis and direction is customary and a number of competent psychologists and trained social workers are to be found in these institutions. Their parolees receive more careful supervision than those of men's institutions, in spite of the fact that the parole work is usually understaffed.

The defects of the women's reformatories are not defects of spirit and purpose. They often have too small staffs and too many underpaid and poorly trained minor officials. They often have insufficient appropriations and their interests are subordinated by legislators to those of the State prisons. They deal with a type of offender difficult to reclaim. It is a reflection on society that their parolees have a harder fight to make good than men. In the main, however, they are at present the most hopeful of our penal institutions. Effective assistance could be rendered the reformatories and their charges by sustained and intelligent support from the organized women's clubs of the various States. This support is fully justified by the work which they have done in spite of the difficulty of their problem and the handicaps which they have to overcome.

We concur in the statements that women's institutions are on the whole better staffed and better administered than institutions for men, that their purposes are less punitive and that they have a higher degree of success with those who experience incarceration in them. Men's institutions, we think, have much to learn from women's institutions.

Some States have, in the evolution of their correctional and penal institutions, made great progress toward the building up of diversified provision for the care of different groups. Massachusetts has perhaps the completest system in this respect. An enumeration of her institutions will be instructive: Industrial School for Boys at Shirley; Industrial School for Girls at Lancaster; Lyman School for Boys at Westborough; Massachusetts Reformatory at West Concord; Reformatory for Women at Framingham; State Farm at Bridgewater, taking care of misdemeanants and providing accommodation also for criminal insane and for defective delinquents; State Prison at Charlestown; Prison Camp and Hospital at West Rutland; and the State Prison Colony (now being built) at Norfolk. Here, it will be seen, are the elements of a diversified institutional system. Other States, such as New Jersey, New York, Minnesota, and Indiana, have made progress toward diversification also.

J. TRAINING SCHOOLS FOR PRISON OFFICERS

All of this emphasizes the importance of training schools for prison officers. Heretofore the idea of special training for people who, in various official capacities, rule the destinies and control the conduct of men and women in prisons, has been quite overlooked. Many of the failures of American prisons can be traced to the mismanagement of officers who were selected without regard to their ability or training for the important work they are called upon to perform. A task requiring character, education, experience, and the scientific attitude has often been entrusted to novices and

politicians merely in quest of a job, who were incapable of social vision and constructive work. The hope for future success is to transform prison administration into a profession and to train candidates for prison service in such a manner that they will be able to meet its executive requirements.

Qualifications of specialists serving in prison are of course another matter. The doctor, the psychologist, the educator, the psychiatrist, the dietitian—all the specialists—should be good doctors, psychologists, educators, etc., anywhere, with the added experience and technique which dealing with particular groups or problems gives them. We are now considering the ordinary, less specialized prison official.

Pioneer efforts to train prison officers, including guards, were made by Japan, Poland, and Great Britain. Similar schools have been started in Belgium, Holland, Germany, and other European countries. In 1926–27 the Department of Correction of Massachusetts conducted courses of lectures for prison officers. A more ambitious attempt—and perhaps the first real school in the United States—was organized in January, 1928, by the Commissioner of Correction for New York City, Hon. Richard C. Patterson, jr. In connection with the Training School for Police Officers, Mr. Patterson organized the Keepers' Training School—a school for the instruction of prison guards. It is thus evident how recent is the effort to supply such professional training. The Federal Government, in 1930, through the reorganized Bureau of Prisons, inaugurated such a school, locating it in New York City. In 1931 New Jersey followed suit, beginning a school for the training of officers of penal institutions at the Rahway Reformatory. Other States are to-day planning schools of this character.

Instruction in such schools covers the ordinary duties of prison officers—the necessity for preventing escapes, maintenance of discipline, self-defense, and the purely custodial aspects of penal incarceration. Differences in duties among the various officers are emphasized and discussed. The primary value of such schools, however, is the extent to which they raise the conception of the job held by prison officers,

and their professional standing, information, interest, and skill. We append, therefore, a short outline of the ground covered in courses given by the United States Training School for Prison Officers in New York City.

The chief topics presented are as follows:[12]

1. *History of Crime and Punishment.* The origin and development of government and law, early enforcement of law, the evolution of punitive measures, such as retribution, intimidation, and reformation, and the origin of various kinds of correctional institutions.

2. *A Study of the Present Crime Situation.* This includes the causes and prevention of crime, crime waves and their effects, also the relative value of severity and certainty of punishment.

3. *Types of Penal Institutions and Their Functions.* This topic covers jails, houses of correction, penal farms, penitentiaries, reformatories, prisons for women, juvenile and Borstal institutions.

4. *Physical Aspects of Penal Institutions.* This includes selection of the site, architecture, light, ventilation, sanitation, the psychological effect of walls and bars, solitary confinement versus congregate confinement, and the segregation and classification of offenders.

5. *The Prisoner and His Background.* This embraces all behavior problems as related to the normal, subnormal, and abnormal, the psychopathic and the neurotic groups, and the discipline attending treatment of each group; also problems dealing with the first offender, the professional criminal, the recidivist, and the value of expert diagnosis in the handling of each class of prisoners.

6. *The Prison Official.* This discussion treats of his functions, qualifications, and responsibilities. Each class of officers is informed as to the requirements of his position and the relation of guards to all other officers. Practical instruction is given in assignments in and about the prison and the importance of each is shown. A study is made of job analyses or cross-sections of various Federal institutions. The relation of an officer to his prisoners is covered, giving detailed advice in such matters as the dangers of informants; directing the labor of prisoners; avoiding partiality; the necessity of firmness, consistency, truthfulness, and poise; instruction of prisoners and the selection of trustworthy men for special tasks; also the relation of an officer to officials of other institutions, public and private welfare agents, and the general public. Courtesy and service in all public contacts is stressed.

7. *Prison Discipline.* The atrocities and cruelties of discipline are shown to have a degrading influence upon the prisoner, and this

[12] For a fuller discussion of this subject, including curricula, see Training Schools for Prison Officers, compiled by Doctor Hart, chairman of the advisory committee; published by the Russell Sage Foundation, 130 East Twenty-second Street, New York City. 1930.

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study prepares the background for an analysis of motives and methods of wholesome discipline. A detailed study of rules is conducted, showing the desirable appeal to the higher qualities of manhood and the dangers of harsh repressions. A study of merit systems—good and bad; grading and classifying according to merit; disciplinary records and reports, with special emphasis in reporting violations and commending or rewarding prisoners according to their conduct, comprise an important feature of this topic.

Attention is given to the subjects of escapes, assaults, and riots; their causes; how to sense them in advance and how to prevent them; searching for contraband articles, and many other features of discipline in their cells and places of employment.

8. *Classification and Segregation.* The purposes and methods of segregation are demonstrated, using detention headquarters as a laboratory. The correctional reactions of each class is pointed out, as well as the menace of heterogeneous imprisonment in destroying morale; the influence of associates upon the novice in crime and the young. Study is made of European methods of isolation as compared with American methods. Each group, such as the subnormal, the abnormal, the professional and the first offender is studied as to character and expectancy of rehabilitation.

9. *The Activities of a Penal Institution.* (*a*) Study is made of the value of employment, kinds of labor suitable to a prison population, a comparative study of the various systems of prison labor, remuneration for prison labor and its advantages to the prisoner and his dependents, and the best use of the prisoner's earnings.

(b) Education and training of the prisoner embrace such studies as the value and application of physical culture, intellectual training and schools of letters, trade apprenticeship in various crafts and arts with an analysis of their value in the readjustment of the prisoner, the prison library, systematic reading of books and periodicals.

(*c*) Religious work in the institution; the chaplain—his requirements and qualifications; various kinds of religious services; how the officer can assist the chaplain; value and abuses of volunteer religious workers.

(*d*) Welfare and morale work: The influence of welfare activities on the morale of the prison body.

(*e*) Medical service: The resident physician—his duties and responsibilities, how he should be qualified. The hospital, dispensary, and equipment; the dentist and other specialists; general health of the prison population and its relation to sanitation, dietary, segregation, contagions, and so forth.

(*f*) Psychology and psychiatry: Their increasing use as a guide in the classification, discipline, treatment, and training of the criminal; also for discovering the causes of crime and ascertaining the character, disposition, capability, and reformability of the prisoner.

(*g*) Sanitation and personal hygiene: Housekeeping and cleanliness; fighting germs and vermin; personal and institutitonal clothing; the laundry, tailor shop, shoe shop, and bathrooms.

(*h*) The prison dietary: The steward and his duties; the cooks and their ability; medical examination of culinary employees; cleanliness, selection of foods, the balanced ration, and a reasonable per capita cost; preparing the menu; variety of menus.

(*i*) Recreation and the proper use of leisure time for culture, mental and physical; competitive games and their cultural influence. Active and passive recreation.

(*j*) Parole: Institutional preparation for parole. Grading candidates as to mentality, previous convictions, application to work, deportment, and educational attainment; rules and requirements governing parole and proper parole supervision; revoking paroles. Problems attending the rehabilitation of paroled prisoners. Cooperation of prisoners' aid associations, houses of refuge, social service agencies, and public officials.

10. *Miscellaneous Routine Duties Performed in Actual Service.* During the course the students are assigned to various stations throughout the detention headquarters, spending at least a week in each important position, with technical instruction under the direction of capable officers for the purpose of giving them experience in handling prisoners. During the last six weeks of the course the entire responsibility of conducting the prison is placed upon the class for 24-hour periods weekly. There is special study of hazards, methods, and efficiency of service, affording the men the opportunity to learn by actual service.

Although the movement for schools for prison officers is still in the experimental stage, the results so far attained are encouraging.

K. PRISON INDUSTRIES AND LABOR

Probably no aspect of the operation of institutions presents harder problems than prison industries. In the secluded and artificial life of an institution for offenders, where many of those who must work are hardly fit for work, where the population is changing day by day, and where the facilities for developing industries are necessarily limited, some way must be found to keep inmates at productive labor. It is a task calling for ingenuity, tolerance, the cooperation of all departments, and persistence. It is a task calling also for the help of the public. The essential purposes of prison labor are not so hard to define; the trouble

comes when one tries to devise means for carrying those purposes into effect.

At the outset we should like to say that it is almost impossible for prison-made goods not to come into competition with the product of free labor. Much confusion of thought results from the insistence, in some quarters, that the work of convicts should not interfere in any manner with the wage-earning occupations of other people. There are only a very few forms of activity in respect to which this is possible. If prisoners are put to work at reclaiming waste land which it would be commercially unprofitable for outside labor to attempt—and such land exists in the United States; if they were set to work on various public works for which no appropriations have yet been made or are expected; if they assist in projects of reforestation or irrigation which neither Government nor private capital would regard as justified from an economic point of view, it is conceivable that they might be rendering service of value and yet not coming into competition with free labor. Much work of this character, of course, is performed by outside laborers—and the number of prisoners who can be put at it is comparatively small. Still, in such instances, prison labor might be said to be performing a service without effective competition with labor, to-day.

Such instances aside, useful labor of prisoners is almost bound to come into competition with free labor. We see no reason for dodging the reality of this situation. Prisoners may, of course, be put at useless labor. If prisoners ground stone which no one would use, if they dug holes in the earth which no one would want to fill up, if they took brooms and swept the shores of the sea, there would be some justification for contending that they might be kept away from competition with free labor. We hope no one will seriously propose that they be put at such tasks. In the first place, prisoners are still human beings, and as such have a right to work. In the second place, they are all rejoining society, and if they do not gain habits of industry in prison, and make such progress as they can toward trades or occupations, where will they learn it? It is no benefit to the populace to have

turned back upon it every year fifty or seventy-five thousand offenders who have learned nothing in habits of industry as a result of their incarceration.

It makes no difference what the system of prison labor is, what the particular product is, what form the labor of the prisoner takes—so long as he produces a merchantable product or engages in productive labor, he is potentially competing with free labor. He is doing something which another man might do for pay. If he repairs a road, he is doing what free labor might do; if he clears a swamp, he is doing what free labor might do; if he quarries stone, he is doing what free labor might do; if he works in a mine, he is doing what free labor might do; if he makes a shirt under contract labor, he is doing what free labor might do; if he makes a desk, a chair, a rug, to be used by State institutions and only by State institutions, he is doing what free labor might do. Even the maintenance and service occupations around institutions might be done by free labor. Ordinarily, the only possibility of wholly eliminating such competition is to reduce prisoners to a workless, or tread-mill, crowd, and then release them upon society to wreak the results of their idleness and worthlessness upon the people who had refused them an opportunity to work.

In periods of depression, or other emergency, the pressure is great to curtail the productive labor of prisoners—but at other times the policy, as a deliberate measure to protect society, is questionable.

We think it important to emphasize these points because some groups of employers and employees still contend that prison labor ought to be kept out of competition with the labor of people who are not prisoners. We should be happy to see this done, if it could be done. But it can not be done, if society wishes to be protected from criminals. There is another aspect to the matter. What of the offender on probation or parole? He works, and all agree that it is important that he should work. Still, he is just as much an offender against the laws as the man behind the bars. Why should the question be raised so particularly, and acutely, in the latter case? His labor, probably, means less competition than that of the criminal who is on probation or parole.

Moreover, when the prisoner is paid a wage, his earnings go partly toward the support of his wife or family, and this helps to save outside capital and labor from the support, mainly through charity, of the dependents of offenders.

Substantially, the various types of prison labor found in the United States to-day are as follows:

Contract system.—Under this system the State feeds, clothes, houses, and guards the offender. An outside business man, or contractor, engages with the State for the labor of the prisoners, which usually is performed inside the prison, though sometimes near it. The contractor pays the State a stipulated sum for the labor of each prisoner, supplies his own raw material, and reaps such profits as he can. Usually, also, the contractor superintends the work through men employed for the purpose.

Piece-price system.—This is similar to the contract system, differing mainly in method of payment for the labor. Instead of paying a stipulated sum per capita for the prisoners, the contractor pays an agreed amount for the work done on each piece or article. The officials of the prison, in many cases, dictate the daily quantity of work required.

Public-account system.—Under this system the element of a private contractor is eliminated. The State, or the institution, becomes the manufacturer, not only housing, feeding, and clothing the prisoners, but buying the raw material, equipping the factory, and disposing of the product in the open market. In other words, the entire responsibility for the industry or industries of the prison is assumed by the State, and it runs the risk of profit or loss; under the two preceding systems that risk is borne by the contractor. The State may maintain its own selling and marketing organization, or it may dispose of the products in bulk through an agent.

State-use system.—Under this system the State is still the manufacturer, but the disposal of goods is limited to public agencies and institutions. Hence the term "State use." In other words, the State is not disposing of its goods freely in the open market, but sells only to divisions or subdivisions of the State. The theory of the State-use system is that the labor of prisoners reaches only the consumption of the State itself and that competition with private manufacturers is diminished, if not eliminated. In some States disposal of goods is limited to State agencies and institutions; in others, goods may be sold also to minor political subdivisions, such as counties and cities; in still others, a surplus may be sold to private purchasers. Obviously, the manufacturer of goods is limited to such as are useful to public purchasing agents, but in an organization as large as a State, this affords a very wide market, especially when sales can be made also to minor political subdivisions.

Public works and ways system.—In principle this is just like the State-use system, only here the prisoner's work, instead of being spent on the manufacture of articles or commodities, is spent on public works and ways; that is, on erection of public buildings, building of roads, parks, breakwaters, and other structures or improvements of a public nature.

Lease system.—This has well-nigh disappeared from the practice of State governments. Under the lease system the public authorities enter into a contract with a lessee, who agrees to receive the prisoner, house him, feed him, clothe him, prevent escape and put him to work; the State receives a sum agreed upon for his labor. The State, thus, is relieved of the necessity of maintaining an institution, though it usually reserves the right to make rules for the care of the offender and to inspect his quarters and place of work. Treatment of offenders has been notoriously bad under the lease system, and, as we say, the practice has nearly disappeared from arrangements made by State governments. County prisoners are still leased to private contractors in some Southern States, the system being substantially confined to that part of the country.

While there have been exceptions, the contract and the piece-price systems have usually been harmful. Under them the main object is revenue to the State and profit to the contractor, and the rehabilitation of the offender is subordinated. In the actual operation of these systems, manufactures are followed which are all too frequently confined to prisons, at which, therefore, offenders can not get jobs when released; either that, or they are manufactures employing only women, or the blind, or some other special group, on the outside. Prisoners are driven hard, and the spirit and incidental activities of the institution suffer from the need, generally felt, to make money. In addition, criticism is leveled at the systems because the contractor, paying only a small price for his labor, is able to compete unfairly with such concerns as pursue the same lines of manufacture on the outside.

Theoretically, these objections do not apply, in the main, to the public-account system. Here again, however, the tendency is to make as good a financial showing as possible, and the welfare of the prisoner is all too apt to be lost sight of; the shops of the institution tend to become factories, controlled by the objects of factories, while rehabilitation sinks into the background. Moreover, in some

States, bodies of organized labor, as well as employers, have protested against the industries run by the State on the ground that the labor of prisoners is thus entering into direct competition with free labor of the outside.

We favor State-use system, for reasons which we shall give later. Before we do that, however, we wish to mention the subject of idleness.

Idleness in penal institutions is bad not only for prisoners but for the administration.

It is perhaps impossible to say positively whether idleness is increasing in American prisons, but Sutherland remarks in his Criminology: "It is questionable whether as large a proportion of prisoners are employed at the present time as were employed 100 years ago, and it is quite certain that the proportion employed is less than 50 years ago."[13] Overcrowding of institutions, to which we call attention elsewhere, necessarily tends to increase idleness, for not only is it difficult for the institution to augment opportunities for work quickly but sometimes, due to factors which it can not control, there simply is no work for the additional offenders to perform.

Since this question is so important, we quote from the Handbook of American Prisons and Reformatories for 1929, a volume of accurate information:

> The effects of overcrowding are noticeable in every department but probably in no other is the effect more serious than in industries. In many institutions the industries were entirely inadequate for even the smaller population and the increase of recent years has meant a corresponding increase in idleness. Many institutions try to distribute the work as far as possible by assigning to every detail a large number of men in excess of the particular need. This of course does not increase the efficiency of work done but does cut down the number of men who are completely idle.
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> In the prisons of many States, however, there is a considerable number of men to whom it is not possible to give any work. This number varies from a few hundred to a thousand or more and in Columbus, Ohio, it is sometimes approximately 2,000. The tendency in former years on the part of officials to cover their problem of idleness has largely disappeared and by every possible means they are now calling it to the attention of people in their State. In Jackson, Mich., for instance, the number of idle men is posted on the bulletin board where it may be seen by everyone visiting the institution; it is also given to the press of the State and printed in the prison publications.
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> Officials realize probably better than anyone else can the demoralizing effects of idleness on the inmates not only during their term of imprisonment, but after their release. There is certainly no more pressing a problem involved in the penal system of the various States than the working out of a satisfactory system of industries. * * *
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> Idleness in prison is an indefensible condition under any theory of penology. For those belated minds who cling fast to the theory of labor as aggravated punishment, idleness throughout a sentence to hard labor is mockery. To those who hold the economic view of a prison paying its own way, idleness means failure. To those who believe the primary purpose of imprisonment to be social rehabilitation by means of industrial training and habits of industry, idleness means futility. Without work every constructive measure in every department of the prison is thwarted if not doomed to defeat, for idleness is an insurmountable barrier to the accomplishment of any sane purpose of imprisonment. The likelihood of a great increase in idleness and the general problems of industries are the most serious of the many problems in the prison situation of the country today. * * *
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> There are comparatively few States in the country in which the question of prison industries does not call for most careful consideration in the immediate future.[14]

We are under no illusions concerning the present success of the State-use system, which we believe, on the whole, to be the best of the systems previously enumerated. This system, it will be recalled, confines the market for commodities manufactured in prisons to institutions or departments of the State, or political subdivisions of the State, such as counties and cities; the extent of the market in this respect is different in different States employing the State-use system. The system, which is always set up by State legislation, also allows prisoners to work on public roads and other State projects and improvements. In several States employing this system there has not been satisfactory development of prison industries, and prisoners even remain idle. We believe this is due, in the main, to lack of ingenuity and enterprise, failure to study the real needs of State departments and institutions, and general lethargy in a busi-

[13] Criminology, by Edwin H. Sutherland, p. 447.

[14] Handbook of American Prisons and Reformatories, 1929, published by the National Society of Penal Information (Inc.), New York, N. Y. Pp. xxxvi–xxxviii of the Introduction.

ness and manufacturing way. Prison heads, often, are not business men, and unless they have competent business and manufacturing assistance, they are likely to fall far short of reaching the desirable development of prison industries, both from the point of view of the welfare of prisoners and the maintenance of satisfactory prison industries. It must, of course, be recalled that a considerable part of prison labor is very inefficient, and that prison industries ought not to be judged by the same standards as manufacturing plants outside, for their ultimate purposes are not the same, but making allowance for such differences, the fact remains that the State-use system in several States has fallen short of its proper achievement.

The remedy, in our opinion, lies in greater determination and greater enterprise. The market supplied by the departments and institutions of the State and its political subdivisions, in nearly every State, is large enough to afford fruitful labor to every prisoner, if proper advantage is taken of opportunities. We believe that the market should not be limited to purely State institutions, but that all political subdivisions ought to be included.

The State-use system, moreover, reduces the appearance of competition with free labor by placing no goods (unless a contrary provision is in the law) upon the open market, to be bought by the private consumer and thus to come into direct competition with the goods of private manufacturers which are also bought by the private consumer. It, thus, has won, in large measure, the approval of organized labor; this is a great gain. Equally important is that it supplies diversified occupations for prisoners. The needs of the departments and institutions of State and political subdivisions are so varied that, under the State-use system, penal institutions can manufacture many different kinds of products, and prisoners can not only be kept busy and learn habits of industry but can learn industrial processes likely to be of great use to them afterwards.

Massachusetts has made one of the best demonstrations of the possibilities of the State-use system. Under the Massachusetts law the Commissioner of Correction of the State is

directed to cause "such articles and materials as are used in the offices, departments, or institutions of the Commonwealth and of the several counties, cities, and towns to be produced by the labor of prisoners" in various institutions. Thus, Massachusetts extends the market for prison-made goods to the political subdivisions of the State.

For the purpose of determining the styles and qualities of articles made, the officers of the various departments and institutions meet once a year; this meeting is made mandatory by the law and is held in May. Thus, the purchasers, the very people who must ultimately buy these goods and be satisfied with them, have a voice in deciding what they shall buy—the designs and qualities of the goods. The Commissioner of Correction must give 10 days' advance notice of the date in May, and the place, of such meeting. Those who attend choose their own chairman and clerk. Within one week of the meeting, the officers of these various institutions and departments through the State notify the commissioner of the styles, designs, and qualities selected by the meeting for use in each class of office, department, or institution. In September the commissioner issues a descriptive list of the articles as finally chosen. Any disagreement between the prison officials and the purchasers as to the designs and qualities shall be submitted to arbitrators, whose decision shall be final. One arbitrator shall be named by the commissioner, one by the office or department interested in the dispute, and a third by these two.

This is not the crux of the Massachusetts law, however. The most important provision, probably, of the law is that the various State and local governmental departments and institutions must buy from the Department of Correction, if they can; they must buy prison-made goods. Massachusetts has justified this drastic provision by producing goods of suitable quality; from the point of view of the labor of prisoners, the justification is that it puts teeth into the resort to the State system and, by providing a compulsory market, permits the diversification of industries, the investment of capital in plants which will not be immediately superseded, and has kept the prisoners of Massachusetts busier than

those employed under the State-use system in most other States. The provisions of this part of the law are so important that we quote them in full:

> Annually in January the commissioner shall send to the comptroller, to the auditing and disbursing officers of the several counties, and to the auditor and treasurer of each city and town a list of the articles and materials that can be produced by the labor of prisoners for the use of offices, departments, and institutions of the Commonwealth and of the counties, cities, and towns. The requisition hereinafter provided for shall conform to said list unless it appears that special style, design, or quality is needed and shall be on the forms provided by the commissioner. The State purchasing agent or the purchasing agent of a city or town shall make requisition therefor to the commissioner; provided, that in the case of articles or materials needed by a State office, department, or institution and not required to be purchased by the State purchasing agent, or needed by a county, or by a city or town not having a purchasing agent, the requisition shall be made by the officer in charge of the State, county, city or town office, department or institution in which such articles or materials are needed. The commissioner shall forthwith inform said State, city, or town purchasing agent or other officer in what institutions they are produced, and he shall purchase them from any institution so designated. If they are needed immediately and are not on hand, the commissioner shall forthwith so notify him, and he may purchase them elsewhere. No bill for any such articles or materials purchased for the use of said offices, departments, or institutions, otherwise than from a prison or from another penal institution, shall be allowed or paid unless it is accompanied by a certificate from the commissioner showing that a requisition therefor has been made and that the goods can not be supplied from the prisons. Provisions of any city charter contrary to this section shall be void.[15]

Similar laws exist in a few other States, such as New York, Pennsylvania, Ohio, and New Jersey. The new Federal law, to which reference is made later, contains a similar provision, affecting only Federal penal and correctional institutions.

Another feature of the Massachusetts law is that the market for prison-made goods is not confined to public offices and departments in the State and its political subdivisions. This is the intended market, and in practice it is the most important market. Legally the Department of Correction

[15] Ch. 127, General Laws of Massachusetts, sec. 57, as amended by sec. 83 of ch. 362 of Acts of 1923.

can sell surplus to private buyers. Massachusetts has taken advantage of this, but the percentage of goods sold in the open market has steadily diminished. In 1914 open-market sales were 52.4 per cent of total sales; in 1930 open-market sales were approximately 18 per cent. The effort, throughout, has been to dispose of a larger and larger part of prison-made goods to State departments and institutions, and to those of political subdivisions.

An examination of the goods produced in shops in Massachusetts penal institutions shows them to be of better quality than those produced in the shops of institutions in many States, and to be also of greater variety. Still more important is the fact that there is far less idleness among the prisoners of Massachusetts than in most States using the State-use system. Quoting the Handbook of American Prisons and Reformatories for 1929, which we have quoted before: "There is virtually no idleness here (State prison at Charlestown) and the prison has developed its industries under the State-use system more successfully than any other" (p. 439).

It should be noted that in the 16 county jails and houses of correction of Massachusetts prisoners who are serving sentence are permitted to be employed on the piece-price plan; this constitutes a minor portion of the sentenced prisoners of the State. It should be noted also that the law limiting commitments to the State prison to two and one-half years and upwards simplifies the problem of employment there, since it results in prisoners staying for a longer average length of time than in many institutions.

The fundamental purposes of an intelligent organization of prison industries are as follows:

1. The inculcation of habits of industry; that is, accustoming offenders to work for a living, training them in the means of working for a living, and making them wish to work for a living.

2. Teaching specific trades, in so far as this is possible, by means of which they can earn their livings when released. Naturally, this will be more possible in the cases of persons whose stay in prison is long enough to permit such teaching,

than in the cases of very short-term offenders. For the latter the only thing possible may be to keep them busy at worth-while occupations. Many criminals, entering prison, already possess trades or are skilled in, or familiar with, occupations not usually classed as trades. With respect to them, the prison staff should consult as to whether it is desirable to continue them at trades they know, or to alter their occupations; and the offender's own opinion should be taken into consideration in the matter. The main point is that the offender, when released, should, in every case possible, know how to make a living. Naturally, the means at which he is to make a living should be one that he can pursue outside of prison and not merely in prison.

3. Elimination, complete and absolute, of idleness.

4. Promotion of a good spirit and good discipline in the institution itself.

5. Work, or the production of commodities, of undoubted economic value. Unless the work has economic value, the prisoner's interest in it is likely to wane and the training effect to be lost. Labor, merely for the sake of keeping offenders busy, when the prisoner himself knows that his work has no value, is as poor a policy in prisons as anywhere else.

When new institutions are to be built, or changes made in old institutions, it is almost always useful and feasible to employ prisoners themselves at this work. Numerous different occupations are involved, and the work is usually of a healthful and trade-teaching type; objections come almost exclusively from outside groups, who wish to obtain the work for themselves.

This subject can not be left without a word about the Hawes-Cooper Act. That piece of congressional legislation may have a profound effect upon the development of prison industries in the next decade or so.

Entitled an act "To divest prison-made goods of their interstate character," the Hawes-Cooper bill was approved January 19, 1929, and goes into effect January 19, 1934. It provides that "all goods, wares, and merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners" shall, upon arrival in any State other than

that in which they are manufactured, be subject to the operation of the laws of the State to which they are shipped, to the same extent as if they were made in the State of delivery. Goods made by offenders on parole or probation are excepted from the operation of the law. Neither does the law apply to goods manufactured in Federal institutions for use by the Federal Government.

It is clear that the law accomplishes nothing by itself. Its effect will rest on the laws of States passed in pursuance of its provisions. From the auspices under which the bill was pushed and the arguments used in supporting it the intended effect would seem to be to prevent interstate commerce in convict-made goods—that is, to prohibit sale in the open market, in one State, of goods manufactured by prisoners in another. Efforts are now being made to induce various State legislatures to pass the following amendment to existing statutes:

> After January 19, 1934, no goods, wares, or merchandise, manufactured or mined by convicts or prisoners of other States, except convicts or prisoners on parole or probation, shall be shipped into this State to be sold on the open market, or sold to, or exchanged, with an institution of this State or with any of its political divisions.

New York has already passed a bill containing substantially these provisions.

The Hawes-Cooper Act has aroused considerable controversy. It is freely predicted, on the one hand, that it will not only wreck many shops and industries at present in prisons, but that it makes very difficult the whole manufacturing process in penal institutions; on the other hand, it is as freely predicted that no such result will occur. A strong body of opinion has already asserted itself to the effect that this law is unconstitutional. Since Congress is given exclusive power to regulate interstate commerce, it is argued that this law constitutes an attempt by Congress to divest itself partially of this power, and to give the States a share in such regulation. It is also argued that if Congress has power to divest prison-made goods of their interstate character, it has similar power in respect to other goods not heretofore considered subject to such power—namely,

goods manufactured in an open shop or goods made wholly or partly by any class or labor. Although the Wilson and Webb-Kenyon Acts, upheld by the Supreme Court of the United States, are cited as precedents for the Hawes-Cooper Act, it is contended that these acts, dealing with intoxicating liquors, were frankly based upon an exercise of police powers, and that the Hawes-Cooper Act is not. It is therefore contended that the constitutionality of those acts rested upon the view that intoxicating liquors were held to be deleterious to human welfare, and that there is nothing inherently deleterious to human welfare in goods made in prison. Moreover, the Hawes-Cooper Act, it is argued, applies a new principle or test, not the character of the goods themselves but the character of the labor employed in making the goods. For these reasons, among others, the argument is made that the law is unconstitutional.

On all of this, of course, we express no opinion. It is probable that a test case will be brought, and that the Supreme Court will be asked to pass upon the question. The case can not be brought until the law goes into effect, and a period of uncertainty, stretching perhaps into a few years, will face prisons and prison industries until the decision is announced. There will then be a good deal of further shifting and uncertainty while the various States decide whether to pass the type of enactment indicated above. During portions of this time States will not know whether they can legally ship prison-made goods into other States, and whether the prohibiting acts of other States are binding. Particular institutions will not know whether they can continue their present industries, whether they must invest money in new types of industry, and if so, what these new types shall be.

We make no confident predictions concerning the ultimate effect of the Hawes-Cooper Act. We share neither the deep pessimism nor the high optimism of those who have the strongest convictions on the measure. If the law is retained, and if States pass the legislation above suggested, the natural result will be that the market for products of penal institutions in each State will be restricted to that State.

Since it is difficult for prison industries attempting to dispose of their products on the open market to operate unless goods can be sold outside the State, the immediate effect is likely further to restrict many prison industries now in existence. If the ultimate effect should be to drive more and more States to the adoption of the State-use plan (as the only satisfactory alternative), we shall have to accept this result; the effect may be good for those States which find it necessary to adopt the State-use plan.

In other words, it seems quite likely that under the Hawes-Cooper Act the State-use plan will be put to a severe test. This will call for ingenuity, careful planning, and determination to keep prison industries on a satisfactory basis. Our own opinion is that most States, if they show the proper initiative, can make a success of that plan, and by success, we mean not financial return from prison industries, but a full day's employment for all prisoners able to work, diversified occupations and reasonable vocational education. Unless many States pass the legislation described, the effect in regard to the curtailing of markets may be slight. No one can actually foretell how many States will adopt such legislation. Inasmuch as the bill is strongly favored by organized labor, one may reasonably suppose that the States most likely to pass such bills will be those in which organized labor exercises the strongest influence. Quite possibly other States, such, for example, as Minnesota and New Hampshire, where the prison industries are pretty well organized and labor unions are not particularly strong, will take no notice of the bill at all.

One other subject remains to be mentioned, and that is the question of wages for prisoners. It is difficult to present a comprehensive and accurate statement of the actual practice of penal institutions in this country to-day. In many States the payment of wages is looked upon as either impossible or as contrary to public policy—and with both of these positions we disagree. Some States authorize the payment of wages, but wages are not paid because the institutions make no profits; other States or institutions, in their

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reports, we regret to say, claim either larger wages, or wages for more prisoners, than the facts themselves justify. In other cases, it is claimed that wages are paid but deductions from these are made for the offender's maintenance, and this either wipes out the wage entirely or reduces it to an insignificant amount.

Some 30 States authorize the payment of wages to prisoners in their State prisons, but in all of these the wages are not actually paid. A few other States pay for overtime work, or for work in excess of the allotted task, but this is a bonus rather than a wage. In amount, wages range from a few cents a day to, in rare instances, as high as $2 a day, for a small number of prisoners.

We thoroughly believe in the principle of wages for prisoners. Not only do such wages operate as an incentive for the individual wrongdoer, but they give him, out of his own earnings, money to assist in the support of family or other dependents, and they lay up a fund for his use on discharge. One of the greatest boons a released prisoner can have when he rejoins society is a sum of money to tide him over the first awful period of transition. Payment of wages to prisoners should not depend on whether the institution is self-supporting. Amount of wages will, in practice, probably be affected by that circumstance, but a substantial return should be made to the prisoner for his labor. This ought to be high enough to give him the feeling that he has definite earning capacity and that he is putting by a sum for future emergencies. The payment should be a return for daily work, not a bonus for the accomplishment of more than a specified daily task. The students of crime and penology from many countries, gathered at the Ninth International Penitentiary Congress at London, in 1925, resolved that "it is desirable that it (the State) should encourage them (prisoners) to work well by offering them a recompense."

L. A BRIEF NOTE ON RECREATION

Recreation, no less than labor, has its reconstructive value in a program of institutional treatment. To try to train prisoners in habits of industry, and for occupations by

which they may earn respectable livelihoods after release, without giving any thought to means for influencing the use of their free time in the right direction, is to neglect a valuable opportunity. In institutions where there is no knowledge of what to do with surplus time, and no program, the result is likely to be that inmates spend this leisure time in loafing and other forms of degrading idleness. It is well established that idleness leads to listlessness, apathy, and disintegration. The favorable effect of pleasure upon character has unfortunately been lost sight of by many charged with the administration of prisons. They are oblivious to the fact that many offenders "stir up something" solely because of dead-level experiences which have become unbearable.

It would be wise for every penal institution to have in its personnel a competent, well-qualified individual who might well be designated "morale officer;" an officer charged with the responsibility for all activities that tend to raise the morale of the group. His work should not be solely that of promoting athletics, but broader. It should include incorporating into the leisure time activities of the inmates some of each of the following: (1) Physical education and athletics; (2) dramatics; (3) organized play and recreation; (4) supervised club activities. All should be quite definitely on a training basis and should always take into consideration the specific, peculiar needs of the individuals.

Competitive schedules have been worked out on what is known as the exponent plan, which we feel adaptable to institutional needs. Under this plan individuals entering into the competition are classified on the basis of (1) age, (2) weight, (3) height, and (4) intellectual attainment. They are classified into as many groups as is practicable in the given situation. Thus an inmate will compete with those on his own level of attainment and will stand a reasonable chance to succeed. We much prefer this to the "varsity-team" type of activity which is so common in institutions to-day. Emphasis must not be placed as much on the public performance of a carefully selected group of highly skilled individuals who perform in a wholly credit-

able manner because of a long period of preparation and intensified training as on a program that will enlist the interest and cooperation of as large a number of the offenders as is possible. A good many institutions feel that they have a recreation program simply because there is a prison team, composed of an infinitesimally small percentage of the population, which plays games once or twice a week with outside teams.

The physical education program ought to be highly diversified with not too much emphasis placed on any specific activity. It might be just as beneficial to the general population to have a checker tournament as to have a winning baseball team. A competent director would no doubt utilize, as far as practicable, baseball, basket ball, soccer, volley ball, boxing, wrestling, calisthenics, and also sedentary games. Every type of game and play that can be allowed within a prison wall may be made to pay dividends in terms of better conduct, better interest and less deterioration, and in the creation of new interests, possibly, for spare time after release. The classification committee's work, if it functions properly, must comprehend the possibilities of all the institution's facilities.

In the dramatic work emphasis should not be placed solely on preparing for presentation of an excellent piece of histrionic work to which the public would be invited and by which it would be duly impressed. Rather, it should be placed on taking care of the peculiar needs and capabilities of those who have become interested in this form of activity. From the institution point of view it might be far better to present a production not quite up to par if in the preparation for it several individuals have been given an opportunity to express themselves in a way which they never had before; if they are given some positive satisfactions to compensate for the negatives which had usually been their lot.

The supervised club program should strive to give an opportunity for those who have possibilities of leadership. Too, it should help prisoners to exercise rights and obligations as interdependent individuals interested in a common project, and thus be better prepared, upon their return to society, to take their places as free citizens of the community.

Organized play should supply to inmates a type of play which will refresh them physically and mentally and send them back to their daily work the better for it. It should be established clearly that constructive discipline aims to lead a man away from willful violations of rules, regulations, customs, and social relationships. Therefore, every activity, industrial and social, that the population is either subjected to or allowed to enter into, should be understood to be a means of social rehabilitation.

M. COUNTY JAILS AND THE SHORT-TERM OFFENDER

Short-term offenders constitute one of the most baffling problems presented to a penal or correctional institution.

There are several reasons for this. First, the offender sentenced by a judge for a week or a few months is often an ineffective individual—a ne'er-do-well, possessing little strength or stability of character, for whom constructive treatment is difficult. Second, his period of incarceration is so short that constructive measures, if possible, are hard to apply. Many kinds of people get into jail for short terms, and not all belong to this category, but large numbers do.

Institutions to which short-term offenders are usually sent include county and municipal jails; county and municipal work houses; chain gangs and stockades; city and county farms; and, in a few States, State farms for misdemeanants. Chain gangs and stockades are confined almost entirely to Southern States. The other institutions are scattered in substantially all parts of the country.

It is difficult to estimate the number of such institutions. Probably it is not far from 3,500. In 1923, according to the Bureau of the Census, the number was 3,469; there is little reason to suppose that it has materially changed since then.

The county jail constitutes by far the largest group of these institutions. County jails probably number nearly 3,000 in themselves.

This sheds some light on the importance of these institutions. Stronger light, however, is shed by the number of offenders received by them. This is far in excess of the number received by State and Federal prisons and reformatories—or institutions for more serious offenders. An enumeration by the Census Bureau in 1923 (the latest figure available) shows that the total number of commitments of sentenced prisoners to Federal and State prisons and reformatories in that year was 37,500, whereas the total number of commitments to the institutions now under consideration was 320,000.

In other words, approximately nine times as many commitments were made to institutions for short-term offenders as to Federal and State prisons and reformatories. Not every commitment represents a different individual, of course, for when you are dealing with sentences of 10 days in jail, 30 days in jail, 2 months in jail, or even longer periods, you get (in the course of a single year) a number of repeaters.

We are discussing all of these institutions together in a single chapter because they present certain fundamental similarities. In the first place, all receive short-term offenders and, except for occasional individuals, only short-term offenders. The term "short-term offender" means here a person sentenced by the court to a year or less. Most of those sentenced to the institutions now under consideration receive less than a year, but that is substantially the maximum. Then, all are conducted by local (county or municipal) governments, and that presents another point of similarity. Indeed, it supplies an element in the situation on which we shall comment emphatically later. A third factor grouping these institutions together, in some degree, is that they attempt very little in the way of treatment, that they are rather irresponsibly run, and that the conditions in them are dirty, unhealthy, insanitary—and ill fitted to produce either a stabilizing or beneficial effect on inmates. Most of them, except the county jails, receive only persons actually serving sentence, not persons awaiting trial, but we have already seen that the county jail greatly outnumbers all the

others put together. Some represent more definite efforts to provide employment for prisoners than others, but the type of employment is not such as to call for special consideration.

Almost certainly the United States county jail is the most notorious correctional institution in the world. Foreign visitors invariably select it as the outstanding disgrace of our whole penal system. For decades penologists have condemned it, and the literature of criticism heaped upon it is probably more violent in tone and large in extent than that heaped upon any other institution. For this there is justification and reason.

Main criticisms of county jails may be summed up as follows:

1. Idleness. Too many of the persons held in county jails have little or no work to do. A difficulty arises from the fact that persons awaiting trial can not be compelled to work, though this difficulty can largely be met by the fact that such persons are frequently desirous of work. Work, on the other hand, can be required of persons serving sentence. The trouble is that there is little opportunity for work in most county jails.

2. Close confinement in cells or interior "bullpens" or run-arounds, resulting in lack of adequate exercise.

3. Filth.

4. Improper ventilation, insanitary toilet facilities, and vermin.

5. In some jails, overcrowding.

6. Unpalatable and unhealthful food. This condition arises not infrequently from the fact that the jailer is paid a per diem sum for boarding each prisoner, no specification being made as to how much or how little food is to be fed the offender. Unscrupulous jailers take advantage of this to give the prisoners bad and inadequate food, and even if the jailer desires to improve the food, the sum allowed him is often so small that he can not feed the prisoners properly.

7. Indiscriminate mingling of various groups, young with old, well with diseased, convicted with unconvicted, experienced violators of law with first offenders, etc.

8. Indifference and incompetence of officials.

9. Operation of institutions for purposes of political patronage rather than the protection of the community.

The following description of a county jail applies to large numbers of such institutions:

> An unbelievably filthy institution in which are confined men and women serving sentence for misdemeanors and crimes, and *men and women not under sentence who are simply awaiting trial.* With few exceptions, having no segregation of the unconvicted from the convicted, the well from the diseased, the youngest and most impressionable from the most degraded and hardened. Usually swarming with bedbugs, roaches, lice, and other vermin; has an odor of disinfectant and filth which is appalling; supports in complete idleness countless thousands of able-bodied men and women, and generally affords ample time and opportunity to assure inmates a complete course in every kind of viciousness and crime. A melting pot in which the worst elements of the raw material in the criminal world are brought forth blended and turned out in absolute perfection.[16]

Mr. Fishman estimates that this description applies to 85 per cent of county jails.

In an address delivered before the American Prison Association in Jackson, Miss., November 10, 1925, the Hon. Joseph C. Hutcheson, jr., judge of the United States Court, Southern District of Texas, made the following statements:

> It became my imperative duty to go into these jails and find out at first hand what they were, and what confinement in jail really meant. I found there conditions which, apparently taken for granted by those in charge of jails, struck me as so medieval and barbarous, and so contrary to the ordinary principles of Christianity that I was shocked beyond expression; not at any direct and malevolent cruelty toward the inmates on the part of their custodians, but at the very conditions themselves. That men with lungs and hearts, nerves and brains like mine were penned up for months on end without a thing to do; with no access to the open air; no opportunity for any kind of exercise except in the "bull pens" and run-arounds inside of dark walls; no provision made for their occupation or their improvement; and generally at the heart-breaking, morale-destroying cruelty of society in permitting the maintenance of the system, shiftless, sloppy, and destructive to those whom it has taken captive.

Testimony on another aspect of the same problem is given by Edward Rooney, assistant prosecutor of Shawnee County, Kans.:

[16] Crucibles of Crime, by Joseph F. Fishman, 1923. Pp. 13–14.

> We take a boy just past 16 and sentence him to 30 days or 60 days in the county jail for stealing a bicycle. The purpose of the sentence is to impress upon his mind that he must be virtuous, that he must have respect for the government under which he exists. So for 60 days he gets no exercise, no pure air, no mental exercise, no good reading matter, no valuable sermon or lectures; he sees no worthy deeds or acts of charity or kindness performed. The only thing he hears is the vilest of stories; he is taught how to engage in the drug traffic, how to avoid officers in the transportation, sale, and manufacture of liquor, how to commit burglary; he is introduced into a ring of automobile thieves. After he has been attending a school of crime with past masters as teachers we release him with a firm admonition to "be good." If he is better he has violated every known rule of experience. Almost anyone who has looked at a typical jail with an open and intelligent mind comes to about the same conclusion as to its failure in the corrective and reformative purpose for which it is supposedly intended. (Social Welfare, Toronto, November, 1927, p. 27.)

Without devoting further detail to an examination of the faults of such institutions, we shall present suggestions in regard to remedies. It is obvious that practically all of the 3,500 institutions here considered are under the control of small or local governmental units, the great majority being operated by counties. This is one source of the evils which we have enumerated.

In the United States a county, with few exceptions, is too small a unit to conduct an institution for offenders efficiently. The plant must be too small and the institution must be run on too small a scale. Moreover, the existence of so many institutions makes it difficult to find competent people who will manage them as they ought to be managed at salaries available. Again, the number of persons confined in many of them is too small to make the proper kind of plant and equipment acceptable to the community. There are actually times when many jails have no one in them; there are other times when the number of persons is 1, 2, 3, or 4. According to the census, the average population of 2,719 jails in 1923 was less than 11. One source of the difficulty, therefore, is the very large number of locally controlled and operated institutions.

As a remedy, the proper line of development is greater State interest in, and care of, the short-term offender, or the misdemeanant. To begin with, several local jails could be

thrown together into a district jail, and if a State had a number of district jails, instead of a much larger number of county jails, the larger-sized institutions would probably be better. Adequate facilities would then be more justified economically, higher salaries could be paid, and a better type of personnel employed. Increased opportunities for employment would be possible, also. Such institutions would be only for persons serving sentences, not those awaiting trial. Existing buildings, or jails, of the better sort, could be used, the State making the selections. Thus, the number of institutions would be reduced, the populations concentrated, and a better type of administration obtained. Over such institutions the State would exercise careful supervision.

Improved local facilities would remain for the temporary detention of persons awaiting trial and those who have to be held as material witnesses. In this connection we wish to say that there are other ways, besides incarceration, for insuring that persons desired at trials shall attend. In the first place, there could be more intelligent selection of persons admitted to bail and of those placed on their own recognizance; with such intelligent selection, the number of persons handled in this manner could be increased. In the second place, we believe that the system of universal identification, by means of fingerprints, is well worthy of study by the American people. If everybody's fingerprints were taken and held on record, that device (besides its usefulness in other respects) would greatly ease the work of court officers in making sure that accused individuals and important witnesses were in court when desired. We do not argue the question at length, but we recommend study of Argentina's system in this particular. Any methods that legitimately diminish the number of persons who have to be confined pending trial are, in our opinion, desirable.

In addition to district jails, however, the State ought to maintain one or more industrial farm colonies for misdemeanants. Such institutions are not new. Indiana has one at Putnamville, Massachusetts one at Bridgewater, and the District of Columbia one at Occoquan, Va.; similar institutions exist in several European countries. Here, out in the open, on land owned by the State, the short-term offender works under healthful conditions, and, if nothing else is accomplished, he is likely to leave the institution better off physically than when he entered. Industrial employment can also be supplied, in shops, quarries, brick-making, etc. Such an institution ought to be equipped with livestock, dairying, etc., so that a portion of the inmates can come in contact with animals. Acreage should be large enough to supply a number of different kinds of farming. In size an institution of this kind would run from a hundred inmates (or perhaps fewer, in some States) to five or six hundred. States largest in area and population would probably find it suitable to have more than one such institution, located in different parts of the State for convenience in transportation, economy, etc. Institutions of this kind have demonstrated their superiority to county jails.

District jails and State farms for misdemeanants are, then, measures calculated to eliminate some of the evils from the present methods of caring for the short-term offender. But reform in this direction need not stop there. While we are waiting for the development of such institutions, measures can be applied to reduce commitments to county jails, which will save many people from exposure to the unhealthful and contaminating conditions found there. These measures are important enough to be applied whether institutions of the types described above are developed or not, and we enumerate the following:

1. *Greater use of probation.*—There is no reason why probation should not be used for many persons now sent to institutions for short-termers. Not only are many of them first or second offenders, but many are young. Probation for three months, six months, or a year might well be far more beneficial than 30 days in jail or even six months in jail.

2. *Incarceration of fewer offenders for not paying fines.*—Here is a possibility, at one stroke, to reduce very considerably the number of persons who are sent to institutions for short-term offenders. According to Prisoners: 1923, United States Census Report, 52.9 per cent of the people in all these

institutions are there for nonpayment of fines. In other words, more than half of the persons who are sent to institutions for short termers are there because, when fined by the court, they could not pay up. This means that they are incarcerated for poverty. If some arrangement were made whereby they could pay their fines in installments, the deterrent effect of the punishment would not be lost and the necessity of diverting their sentence to one not imposed would be avoided. Enormous expenses in institutional upkeep would also be saved. Collection of fines in installments is no new idea. Massachusetts and several other States have gone far toward avoiding the imprisonment of people for nonpayment of fine. England has been applying this measure to greater and greater extent. Collection agencies of the proper type could be intrusted with the collection of such fines, and probation officers, perhaps even police departments, could assist.

3. *Sending many short termers to institutions more suitable for them than jails, workhouses, chain gangs, etc.*—A considerable number would be greatly benefited by the treatment which they might receive in such institutions. A study by the National Committee for Mental Hygiene found that recidivists, or repeaters, in the county jails of New York State fell into the following classes: Normal, 22.9 per cent; dullard, 7.2 per cent; border-line mental defect, 5.4 per cent; mental defect, 7.6 per cent; psychopathic personality, 42.2 per cent; psychoneurosis, 1.5 per cent; epilepsy, 0.9 per cent; mental disease or deterioration, 7.3 per cent; personality defect, 4.5 per cent; unascertained, 0.5 per cent. Obviously many persons in these groups would be benefited by specific treatment in institutions capable of understanding them more fully than county jails.

Meanwhile, it would be desirable also if there were stricter supervision, if not complete control, by the State of the county and municipal institutions. Each State ought to have certain powers over county jails, and the other institutions for short-term offenders; for example, power to:

(*a*) Inspect and publish reports of such inspection.

(*b*) Prescribe standards covering food, sanitation, clothing, exercise, work, and living conditions.

(*c*) Close an institution when conditions therein fall so far below the prescribed standards as to justify such action.

(*d*) Transfer prisoners from one institution to another at the expense of the local unit, when it appears that the interests of the community and the welfare of the prisoner require such transfer.

(*e*) Compel local authorities, both county and municipal, to submit for approval plans for new buildings.

(*f*) Require uniform accounting and the making of reports in prescribed fashion.

With all these should go, as we say, evolution of district jails and the development of State farms for misdemeanants. The short-term offender should be taken out of dirt and idleness, removed from neglect—and given whatever chance his nature affords for improvement and the building up of physical health.

N. FEDERAL PENAL INSTITUTIONS

Since this is a report to a Federal commission, we desire to discuss at some length the situation confronting Federal penal institutions. We shall say a few words about the strange history of the Federal care of prisoners, and then comment on recent changes. At the outset we wish to say that Federal care of prisoners has within the past two years entered a new era.

In 1789—in other words, at the first session of the Congress of the United States—a resolution was adopted asking States to pass laws making it the duty of keepers of their jails to receive prisoners sent to them by the United States. This farming out of prisoners remained the sole means by which the United States took care of persons violating its own statutes until 1896—107 years. No institutions of its own were erected during that period. One after another the States, complying with this request, received Federal prisoners. Care of such prisoners was paid for, of course, by the Federal Government, but the Government occasionally lost track of criminals convicted in its own courts and did not know where they were. Supervision of the places where they were kept, and of conditions under which they

were kept, was totally inadequate. This boarding, or farming out, of prisoners is practiced to-day, and we shall presently see to what extent it is practiced. But the Government does to-day, of course, have a number of institutions of its own for the care of its own offenders.

Prior to about 1890 the number of Federal prisoners had not risen above 1,200. These were persons convicted, for the most part, of defrauding the United States Government, committing crimes on Government reservations or violating the internal revenue, customs, and other laws.

About that time it became apparent, however, that the Government ought to have institutions for the accommodation of its own prisoners. In 1889, therefore, Congress authorized the purchase of three sites for Federal civil prisons. Unfortunately, construction did not begin, because the act was held to be inoperative, carrying no appropriation. As a result of subsequent legislation, construction was started and, to make the story short, building began on the Federal prison at Leavenworth, Kans., in 1897. This was the first prison for the care of Federal prisoners actually to be begun by the United States Government; in truth, the prison has not yet been completed and construction is still going on. Meanwhile, a second prison was started, at Atlanta, Ga., the date of beginning of construction being 1900. At McNeil Island, in Washington, a territorial prison had been erected in the seventies, and in 1909 a Federal warden was appointed and this became the third civil penitentiary for United States prisoners.

This might be called the second phase in the history of Federal treatment of prisoners. In 1923 the United States Industrial Reformatory at Chillicothe, Ohio, planned for prisoners below 30 years of age, was authorized, and the first inmates received in 1926. Later, in 1928, the Federal Industrial Institution for Women at Alderson, W. Va., was formally opened, though it had been receiving inmates for a year and a half prior to that date. These institutions, with the National Training School for Boys at Washington, D. C., comprised the Federal penal and correctional institutions at the end of 1928.

Meanwhile, the situation in regard to numbers of Federal prisoners had undergone profound and dramatic changes. In 1900 the population of Federal penal and correctional institutions was 970; in 1910 it was 2,043; in 1920 it was 3,889; and in 1930 it was 13,105. This is not the full number of Federal prisoners, for these figures do not include prisoners housed by the Federal Government in institutions not owned by it; no tabulation of such prisoners was made prior to 1930. During the past decade the passage of four Federal laws (the Mann White Slave Act, the Dyer Act prohibiting interstate shipment of stolen automobiles, the Harrison Anti-narcotic Act, and the National Prohibition Act) has led to this extraordinary increase in the number of Federal prisoners.

Obviously the number of prisoners far outran the available accommodations.

Such, in rough, was the situation in regard to Federal penal institutions in the spring of 1929. As we have said, a new era has taken place since then. Policies inaugurated by the present administration in the Attorney General's office, by the President, and by acts of Congress, have accounted for this. On June 1, 1929, Mr. Sanford Bates, formerly Commissioner of Correction for Massachusetts, became United States Superintendent of Prisons, and the changes now to be mentioned have taken place during his administration of that office.

In the spring of 1930 Congress passed five measures changing, in fundamental respects, the whole aspect of the situation concerning Federal penal institutions. Brief descriptions of the laws are as follows:

1. To reorganize the Federal prison bureau, to establish Federal jails, and for other purposes.
2. To establish two new civil prisons.
3. To establish a hospital for defective delinquents.
4. To diversify the employment of Federal prisoners.
5. To authorize the Public Health Service to provide medical service in Federal prisons.

Elsewhere we comment on changes made to provide for better probation and parole systems in the Federal Government.

Because of the importance of these measures, and the suggestiveness which they may have to States seeking improved care of prisoners, we give detailed statements of the provisions of each of the five:

1. To reorganize the administration of Federal prisons; to authorize the Attorney General to contract for the care of United States prisoners; to establish Federal jails, and for other purposes. (Ch. 274, 46 Stat. 325.)

Heretofore the Federal Government had provided no adequate organization to manage the affairs of its penal institutions or to oversee the treatment of its more than 20,000 prisoners. There existed in the Department of Justice the office of the Superintendent of Prisons but, as already explained, this performed an inadequate service.

Accordingly, this measure established in the department a Bureau of Prisons to be in charge of a director, receiving now a salary of $10,000 a year, appointed by and serving under the Attorney General. All official records of the office of Superintendent of Prisons were transferred to this bureau of prisons. Not only is the new bureau given all the authority and powers formerly vested in the Superintendent of Prisons but the law specifies that it "shall have charge of the management and regulation of all Federal penal and correctional institutions and be responsible for the safe-keeping, care, protection, instruction, and discipline of all persons charged with or convicted of offenses against the United States," provided that the act shall not apply to military penal and reformatory institutions.

An important provision of this act is as follows:

If by reason of the refusal or inability of the authorities having control of any jail, workhouse, penal, correctional, or other suitable institution of any State or Territory, or political subdivision thereof, to enter into a contract for the imprisonment, subsistence, care, or proper employment of United States prisoners, or if there are no suitable or sufficient facilities available at reasonable cost, the Attorney General is authorized to select a site either within or convenient to the State, Territory, or judicial district concerned and cause to be erected thereon a house of detention, workhouse, jail, prison-industries project, or camp or other place of confinement, which shall be used for the detention of persons held as material witnesses, persons awaiting trial, persons sentenced to imprisonment and awaiting transfer to other institutions, and for the confinement of persons convicted of offenses against the United States and sentenced to imprisonment, with or without hard labor; for the detention of persons held for violation of the immigration laws or awaiting deportation, and of such other persons as in the opinion of the Attorney General are proper subjects for confinement in the institutions herein authorized.

A further important provision specifies that hereafter persons convicted in Federal courts shall be committed "to the custody of the Attorney General." The wording is as follows:

Hereafter all persons convicted of an offense against the United States shall be committed, for such terms of imprisonment and to such types of institutions as the court may direct, to the custody of the Attorney General of the United States or his authorized representative, who shall designate the places of confinement where the sentences of all such persons shall be served. The Attorney General may designate any available, suitable, and appropriate institutions, whether maintained by the Federal Government or otherwise or whether within or without the judicial district in which convicted. The Attorney General is also authorized to order the transfer of any person held under authority of any United States statute from one institution to another, if in his judgment it shall be for the well-being of the prisoner or relieve overcrowded or unhealthful conditions in the institution where such prisoner is confined or for other reasons.

2. To establish two institutions for the confinement of United States prisoners. (Ch. 339, 46 Stat. 388.)

This measure was designed to relieve the intolerable conditions of overcrowding in the Federal prisons. It directs the Attorney General to select two sites for new institutions, neither site to be less than 1,000 acres. The act directs that one site shall be in the northeastern section of the country and the other west of the Mississippi River. The institution in the northeastern section of the country is to be of the penitentiary type, for the incarceration of adult male prisoners serving more than one year, and the institution west of the Mississippi is to be of the reformatory type. The act further specifies:

It is hereby declared to be the policy of the Congress that the said institutions be so planned and limited in size as to facilitate the development of an integrated Federal penal and correctional system

which will assure the proper classification and segregation of Federal prisoners according to their character, the nature of the crime they have committed, their mental condition, and such other factors as should be taken into consideration in providing an individualized system of discipline, care, and treatment of the persons committed to such institutions.

3. To establish a hospital for defective delinquents. (Ch. 254, 46 Stat. 270.)

This act authorizes and directs the Attorney General to select a site for a hospital for the care and treatment of all offenders who at the time of their conviction are, or during their confinement become, "insane, afflicted with an incurable or chronic degenerative disease, or so defective mentally or physically as to require special medical care or treatment not available in an existing Federal institution." In other words this act supplies the United States with a special institution for defective delinquents, such as the one at Napanoch, N. Y.

The following section provides for the manner of commitment to such institution:

There is hereby authorized to be created a board of examiners for each Federal penal and correctional institution where persons convicted of offenses against the United States are incarcerated, to consist of (1) a medical officer appointed by the warden or superintendent of the institution; (2) a medical officer to be appointed by the Attorney General; and (3) a competent expert in mental diseases to be nominated by the Surgeon General of the United States Public Health Service. The said board shall examine any inmate of the institution alleged to be insane or of unsound mind or otherwise defective and report their findings and the facts on which they are based to the Attorney General. The Attorney General, upon receiving such report, may direct the warden or superintendent or other official having custody of the prisoner to cause such prisoner to be removed to the United States hospital for defective delinquents or to any other such institution as is now authorized by law to receive insane persons charged with or convicted of offenses against the United States, there to be kept until, in the judgment of the superintendent of said hospital, the prisoner shall be restored to sanity or health or until the maximum sentence, without deduction for good time or commutation of sentence, shall have been served.

4. To provide for the diversification of employment of Federal prisoners, for their training and schooling in trades and occupations, and for other purposes. (Ch. 346, 46 Stat. 391.)

This act establishes the State-use system of prison industries for employment of Federal prisoners. It specifies that the Attorney General "shall establish such industries as will produce articles and commodities for consumption in United States penal and correctional institutions or for sale to the departments and independent establishments of the Federal Government and not for sale to the public in competition with private enterprise." A consolidated prison industries working-capital fund available to all institutions is established.

The act specifies that the Attorney General may also make available the services of prisoners to the heads of the various Government departments for work of the following types: Constructing or repairing roads; clearing, maintaining, and reforesting public lands; building levees; and other public ways or works which are financed wholly or in major part by funds appropriated from the Treasury of the United States. To carry out this purpose the Attorney General may establish, equip, and maintain camps upon sites selected by him.

It is made incumbent upon Federal departments to purchase articles manufactured in prison industrial establishments. The wording of this provision is as follows:

The several Federal departments and independent establishments and all other Government institutions of the United States shall purchase, at not to exceed current market prices, such products of the industries herein authorized to be carried on as meet their requirements and as may be available and are authorized by the appropriations from which such purchases are made. Any disputes as to the price, quality, suitability, or character of the products manufactured in any prison industry and offered to any Government department shall be arbitrated by a board consisting of the Comptroller General of the United States, the Superintendent of Supplies of the General Supply Committee, and the Chief of the United States Bureau of Efficiency, or their representatives. The decision of said board shall be final and binding upon all parties.

It will thus be seen that in certain respects this "prison industries measure" follows the Massachusetts law, already adverted to.

5. To authorize the Public Health Service to provide medical service in the Federal prisons. (Ch. 256, 46 Stat. 273.)

This act provides that—

> * * * authorized medical relief under the Department of Justice in Federal penal and correctional institutions shall be supervised and furnished by personnel of the Public Health Service, and upon request of the Attorney General, the Secretary of the Treasury shall detail regular and reserve commissioned officers of the Public Health Service, pharmacists, acting assistant surgeons, and other employees of the Public Health Service to the Department of Justice for the purpose of supervising and furnishing medical, psychiatric, and other technical and scientific services to the Federal penal and correctional institutions.

It is evident that these measures produce important changes in the situation concerning Federal penal institutions. Some of the policies here inaugurated will affect the welfare of Federal prisoners and the protection of society from crime for years to come.

Under these acts, there has already been considerable accomplishment. Before we specify details in respect to that, however, we wish to call attention to emergency measures that were taken to extend housing facilities. During the late summer and fall of 1929 it became apparent that even the most prompt action by Congress could not remedy the crisis with which the Federal prisons were faced.

When the situation was presented to the President, he, in cooperation with the Secretary of War, ordered the temporary transfer of the military prison, or Disciplinary Barracks at Fort Leavenworth, Kans., to the Department of Justice. By this means additional housing facilities were provided for about 1,500 civil prisoners. It is almost impossible to conceive what would have been the situation in the overcrowded penitentiary had not some relief of this kind been afforded.

Even with the use of the barracks it became apparent that other measures would have to be taken to provide accommodations for the continuing increase in the number of Federal offenders. Accordingly, advantage was taken of the road camp act passed in 1929 and subsequently broadened by legislation referred to, to establish a number of work camps on military reservations. At present (March 20, 1931) there are 180 men at Camp Lee, Va.; 199 at Camp Meade, Md.; 69 at Fort Riley, Kans.; 396 at Camp Bragg, N. C.; 55 at Camp Dix, N. J.; 117 at Camp Lewis, Wash.; 101 at Fort Wadsworth, on Staten Island, N. Y.; and 118 at Maxwell Field, near Montgomery, Ala.

With the further cooperation of the War Department a 3,000-acre site has been turned over to the Department of Justice at Camp Lee, Petersburg, Va. At the other road camps the existence of buildings permitted prompt transfer of men for work on the roads and public works. At Camp Lee, however, it is necessary to erect some temporary structures. The vanguard of prisoners is at the camp, a superintendent has been appointed, and construction is under way. The plan is to accommodate at this place a maximum of 600 prisoners, overflow from the industrial reformatory at Chillicothe, and to employ them in agriculture, forestry work, and canning.

This experiment in road camps by the Government has been a success. It has assisted to relieve the overcrowding in the walled institutions, it has provided civil prisoners with employment, and it has helped the military authorities to make desired improvements. The number of escapes has been negligible and most of the offenders escaping have again been apprehended. The experiment demonstrates again the contention, made elsewhere in this report, that there is a large number of men who have heretofore been placed behind high walls and in steel cages who do not require that restraint and suppression.

Coming now to accomplishments under the five acts enumerated, we consider it fair to point out that some of the objects contemplated can not be fully realized for years to come. Nevertheless, accomplishment has already been considerable. We summarize the chief accomplishments to date:

Prison bureau established.—Under the first of the laws mentioned above the office of the Superintendent of Prisons became the Director, and the assistant superintendents became the assistant directors of the Bureau of Prisons. Steps were promptly taken to enlarge the bureau in accordance with the growth of its responsibility. Personnel in the cen-

tral office in Washington has been nearly trebled, and reorganized to meet the need of the field and the institutions. The following sections have been established: Fiscal and personnel section, division of welfare and education, division of prison industries, and a division of parole. As explained more fully in the section of this report dealing with parole, a parole supervisor has been appointed to inaugurate a more effective and complete system of supervising prisoners on parole. As explained in a prior section, a supervisor of probation has been appointed to build up a sound system of probation in the Federal courts.

Hospital for defective delinquents.—A site for this institution has already been donated to the Federal Government by the city of Springfield, Mo. It consists of nearly 500 acres of agricultural land in the Ozark region. Preliminary plans for the hospital have been submitted to the department and it is expected that construction will begin during the summer of 1931. It should be noticed that this institution will take out of St. Elizabeths Hospital in Washington, D. C., the criminally insane, thus relieving the overcrowding at that institution. It will, of course, also care for mental defectives as well as prisoners suffering from advanced physical defects such as tuberculosis, advanced venereal diseases, and other types of chronic degenerative or incurable diseases.

Public Health Service and medical treatment.—Under this measure an arrangement has been made by the bureau with the Public Health Service for the entire supervision and conduct of the medical and psychiatric work in Federal prisons. Needless to say, the development of complete medical and psychiatric service is a long-time job, but progress has been made and all institutions have been staffed. With the proper cooperation between the two departments, the new arrangement ought to lead to excellent standards of care in the medical field in Federal institutions. Only those who were familiar with the inadequacies of the former medical service, and the difficulty of getting competent doctors, nurses, and specialists to work in Federal prisons under conditions existing heretofore, can realize the progress embodied in the new arrangement. Funds appropriated to the Department of Justice for medical services have been transferred to the Public Health Service, augmented by a special appropriation of $65,000 provided by Congress in the spring of 1930.

Prison industries.—Even slower, perhaps, is the task of organizing satisfactory prison industries. We have already called attention to the deplorable lack of adequate opportunities for employment in Federal institutions, and the large amount of idleness therein. The new legislation establishes a State-use system of prison industries, confining the market for commodities manufactured in Federal institutions to departments and other establishments of the Federal Government. In carrying out the provisions of this bill the bureau has been conscious of the critical situation concerning unemployment outside, and has felt the necessity of proceeding slowly and cautiously. A new brush industry has been organized and opened in Leavenworth. A building to house an extension of the textile industry is nearly completed at Atlanta. At the Leavenworth annex (the old disciplinary barracks) there has been established an ice plant, laundry, and dry-cleaning plant. Additional industrial plans are under way. Congress permitted the bureau to add $500,000 to its revolving fund last spring.

Two new institutions.—Site for the new northeastern penitentiary has been chosen at Lewisburg, Pa., and construction on the prison has begun. The site consists of 947 acres. Congress appropriated $3,600,000 for the construction of this penitentiary, but it is now thought that the whole institution can be constructed and equipped for $3,000,000. A capacity of 1,200 prisoners is being planned, and these will be for the most part persons committed from Federal courts in New England, New York, Pennsylvania, New Jersey, and Ohio. The contract calls for completion of the institution within 14 months from January 21, 1931. Because of the need for great speed, and in line with the Government policy of giving work to as many unemployed free men as possible during the present critical situation, inmate labor will not be used.

Typical cell accommodations are being provided for only 25 per cent of the inmates. Because of the interest in various types of housing accommodations for prisoners, we give details from the official plans, now being carried out:

Northeastern United States Penitentiary, Lewisburg, Pa.

Building	Number of inmates	Remarks
Honor room building	160	Low windows.
Honor dormitory building	144	Do.
Dormitory building A	117	High windows.
Dormitory building B	117	Low windows.
Dormitory building C	171	High windows.
Dormitory building D	171	Low windows.
Cell block A	88	Do.
Cell block B	88	High windows.
Cell block C	88	Low windows.
Disciplinary building	80	Do.
	1,214	
Reception building, intermittently used	104	
Hospital, intermittently used	83	
Regular total	1,214	
Grand total	1,401	

Explanatory note.—Low windows are windows which the prisoner can look out of easily. High windows are windows which can not be looked out of easily by the inmates. The difference between the number of inmates in dormitories A and B and dormitories C and D is due to the spacing of beds contemplated. The dormitories A and B with 117 have the beds with cubical spacing, allowing a good sized area for each bed. The dormitories C and D with 171 beds have the beds a little closer together.

These arrangements, it will be seen, are in harmony with the idea that maximum security (as represented by the traditional cage-like cell for each prisoner) is not necessary for all the inmates of the prison. Dormitories are being provided for approximately 45 per cent, 20 per cent will live in 4, 6, and 8 men wards; the remaining 10 per cent will live in rooms of a more commodious nature than the usual cells.

It is gratifying to observe that this prison departs from the conventional fortress type of architecture, with its tier upon tier of cages designed to shut each prisoner off from contact with his fellows. There can be no doubt that in such departure the bureau is carrying into effect the expressed policy of Congress to develop a penal system "which will assure the proper classification and segregation of Federal prisoners according to their character, the nature of the crime they have committed, their mental condition, and such other factors as should be taken into consideration in providing an individualized system of discipline, care, and treatment of the persons committed to such institutions." The various types of living quarters will provide opportunity for dividing the prisoners into groups according to their personalities, needs, and prospects, and will supply the warden with facilities for rewarding progress, as well as for disciplining the more recalcitrant offenders.

Upon receipt a prisoner will be housed in a receiving building until he can be examined, physically and mentally. Here he will be in quarantine until the medical authorities are certain that he has no contagious or infectious disease; if necessary, removal to the hospital will be possible. Following that he will gradually move through the various kinds of housing until he is scheduled for release.

This prison is being built at a cost far less than that of the usual prison, providing maximum security for every offender. The per capita cost is approximately $2,500. The whole prison is surrounded by a wall 22 feet high.

Concerning the reformatory to be established west of the Mississippi, the site for this has been chosen also. From the War Department a portion of the military reservation at El Reno, Okla., has been transferred to the bureau for this institution. There are 1,000 acres in this tract. Architects have been selected to design the institution, and preliminary plans have been approved. Construction may be begun during the summer of 1931.

So much for accomplishment under the new laws. Meanwhile, construction at the Industrial Reformatory at Chillicothe drags. With a planned ultimate capacity of 1,000, the agreement at first was that only 600 would be housed in the temporary buildings, and the present number of offenders

there exceeds 1,700! In recent words of the Attorney General, these 1,700 prisoners are "waiting around like a flock of martins in the spring"—waiting to get into the permanent buildings when they are built. Under the circumstances, the administration has been excellent. But construction has been altogether too slow. Wooden barracks at Camp Sherman have been used to house the excess offenders who have been sent there. The quick erection of the permanent buildings should be accomplished as early as possible, and the institution should take its proper place in the Federal penal system. Congress has appropriated money for 15 trade instructors and $30,000 with which to equip shops. Despite adverse conditions, beginnings have been made toward establishment of trade instruction. But the development of the institution in general has lagged and ought to be pushed.

Meanwhile, of course, the Government still houses many of its offenders in State and local penal and correctional institutions. Of the 26,000 Federal prisoners to-day, 13,000 are housed in United States institutions and 13,000 are farmed out, or boarded, in other institutions. In view of the long history of this method, no complete abandonment of it can be seriously recommended. We believe that the Government should work toward such abandonment.

Under authority granted in the first of the legislative acts enumerated above, construction of four Federal jails is now under way:

(*a*) The unused mint at New Orleans is being converted, through the courtesy of the Treasury Department, into a jail for the Louisiana district.

(*b*) A stone building originally designed as a prison and purchased at about one quarter of its cost is being adapted for jail purposes in Montana, at Billings.

(*c*) Architect's plans have been completed and a site selected for a $350,000 jail farm at El Paso, Tex.

(*d*) Plans have been drawn and several sites are under consideration for a jail in the Detroit area.

Despite this, it remains true at the present moment that some 13,000 short-term Federal prisoners are housed in jails and other institutions not owned by the Federal Government. When inspection was lax, this was undesirable. It

is somewhat less undesirable, now that inspection is more adequate. Nevertheless, we believe that Federal institutions for short-term offenders ought to be established in a number of additional places, such as Philadelphia, Baltimore, Washington, D. C., Atlanta, Pittsburgh, Cleveland, Minneapolis, Denver, Los Angeles, and Seattle.

There is another item on the program of the development of the Federal penal institutional system, however, to which attention ought to be called. This has to do with the "narcotic farms," authorized by act of Congress January 19, 1929. Two farms for the treatment and confinement of persons addicted to drugs were authorized at that time. Early completion of these farms is highly desirable.

It is well known that many prisoners are addicted to the use of drugs. It is equally well known that there is slight chance of altering the criminal conduct of such persons until they are cured of the drug habit. The type of treatment suitable for other classes of offenders is commonly unsuitable for them. They constitute a thorn in the side of prison administrators not only because of the problem which they present from the point of view of health, but because they offer a constant invitation to the smuggling of drugs into the institution. It is peculiarly appropriate that the United States Government take special measures toward the treatment of offenders addicted to drugs.

An act of the Seventieth Congress (H. R. 13645) approved January 19, 1929, authorized the establishment of two institutions for the confinement and treatment of persons addicted to the use of habit-forming narcotic drugs who have committed offenses against the United States, and also of addicts who voluntarily submit themselves for treatment. The act defined the term "habit-forming narcotic drug" or "narcotic" as meaning opium and cocoa leaves and their derivatives and also "Indian hemp" and "peyote." This was the first time that these two substances had been included as narcotics in Federal laws dealing with the subject.

The Public Health Service was designated by Congress as the Federal agency to administer the narcotic farms. The act also creates a new administrative division in the office

of the Surgeon General, to be known as the narcotics division. The two institutions are designed to rehabilitate, restore to health and, when necessary, train to be self-supporting and self-reliant, persons addicted to habit-forming drugs who are admitted thereto. The source of inmates of these institutions will be, according to law, by transfer from existing Federal penal and correctional institutions; direct from courts when cases are placed on probation if it is a condition of the probation that they accept treatment at a narcotic farm; and voluntary cases from the community. Preference is to be given to the first two of these three groups.

As a result of studies conducted by the narcotics division in the office of the Surgeon General, data are at present available on approximately 4,000 individuals who come within the purview of the law respecting violation of narcotic legislation.

Under the law, selection of sites for the two institutions was reposed in the Attorney General, the Secretary of the Treasury, and the Secretary of War. These officials appointed a subcommittee to act for them, the subcommittee being composed of Mr. Bates, Director of Prisons, representing the Attorney General; Dr. Walter L. Treadway, Assistant Surgeon General in charge, Narcotics Division, United States Public Health Service, representing the Secretary of the Treasury; and Maj. Gen. Merrit W. Ireland, Surgeon General of the Army, representing the Secretary of War.

After considering 496 sites in eight States, selection was finally made of a property in the vicinity of Lexington, Ky., for the first United States narcotic farm. This property comprises approximately 1,050 acres. It is believed that it is well adapted to the purpose. Congress made an initial appropriation of $1,500,000 for the construction of this farm. Despite the delay, therefore, that has occurred since the passage of the act, it is now possible for the development of this farm to proceed without further loss of time. There can be no doubt that the early completion of this farm, as well as that of the second, is very desirable.

Meanwhile, the Bureau of Prisons has inaugurated a policy of concentrating drug addicts at the Leavenworth

annex (disciplinary barracks). Since the Public Health Service has assumed the medical work of that institution, along with the medical work of other Federal institutions, it is hoped that intensive studies of the drug-addict criminal population can be carried on at the Leavenworth annex. If so, information gathered there ought to be of material assistance not only in developing plans for the new narcotic farms, but in outlining types of treatment to be followed there.

Meanwhile minor and incidental improvements have been accomplished by the reorganized Bureau of Prisons. Plans have been drawn up for a system of general and vocational education in Federal institutions, and an educational director has been appointed in each institution. To further the individualization of treatment and a closer study of the origins of crime, wardens' assistants are being appointed who will carry out the library work, assist in parole work, and make case histories of prisoners; it is required that these men be college graduates or have equivalent experience in social-service work.

A scientific analysis of the food problem in Federal penal institutions has been made with the cooperation of a dietary expert from the Department of Agriculture. An attempt is being made to modify contracts with State and county institutions with a view to securing improved accommodations for prisoners, and the force assigned to the inspection of such institutions has been reorganized. Regulations governing the officers and inmates of the institutions have been revised.

With the cooperation of the Department of Agriculture a study has been made of farm requirements, the plan being to develop four major projects—dairy, poultry, swine, and truck gardening. A study has been made of accounting methods and fiscal administration in the different institutions, and improved methods have been inaugurated, rendering possible more accurate cost accounting. Statistical work has been centralized in a newly organized statistical division, and it is probable that in the future this division will be of valuable service to governmental penal institutions.

With this discussion of Federal penal institutions, we close the section dealing with penal and correctional institutions.

O. BASIC FINDINGS

We now summarize our basic findings in respect to institutions:

(1) People leave prisons as well as enter them. At any given moment the stream of persons coming out of prisons is substantially as great as the stream entering.

(2) The primary object of incarceration is not to punish. It is to benefit society by reclamation of the offender where possible, and by indeterminate segregation of the offender so long as reclamation is impossible.

(3) By and large, American penal institutions are not accomplishing a job of reclamation. They have not put into effect methods of treating the individual offender. On the contrary, they handle prisoners *en masse* and the life of the offender in the institution tends to become a deadening routine. Some institutions are exceptions to this.

(4) There is no relation between the expertness of the judge and jury to determine guilt and their fitness to determine the treatment that should be accorded the offender.

(5) An offender on conviction should be remanded to the custody of a board of properly trained experts for examination and classification.

(6) Prisons should be of varying types appropriate to the treatment of varying types of offenders.

(7) A classification board, or a board called by some other name, should commit a convicted offender to the appropriate type of institution, where his progress can be checked at frequent intervals by such board. Release should depend upon such board's determination as to the fitness of the offender to resume his place in society; and where the board finds that he remains unfit to resume his place in society, his imprisonment should continue, subject to his right to an appropriate court review.

(8) Prisons ought to be less large than they are to-day, the maximum population recommended being 800. Construction should be strictly for use, and each State ought to

plan its institutional construction carefully. Simple and inexpensive construction can replace much of the expensive construction now current. Maximum security is not necessary for all of the persons sent to penal institutions.

(9) Within the prison it is vital that the offender receive such treatment as will aid him to resume his place as a useful citizen. Normal recreation should be afforded, not as a favor to the prisoner, but as an absolute necessity for society in the process of his rehabilitation. Similarly, idleness should be prevented and facilities for constructive labor should be thoroughly developed.

(10) Administering penal institutions should be raised to the standard of a profession. Guards should be more carefully selected and more highly trained. Schools for the training of prison officers, now in their infancy, ought to be developed.

(11) While we are aware that experience under the State-use plan has not been as successful as could be wished, we believe that this is due in the main to removable causes. Among the various systems for the organization of prison industries and the marketing of prison-made goods, we consider the State-use plan the best. Prisoners ought to receive substantial wages for their work.

(12) Drastic reform is necessary with respect to the treatment of misdemeanants, or institutions for short-term offenders. Combining county jails into district jails is one line of reform, and the development of State farms for short-term offenders is another. Meanwhile, the number of persons committed to such institutions ought to be cut down by placing more of them on probation, by providing for the collection of fines in installments, and by putting some short-term offenders into specialized institutions capable of giving treatment more suited to the needs of the individual. Confining sentenced prisoners in the same institution as those awaiting trial should be abolished. Local institutions for detention should be subject to a fuller measure of State supervision than is now common.

(13) Recent progress in regard to Federal penal institutions, which has been very encouraging, ought to receive the continued support of Congress and the public.

IV. PAROLE

A. PAROLE DEFINED AND EXPLAINED

Parole is the release of an offender from a penal or correctional institution after he has served a portion of his sentence and upon conditions imposed by some competent authority. These conditions usually govern to some extent the manner in which the offender shall live while on parole, and nearly always include the right of the proper authorities to return him to the institution, without trial, if he commits further crime or otherwise seriously violates the conditions of the parole.

Properly considered, parole is thus a period of adjustment from life in an institution to normal life in society or the community. It is not merely a means of shortening an offender's sentence. It is not "making things easy" for him. It is not, or ought not to be, simply a reward for a good record in the institution. When a man is granted parole, the authorities who grant him parole are, in effect, saying: "We believe the time has arrived to send this man away from this institution. Further residence here will do him less good than a trial period in normal life. We do not relinquish our hold on him, and if he violates our belief in him, we shall bring him back. But, with proper supervision for a year (or two years, or three years, as the case may be), we believe that parole is better for him and for society than his incarceration. Therefore, we release him."

It is needless to say that the quality of supervision exercised over the offender while he is on parole is a very important matter in parole.

The standards of parole service, as practiced in most of the States of the United States, are very low—and we give details of this later. Here our purpose is to define and explain parole.

1. *Misconceptions in the public mind.*

Two assumptions, held by large parts of the public, are wrong, and we consider it desirable to correct them.

One is that parole is based on consideration for the offender. It is not. It is a part of the course of treatment designed by the State for people who break the laws of the State. It is therapeutic in purpose, and its ultimate object is the protection of society. Were its foundations laid simply in humanitarian considerations, it would have far less justification than it has. As we have emphasized in our foreword, the primary concern of this committee is the reduction of crime. Parole is to be preserved only in so far as it is a measure for the rehabilitation of offenders. What the public forgets is that people come out of prison anyway. Which is better, that they come out at the end of definite sentences, when the State has no more control over them; or that they come out at the end of indeterminate periods, and are supervised for a while under conditions approximating normal life, with the authority retained in the State to hale them back to the institution if they do not obey the laws of the land? All students of behavior must know that trial periods under normal conditions are desirable. Parole has carefully considered scientific arguments in its favor; a humanitarian interest in the offender is not its justification.

That is only one of the popular misconceptions. The other is that periods of imprisonment have become shorter since parole became so widely practiced. This also is incorrect. Exhaustive figures on the subject are lacking, but such studies of the matter as have been made seem to indicate that terms of imprisonment increase rather than grow less under the indeterminate sentence and parole. A committee appointed to study the workings of the indeterminate sentence and parole in Illinois, consisting of Dean Albert J. Harno of the Law School of the University of Illinois, Judge Andrew A. Bruce of the Law School of Northwestern University, and Ernest W. Burgess of the Department of Sociology of the University of Chicago, well-known members of university faculties, asserted in a report published in 1928:

> Under the system of parole since 1897, the period of incarceration in the Illinois State Penitentiary at Joliet has increased from 1.9 to 2.6 years; in the Southern Illinois Penitentiary at Menard from 2 to 2.4 years; in the Illinois State Reformatory at Pontiac from 1.5 to 2.1 years. This proves that the actual time served by the criminal in penitentiaries and reformatories is longer under sentences fixed by the parole board than when flat sentences were fixed by the courts.

The report of the United States Census Bureau entitled "Prisoners: 1926" shows that the average time actually served by male prisoners discharged from all State and Federal prisons and reformatories in 1926 was 1.96 years. Not quite one-half of the total number of these men were paroled or pardoned, the number pardoned being very small, of course. Yet the average time served by the prisoners paroled and pardoned was 2.12 years as compared with the shorter period for all the others. This does not indicate that parole tends to shorten sentences.

Another census report (Prisoners: 1923) remarks:

> These comparisons [between definite and indeterminate sentences] suggest that the more extensive use of the indeterminate sentence tends to increase the potential length of imprisonment, by setting higher limits to the terms of imprisonment than are, in general, fixed under the definite-term sentence.

2. *Parole different from both probation and pardon.*

As explained in the section on probation, parole is neither pardon nor probation. Probation is a period of treatment prescribed by the court as a substitute for, or alternative to, imprisonment; parole is a similar period of treatment in the community for an offender who has already been incarcerated in a penal or correctional institution. Pardon, of course, is the complete remission of the penalty by the proper authority; the person pardoned is no longer under the custody of the State.

3. *Extent of use of parole.*

Parole has come to be one of the most important methods by which offenders are released from penal and correctional institutions. According to "Prisoners: 1926," the United States Census report already referred to, 44.3 per cent of prisoners discharged from State and Federal prisons and re-

formatories in 1926 were released on parole; that is, the institution or some other authority continued to exercise jurisdiction or control over them. Thus, not quite one-half of the offenders discharged were sent out on parole.

This represents a reduction from the number who had been released on parole in 1923, the prior year in which the Census Bureau made a similar report. In that year the percentage discharged on parole was 53.9. The reduction probably was due to public excitement over crime in the course of these years and a certain amount of public disfavor with parole.

Parole is used in varying degrees by the various States. In some States practically every offender released from prison is sent out on parole; in others parole is nearly nonexistent. Percentages range from the 98 per cent released on parole in 1926 by New Hampshire to the fraction of 1 per cent released on parole in Virginia and the 3.7 per cent released on parole in Texas. Since the figures for all the States are given in the Census report referred to, we do not repeat them here.

B. LAWS GOVERNING PAROLE[1]

Laws governing parole vary widely from State to State. As with probation, there is little uniformity in statutory provisions dealing with this important feature in the treatment of criminals. Few States have sought, by legislation, to make parole the positive and constructive agent it might be, or to provide the necessary legal authority and stimulus to the establishment of desirable administrative systems.

Forty-six States make statutory authorization for the conditional release of offenders from institutions, i. e., for parole. All but two States, therefore, possess laws on parole. The two States without such laws are Virginia and Mississippi. In both of these States the governor is given power to grant conditional pardons. Such pardons are subject to revocation if the offender violates the conditions of the pardon, but this is not the equivalent of a parole procedure.

[1] See Wilcox, Clair, "The Parole of Adults from State Penal Institutions," Report of the Pennsylvania State Parole Commission, 1927, Pt. II, ch. 10.

Laws vary as to who may be paroled, who exercises the parole authority, the time at which parole may be granted (i. e., how much of the sentence must be served before parole may be granted), how long the offender is to remain on parole, information required before parole is granted, nature and quality of the supervision of parolees that is called for, etc.

Seven States prohibit the parole of persons serving second terms.[2] In other States there is no such prohibition. Ten States refuse parole to offenders sentenced for life,[3] whereas 18 other States specifically permit parole to be granted in such cases.[4] Several States[5] prohibit parole to persons found guilty of rape, and at least two States[6] refuse parole to any one convicted of arson. Twelve States[7] refuse parole to "old offenders."

Most States deem it desirable to state in the statute when parole may be granted. Sixteen States declare that parole may be granted at the expiration of the minimum term of the sentence, at the option of the paroling authorities.[8] Three States—Louisiana, Massachusetts and New Hampshire—require that prisoners shall be released on parole at the expiration of the minimum if their records in prison have been good. In other States parole is permissible at any time, in the judgment of the paroling authorities. North Dakota allows parole at the end of six months, California allows it at the end of one year for first offenders. In Montana persons receiving indefinite sentences may be paroled after serving one-half of the minimum. Various other provisions are incorporated into the law in other States.

[2] Connecticut, Idaho, Montana, New Jersey, Nevada, North Dakota, Washington.

[3] Colorado, Connecticut, Georgia, Idaho, Iowa, Louisiana, South Carolina, Wyoming, West Virginia, Washington.

[4] California, Delaware, Georgia, Illinois, Kentucky. Michigan, Minnesota, Montana, Nevada, New York, New Mexico, North Dakota, Rhode Island, South Dakota, Tennessee, Wisconsin, Utah.

[5] Delaware, Georgia, Michigan, New Jersey.

[6] New Jersey, Georgia.

[7] Kansas, Michigan, Maine, New Mexico, West Virginia, Connecticut, Idaho, Montana, New Jersey, Nevada, North Dakota, Washington.

[8] Arkansas, Alabama, Colorado, Georgia, Kansas, Maine, Minnesota, Michigan, Nebraska, North Carolina, North Dakota, New Mexico, Ohio, Tennessee, West Virginia, Wyoming.

The power to grant parole is lodged in various places. Five States [9] make parole exclusively a prerogative of the governor, who of course does not have time to consider the facts concerning individual cases adequately. A number of other States require the governor's signature to parole orders before the offender can be released. Eight States lodge their parole authority in bodies functioning as boards of pardons.[10] In 14 States final parole decisions are rendered by boards already clothed with other powers, such as State boards of charities, boards of prison commissioners, boards of welfare, etc.[11] Eight States have established special boards of parole, which have nothing to do but govern parole decisions.[12] In still other States the final paroling authority is the institution where the offender is held, or the board of managers of that institution.

We could go on mentioning other respects in which statutory provisions dealing with parole vary from State to State. One of the most important, of course, is the length of the parole period, i. e., how long shall the State retain its control over the offender. Here 23 States have come to an agreement, for it is provided in their laws that persons on parole must remain on parole until the expiration of their maximum sentences.[13] (Maximum sentences for similar offenses vary, of course, in these States.) Discharge from parole may be given at any time from the reformatories of California, Indiana, and New Jersey and from all institutions in seven other States. The statutes of six States [14] require that a minimum parole period of six months shall be served, and the statutes of four others [15] insist upon a

[9] Colorado, Oklahoma, Vermont, West Virginia, Wyoming.
[10] Arizona, Florida, Idaho, Nebraska, Nevada, North Dakota, Utah, South Carolina.
[11] Arkansas, California, Connecticut, Georgia, Illinois, Kansas, Kentucky, Maine, Missouri, Montana, New Mexico, Tennessee, Texas, Wisconsin.
[12] Delaware, Iowa, Louisiana, Massachusetts, Minnesota, Ohio, New York, Rhode Island.
[13] Alabama, California, Colorado, Connecticut, Delaware, Indiana, Kentucky, Louisiana, Massachusetts, Montana, Nevada, New Hampshire, New York, North Carolina, North Dakota, New Jersey, Ohio, Oregon, Rhode Island, South Carolina, West Virginia, Wisconsin, Wyoming.
[14] Arkansas, Idaho, Illinois, Kansas, Nebraska, New Mexico.
[15] Georgia, Iowa, Texas, Washington.

minimum of one year. Maine and Michigan both name maximums of four years.

C. PAROLE IN PRACTICE

In practice, parole has lagged far behind its possibilities. An investigator, after examining the parole system of a single State some years ago, described parole in that State as "an underfinanced moral gesture." There was the pretense of a parole system but that was about all. We believe that, despite the exceptions of several States, this description fairly well meets the situation in the country at large.

Parole is defective in three main respects: (1) In the chasm existing between parole and preceding institutional treatment; (2) in the manner in which persons are selected for parole; and (3) in the quality of supervision given to persons on parole.

We have already seen (in the section dealing with legal provisions) that some States use parole as a means of discharge from institutions much more freely than other States. Forgetting the laws for a moment, let us look at the actual practice. Parole ranges all the way from nearly automatic release of all eligible offenders in some States, to practical refusal to grant parole in other States.

Thus, Doctor Wilcox showed that in Maine 90 per cent, in Montana 80 per cent, in Indiana and Kentucky 75 per cent, and in Oregon 66 per cent of offenders were released on parole as soon as they became eligible. Kansas and Iowa, on the other hand, paroled only 15 per cent of those legally eligible; North Carolina released 10 per cent of those applying, half being pardoned and the other half paroled.

The following is a short statement of the main deficiencies of parole as practiced generally in the United States:

1. Facts considered in granting paroles are commonly either inadequate or improper. Undue weight is often given to (*a*) the nature of the crime committed by the offender, which frequently is no index to either his personality or the likelihood of his going straight; (*b*) his conduct while an inmate of the institution, subject to the same objections as those just mentioned; (*c*) previous court or criminal history,

important but not necessarily possessing the conclusiveness often given to it. While each of the above-mentioned factors ought to be taken into account, the practice in many places is to permit them to practically control the decision. The basis of bestowing or withholding parole ought to be a careful evaluation of many factors concerning the individual. The most important question to be determined in order to justify parole is this: Has the individual developed such a character that there is reasonable ground to believe that if released on parole he will lead an upright and honorable life?

2. Seeking the opinions of (*a*) the judge who sentenced the offender to the term now being served and (*b*) the prosecuting attorney who prosecuted him. Many paroling officials are heavily influenced by the opinions of these officials as to whether an offender ought to be paroled two, three, and five years after the offender's appearance in court. In the meanwhile, the judge and prosecutor have probably known nothing of the offender. It is submitted that opinions, rendered under such circumstances, have little relation to any genuine therapeutic considerations involved in the case.

3. Pleas of politicians, friends, fathers, mothers, brothers, and even attorneys employed by one or more of the aforementioned. It is a regulation of some paroling authorities that no oral arguments or statements, bespeaking parole for the offender, can be made before them; it is a practice of other paroling authorities to permit such statements to be made with little if any restriction or limit. Every paroling authority ought to seek all the facts available, but the practice of permitting friends of the offender to stand before the paroling authorities in person and beg the release of the offender and the reception of recommendations from influential politicians more often lead to bad decisions than to good. If parole be regarded as a continuation of treatment, such pleas seldom have any contribution to make.

4. Most of the deficiencies of the parole system as practiced have to do with the quality of supervision given to persons while on parole. As we have already stated, such supervision ought to partake of the nature of careful, conscientious social-case work; the ultimate purpose being not

only to bring the offender to a law-abiding life but to render him a producing and useful citizen, member of a family, and of the community. Main defects in the machinery and nature of supervision are as follows:

(*a*) No real supervision but merely the requirement that the parolee send in written communications every so often, answering certain stereotyped questions. No check-up on the accuracy of the statements is possible where this practice is followed.

(*b*) Appointment of incompetent and untrained parole officers. We have already pictured the situation concerning probation officers and the somewhat tragic lack of adequate training for their difficult and responsible work. If possible, the situation is worse with respect to parole officers. Almost anybody is considered good enough to be a parole officer, from a policeman to persons who could perhaps hold no other jobs. The parole officer ought to be trained in many of the aspects of social-case work.

(*c*) So few parole officers that the case load, i. e., number of persons being looked after at one time, is too large to permit proper supervision.

(*d*) Inadequate standards of supervision generally. Of this we shall have more to say later. Proper supervision involves certain technical requirements which are commonly overlooked.

(*e*) Automatic release from parole, often at the end of one year. Parole ought to continue either (1) to the expiration of the maximum sentence or (2) until it is fairly certain that the offender will become both a useful and law-abiding citizen.

(*f*) Laxity in following up violations of parole and, therefore, in the return of offenders who either commit additional crimes or do not live up to the conditions imposed upon them.

(*g*) Inadequacy of both the administrative and financial support given to the parole service. In too many places parole is merely the "poor relation" of the institutional system. It ought to be as important as any other part of the treatment of the offender.

D. SOME SAMPLES OF PAROLE

The Secretary of this Committee visited several States in order to obtain first-hand information concerning the parole systems of those States. In presenting here some of his conclusions and observations, the only purpose is to present samples of parole systems. We can not assert that any one of these is the best parole system in the country, though we think possibly that one of them (New Jersey) might lay claim to such a distinction without being ruled out of court. New York State is building up a parole procedure which, youthful as it still is, being less than a year old, will probably challenge attention presently.

1. *Some features of parole as practiced by the prison of a Middle Western State.*[10]

In this State the board of trustees of each institution is the paroling authority. At the prison, therefore, the board meets once each month to transact business, to pass on financial matters and perform the other tasks required of a board of trustees. The board is composed of four members, appointed by the governor; they are presumably public-spirited citizens, each with his own private business or professional life occupying most of his time.

The practice of the board is to spend part of two days at the prison, arriving one day and departing the next. On the occasion of my visit the board spent four hours in the evening—from 8.25 to 12.25—disposing of parole cases. Ninety-five offenders eligible for parole came before it in those four hours. The board not only studied the information presented to it about the offenders, but saw each offender and made a decision for or against parole. If a man was up for first parole hearing, the board had learned nothing about his case in advance, no summary of his record having been sent to members before the hearing; all their information concerning the new case, therefore, was gained at the hearing. In reaching 95 decisions

[10] We withhold the name of the State mentioned merely because there are worse parole systems in the country and we have no desire to present any State in an odious light.

in four hours, the board gave just two and a half minutes to each case—and this included studying the docket, interviewing the man, and deciding whether to grant parole or not; nor does the two and a half minutes make allowance for the time wasted by the entry and exit of the prisoners and in other ways.

The manner in which the board conducted the hearing was interesting in several respects. To begin with, when a prisoner entered the room he faced 24 people. This is in striking contrast to the practice of some boards of parole, which consider these hearings as private and confidential affairs. Not so at the institution now being discussed. In addition to members of the board and several officials of the prison itself (whose presence was justified, of course), there were wives and daughters of board members, attorneys who were to plead for some of the offenders eligible to parole, other persons in the rôle of mere spectators, and newspaper reporters.

It was explained to me that newspaper reporters were allowed to be present in order that they might write, if they wished, "human interest" stories, without mentioning the names of offenders who were given or denied parole. It was interesting, therefore, to see the papers next day and to observe that no reporter had paid any attention to this rule, but that each had published such items as he pleased, supplying names, details of crimes, future residence of paroled offenders, etc., solely with a view to making interesting reading. Newspapers, no doubt, are entitled to the results of actions of parole boards, and no contention is made here that such action can be withheld from them. But to give reporters decisions reached, after they have been reached, is one thing, and to conduct confidential conversations with prisoners in the very presence of the newspaper reporters themselves, when so many intimate facts concerning the lives of the prisoners come out, is quite another. It is not in keeping with the therapeutic nature of the parole process.

There were other ways in which the hearing was worthy of comment. Presence of women presented a peculiar difficulty. In several cases prisoners were refused permission

to make statements to the board on the ground that "there are ladies present". None of the women offered to leave the room at such moments, nor was their absence requested. The prisoner could only bottle up what he wished to say, look resentfully at the women and keep his counsel. Similarly, communications from board members to prisoners were suppressed for the same reason. One offender, who seemed to be in doubt as to why he had earlier been returned as a parole violator, was told that this information could not be given to him "in the presence of these women." Another wished to make a statement concerning his crime but was told that "in the presence of women" he could not do so. None of the women present had any official relation to the parole procedure of the institution.

One member of the board deemed it appropriate to shout admonitions and characterizations of the prisoners themselves at them. "You are just about the most contemptible cur that walks the earth," he hurled at one prisoner, and "What you need is a horsewhipping," he shouted at another. To another he remarked, "You have not a bit of honor." If the purpose of the social handling of the offender is to effect some improvement in his conduct, it is submitted that remarks like these, hurled at prisoners before audiences just at the moment when the offender is being considered for release on parole, is not the best way to get it.

One could not escape the conclusion that to many of those in the room the parole hearing was a show, and that members of the board occasionally gave spice to this show by remarks made at the expense of prisoners standing before them.

We present the above paragraphs as descriptive of a very bad parole procedure.

2. *Parole methods in another State.*

On the other hand, parole procedure in Minnesota possesses admirable features. Our description of this will be brief. In Minnesota there is a central parole board, the jurisdiction of which extends to the State Prison at Stillwater, the reformatory for men at St. Cloud and the reformatory for women at Shakopee. This board is called the State Board of Parole. By law, its chairman is the member of the State Board of Control who is oldest in point of continuous service. A second member is a citizen appointed by the governor, with the consent of the senate. The third member is the chief executive officer of the institution at which the board happens to be sitting.

This board has drafted carefully considered rules governing the manner in which parole is to be extended, time at which persons become eligible for parole, and the duties of supervising officers.

The board holds its sessions at the institutions themselves. It goes to each of the three institutions once a month, hearing all of the eligible cases at that time. On the occasion of my visit it sat at the prison for three days, hearing 65 cases. This is in striking contrast to the board mentioned above, which disposed of 95 cases in four hours.

Summaries of important facts concerning the offenders are sent to members of the board in advance, so that they have had a chance to become familiar with the cases before they interview the offenders at the institution and reach their decisions. The hearings are, in the main, conducted with care and understanding; they are objective in manner and characterized by a desire to get at the true merits of the individual case. The number of parolees cared for at one time by parole officers in Minnesota is too large, as it is nearly everywhere.

3. *The New Jersey parole program.*

In New Jersey the parole procedure bears a very close relation to the treatment of the offender inside the institution. Unless this is understood, the parole program can not be fully comprehended.

Institutional policies and, in general, parole methods and procedure are established by a central authority, the State Department of Institutions and Agencies, which has a commissioner at the head. Although each correctional institution has a local board of managers, this board is essentially an authority delegated to carry out policies established by the State department.

At each institution there is a "classification committee," the purpose of which is to plan programs of treatment for every offender within the institution, and also to make recommendations in regard to the time when he should be paroled.

Members of this committee include the important members of the institution staff: Superintendent, deputy superintendent, disciplinary officer, psychiatrist, psychologist, physician, head of the institutional school system, director of industries, chaplain, etc. Within a month after the arrival of each new inmate, this committee decides important questions concerning his institutional life, such as medical treatment required, mental treatment (if any), schooling desirable, trade to be followed, and other questions likely to have a vital relation to his improvement and return to society as a law-abiding citizen. Periodic reexaminations are held, and consideration is given anew to whether he profits from the program laid out, or whether the program should be changed.

The considerations underlying decisions reached by these "classification committees" are therapeutic in nature and are regarded as the most important decisions reached in the institution. New Jersey has consciously set up a definite machinery for the individualization of treatment.

When the classification committee thinks that the time has arrived, it recommends that the offender be placed on parole. This recommendation comes immediately after reexaminations by the scientific members of the staff and full discussion of the case by the whole committee. Thus, in the correctional institutions of New Jersey, parole is granted when the responsible members of the staff, who know the offender best, are satisfied that that is the best treatment for him and is consistent with the public welfare. The recommendation goes to the local board of managers, which usually accepts the advice of the classification committee.

In many instances an offender is placed on a three months' trial parole, with the idea that, if he does well, such period will be renewed or he will be placed on full parole. In New Jersey the practice is to hold offenders on parole until the

expiration of their maximum sentences—not simply for one year, as is the practice in many States. If before the expiration of the maximum, the offenders seem to be doing very well, the rigors of supervision are somewhat relaxed, but the offender can still be brought back to the institution without trial if he violates parole.

In New Jersey (except to the State prison under a law passed in 1927) sentences carry no minima, though they carry maxima. This means that it is within the power of the paroling authorities to decide when the term of the offender shall end—that is, there is a real indeterminate sentence with the qualification that all sentences have maxima.

Parole supervision is under the jurisdiction of the central parole bureau, a bureau of the Department of Institutions and Agencies. In other words, parole officers are not attached to the staffs of institutions, but are employed by, and are responsible to, the central department. Qualifications for parole officers, as adopted recently by the Civil Service Commission of the State, are as follows:

> Education equivalent to that represented by graduates from colleges or universities of recognized standing; standard course in social service; two years' experience as social investigator, or education and experience as accepted as full equivalent by the Civil Service Commission. Knowledge of problems of deliquency, laws governing commitment, care and parole of delinquents; knowledge of approved methods of social-case work, investigating ability, thoroughness, accuracy, tact, leadership, firmness, good address.

Only two parole officers have been appointed since the adoption of these qualifications, therefore some of the officers do not measure up to the specified standard. In New Jersey, as elsewhere, many of the officers work under too heavy case loads. Interesting figures showing the comparative costs of institutional care and care on parole have been prepared by the Department of Institutions and Agencies. According to these figures, the yearly per capita cost of institutional care is $562.10, whereas the yearly per capita cost of care on parole was only $20.43.

4. New York's new parole program.

New York established an entirely new parole system in 1930. Before this system was established, the State had, in effect, five systems—one for the State prisons as a group, and one for each of four different institutions: The reformatory for men at Elmira, the reformatory for women at Bedford Hills, the Training School For Women at Albion, and the Institution For Defective Delinquents at Napanoch. Power to parole offenders in the State prisons was vested in a board of parole in the State Department of Correction; power to parole offenders in each of the institutions named was vested in the board of visitors of that institution. Generally speaking, the parole work of the State was inadequate and perfunctory.

The first thing done by the law of April 25, 1930, which set up the new parole system, was to establish a division of parole in the State Executive Department. The former division of parole had been in the State Department of Correction. Among reasons cited for this transfer of the parole function from the Department of Correction to the Executive Department were: (1) Parole work ought not to be subordinated to the routine of purely custodial problems; (2) it would be difficult to obtain, as members of the board of parole, which was to head the new division, men of the desired ability and standing if the board were subordinated to the position of merely being a branch in the correctional department; (3) if placed in the Executive Department, the board could be of greater use to the governor in exercising his pardon prerogative.

Accordingly all duties and powers of the old division of parole, so far as the State prisons were concerned, were transferred to the new division, in the Executive Department. Similarly, all duties and powers in relation to parole formerly residing in the board of visitors of the reformatory for men at Elmira were transferred to the new division. The other three institutions named above, whose boards of visitors exercise the parole function, were left out of the new arrangement. The new division of parole in the Executive Department therefore has jurisdiction of parole with

respect to all State prisons (four at present) and the State reformatory for men.

At the head of this division is a board of parole, the three members of which are appointed by the governor, subject to the consent of the senate. Each member of the board receives a salary of $12,000; this places the members of the board, in respect to salary, on an equality with the State comptroller, attorney general, commissioner of taxation and finance, commissioner of health and the commissioner of correction himself. None of the members of the board may be a member of the executive committee or any other governing body of a political party, and none may be an executive officer or employee of any political party, organization or association. Each must devote his "whole time and capacity to the duties of his office." Upon this board devolves, according to law, the task of making "a full study of the cases of all prisoners eligible for release on parole and to determine when and under what conditions and to whom such parole may be granted."

Equally significant, from the point of view of effective parole service, is the size and kind of organization provided for by the law to assist in the selection and supervision of parolees. The committee which made the preliminary report finally resulting in this law recommended a beginning expenditure of approximately half a million dollars a year, and a larger staff than was finally accorded. The law, as passed, carries an appropriation of $259,000, and the staff and organization to be maintained by this fund may be seen at a glance from the following table:

Division of Parole

PERSONAL SERVICE

Administration:	
Members, 3 at $12,000	$36,000
Executive director	9,000
Hearing stenographer	2,500
Field staff:	
Chief parole officer	6,000
Case supervisors, 3 at $4,000	12,000
Employment director	4,000

Parole officers:	
For supervision, 30 at salaries not exceeding $3,000 each	$90,000
For investigation, for purpose of selection, 10 at salaries not exceeding $3,000 each	30,000
Clerical staff:	
Chief clerk	3,000
Stenographers, 7 at salaries not exceeding $1,500 each	9,600
Clerks and typists, 6 at salaries not exceeding $1,200 each	6,200
Telephone operator	1,200
MAINTENANCE AND OPERATION	
Expenses and contingencies:	
Supplies, equipment, carfare, telephone, and telegraph, contingencies and traveling expenses, of which not to exceed $3,000 may be used for travel outside the State	50,000
Total	259,500

It is clear, thus, that what this law gives to New York is a division of parole, headed by a board of three members, in the Executive Department. The executive director is the administrative officer of the board. In addition, the law permits the appointment of a chief parole officer, three case supervisors, an employment director to assist in obtaining employment for persons coming out on parole, 40 parole officers (30 for supervision and 10 for investigation related to selection), together with the necessary office and clerical help.

This is perhaps the most comprehensive plan for a State parole department devised at a single stroke by any State in the Union. Its purpose, unmistakably, is to remove from parole the criticism of being a perfunctory and automatic procedure, and to stamp it with the possibilities of being an adequately financed, carefully planned, therapeutic process. The advantages of a centralized and independent State parole system, as contrasted with a system depending more upon participation by the correctional or penal institution in which the offender has been confined, we do not enter into at this point, though we make some remarks upon this topic later. Here we wish to emphasize the point that New York has tried to clothe parole with the possibilities that rightfully belong to it.

Further indication of the purpose of the law is contained in the following description of the duties of the executive director:

> The executive director, under the direction and authority of the board of parole, shall direct and supervise the work of the board of parole, and with its approval shall formulate methods of investigation and supervision in its work and develop various processes in the technique of the case-work of the official staff of the board, including interviewing, consultation of records, analysis of information, diagnosis, plan of treatment, correlation of effort by individuals and agencies, and methods of influencing human behavior.
>
> He shall, with like approval, prepare and issue rules and regulations for the guidance of the staff and the conduct of its work.
>
> It shall be his duty, besides constantly scrutinizing and supervising the work of the staff, to imbue them with proper standards and ideals of work and he shall hold monthly staff meetings at which common problems and difficult cases, questions of policy, procedure and methods shall be be discussed. With the approval of the board, he shall establish and maintain within the appropriations made therefor, a library at the central office containing the leading books on parole and methods of influencing human conduct together with reports and other documents on correlated topics of criminology and social work.

In view of the fact that this law went into effect only July 1, 1930, and much time since then has been spent in organization and planning procedure, it is too early to make any attempt to estimate results.

E. THE FEDERAL PAROLE SYSTEM

The parole of Federal prisoners was first provided for by the act of June 25, 1910. This act created in each Federal prison a board of parole, consisting of the Superintendent of Prisons, the warden, and the prison physician. These boards recommended parole action to the Attorney General, in whom the final authority was vested. The law made Federal prisoners eligible for parole at the expiration of one-third of their sentences and, under an amendment approved January 23, 1913, those serving life sentences became eligible at the end of 15 years. The act provided that a prisoner whose conduct record within the institution was good might be paroled if it was probable that he would "live

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and remain at liberty without violating the law." It provided for the appointment of a parole officer at each prison and required the submission of periodical reports by parolees.

As the prison population increased, largely as a result of the increase in the number of Federal offenses, this system came to place an intolerable burden upon the paroling authorities, particularly upon the superintendent of prisons and the Attorney General. In 1910 it had presented only 600 parole cases for decision. By 1930 this number had grown to 9,000. Each of these cases demanded the personal attention of the Superintendent of Prisons and of the Attorney General. This task unfairly encroached upon the time of these officials, who, because of their numerous other responsibilities, were physically unable to give it the detailed consideration which it deserved. This situation was remedied in 1930 by the passage of a bill (Public No. 202, 71st Cong., approved May 13, 1930) providing for the appointment of a Federal Board of Parole consisting of three members to be appointed by the Attorney General, each at a salary of $7,500 per annum. This agency was given complete parole authority. The methods and conditions of parole established by the earlier legislation were not otherwise changed.

The new board was organized on June 12, 1930, and has acted upon all the parole cases presented since that date. Its policy, as explained by its chairman, Judge Arthur D. Wood, is to establish as prerequisites of parole: (1) Good prison conduct, (2) physical and mental fitness, (3) repentance and reformation, and (4) assurance of a favorable social environment and proper employment upon release. It will deny parole to recidivists, to sex perverts, and to those who would be a menace to the community if released.

The information available to the board to serve as a basis for its decisions is as yet inadequate. Every parole applicant must have a written promise of employment and a pledge from some reliable person who agrees to stand as his sponsor. The responsibility of prospective employers and sponsors is ascertained by inquiries directed to United States

marshals, postmasters and other officials. The board is also provided with an outline of the applicant's criminal history, prepared by the Bureau of Investigation, with the record of his prison conduct and with reports from judges and district attorneys and from the Federal department that prosecuted the case, which were submitted at the time of conviction. Parole applicants appear before the board in person and prison officials may sit with its members during their deliberations.

The board is continuously in session. Up to the present time, the pressure of accumulated work has prevented its full membership from sitting in each case considered. Two members, at least, pass on the applications presented at the large Federal prisons, while one member hears the cases of applicants at the eight Federal road camps. In this way from 3 to 50 cases are considered in a day. This allows the board considerably more than the three to five minute period in which it was necessary to pass judgment upon parole cases under the earlier system.

The development of complete psychological, psychiatric, and social information upon each parole applicant is still a matter for the future. The administration of prison hospitals was committed to the Public Health Department by the legislation of 1930. Psychiatrists and psychologists are being assigned to the major institutions and are now giving mental examinations to all individuals committed. Psychological and psychiatric reports are already provided to the Board of Parole in special cases. The present program will eventually make them matters of routine procedure. Social investigation also is being developed and social investigators appointed under civil-service regulations will shortly be provided to each of the major Federal institutions. These officers, through correspondence with various community agencies, will undertake the preparation of social case reports. It is expected, moreover, that through the present development of the Federal probation system, social data will regularly be supplied to institutions, and thus to the Board of Parole, by the Federal probation officers. An organization is thus in the process of development which may eventually be expected to provide the paroling

authority with complete case histories which will go far toward rounding out the information available to it in arriving at its decisions.

In the year ending June 30, 1930, the last year under the old system, there were 10,298 applications for parole. Of these, 6,115 were denied parole, and 4,183, or about 40 per cent, were granted release on parole. During the first nine months of the life of the new Board of Parole 5,452 applications were presented. Of this number, 311 cases were continued, 1,992 were refused release and 3,149, or 57.7 per cent, were paroled. The new board, it appears, has adopted a somewhat more liberal parole policy than its predecessor.

The parole method of release is still employed in a minority of cases of release from imprisonment by the Federal Government. During the year ending June 30, 1930, under the old parole system, 7,683 prisoners were released from detention. Of these, 4,672 had been held to the expiration of their sentences, less "good time" allowed; 2,753 were paroled and 258 released by other means, i. e., by death, by escape, by court order and by executive pardon. Thus, less than 36 per cent of the releases were by parole. During the first nine months under the new Board of Parole, July 1, 1930, to March 1, 1931, 7,134 prisoners were freed; 3,625 by termination of sentence; 3,343 or 46.8 per cent by parole; and 166 by all other methods of release.

The number of Federal prisoners on parole has grown as the penal population has increased. With the passage of laws creating new categories of Federal offenses there has been an increasing proportion of convicts who are of a parolable type and parole is consequently applied in an increasing percentage of releases. Federal parolees on July 1, 1929, numbered 963; on July 1, 1930, 1,939; and on March 1, 1931, 2,638. The largest numbers of parolees on the last date were found in the southern district of West Virginia (330), the eastern district of Kentucky (302), the eastern district of Michigan (150), the western district of Missouri (129), and in Minnesota (125). Those on parole in each of the other Federal districts numbered from 1 to 91, 61 districts having less than 25 parolees each, 18 having from 25 to 50 each, and 5 having more than 50 each.

In the great majority of cases, the private individuals who are known as "parole advisers" are made responsible for the conduct of prisoners on parole. Such persons in general have no technical competence for the work of supervision. Often they may be individuals of an improper type to serve in this capacity. In many cases they may certify to the employment of the parolee in work which is purely mythical or which is of a type in which he should not be engaged. An effort is being made, therefore, to develop further resources for parole supervision. Such resources include the use of Federal probation officers, private agencies such as prison-aid societies, the Salvation Army, the Volunteers of America, etc., and State systems of probation and parole supervision. State probation agencies in a number of States and the State parole departments in Massachusetts, New Jersey, Illinois, and Minnesota have promised to supervise Federal cases which are referred to them. Of the 875 cases of Federal prisoners paroled during the first three months of the year 1931, 617, or 70.6 per cent, were paroled to private sponsors; 201, or 22.9 per cent, to Federal probation officers; 57, or 6.5 per cent, to various private agencies and to the probation and parole authorities of State governments.

The principal hope for the development of Federal parole supervision lies in the extension of the Federal probation system. Under the new probation law (Public, No. 310, 71st Cong., approved June 6, 1930), the judge or judges of any United States court having original jurisdiction in criminal actions is empowered to appoint one or more probation officers, whose duty it shall be to investigate cases referred to them by the court, to watch probationers, improve their conduct, and report to the court and to the Attorney General. The salaries of these officers are fixed by the Attorney General and he is authorized through his representatives to prescribe rules, receive reports, and make recommendations concerning their work. The law provides, moreover, that "such officer shall perform such duties with respect to persons on parole as the Attorney General shall request."

This law has been accompanied by an increase in the appropriation for Federal probation work from $25,000

for the fiscal year beginning July 1, 1929, to $200,000 for the fiscal year beginning July 1, 1930, and $240,000 for the fiscal year beginning July 1, 1931, and by an increase in the number of probation officers from eight on July 1, 1930, to 54 on March 1, 1931. The appropriation for the year 1931 will make possible an increase in the number of these officers to 60 during the coming year. Along with this increase in the number of probation officers has gone an increase in the number of probationers from about 4,000 a year ago to nearly 10,000 at the present time.

These probation officers are persons possessing greater technical competence for the supervision of parolees than that possessed by the sponsors on whom the major responsibility under the old system was placed. The nature of the technique of supervision for both probationers and parolees is sufficiently similar to enable them to handle both groups. The growth of the Federal probation system may be expected eventually to provide for the adequate supervision of both probationers and prisoners on parole, and to develop social information on Federal offenders for the use of courts, institutions, and the Board of Parole. At the present time many Federal probation officers still have too high a case load to enable them to assume the further responsibility of parole supervision. On February 28, 1931, two officers in West Virginia had 1,552 cases under their care; one in Montana had 454; one in the middle district of Pennsylvania had 417; two in Massachusetts had 657; two in Minnesota had 830, and so on. These case burdens are obviously too heavy to admit of the development of a social case-work technique. Still further increases in the appropriation for probation work and in the number of probation officers must be had before the adequate supervision of Federal probationers and parolees can be guaranteed.

The possible application of effective measures of social rehabilitation, moreover, is precluded in a large proportion of Federal parole cases by the shortness of the parole period which the law now allows. The majority of Federal sentences are for short terms. Of those committed to Federal prisons during the year ended June 30, 1930, 78.8 per cent

were sentenced to less than three years, 54 per cent to less than two years, and 30.8 per cent for a year and a day. All of these sentences are subject to reduction under the commutation law of June 1, 1902, which provides for the deduction of six days from each month served under such sentences as a reward for good conduct in prison. Each prisoner so sentenced becomes eligible for parole at the expiration of one-third of his sentence. An offender sentenced for a year and a day might be paroled in four months. Under the operation of the commutation law his sentence would be terminated in 9 months and 20 days. This would leave him less than six months on parole. A prisoner sentenced for two years is parolable in eight months. His sentence is reduced by the "good-time" allowance to about 19 months, which leaves him a period of less than one year on parole. Prisoners, however, are rarely released at the earliest moment at which they are eligible for parole. In practice the policy adopted in paroling short termers, together with the operation of the commutation law, generally leave parole periods of little more than three months in the cases of prisoners sentenced for a year and a day, and of something less than six months in the cases of prisoners originally sentenced for two years. Of the total number of prisoners who were on parole on April 1, 1930, 17.6 per cent had parole periods of less than three months; 40.3 per cent had parole periods of less than six months; 59.8 per cent had parole periods of less than nine months; and 69.8 per cent had parole periods of less than a year. Thus nearly 70 per cent of the Federal prisoners on parole at that date had been released for parole periods too short to admit of their successful readjustment in community life before the expiration of their parole.

A simple and effective remedy for this unfortunate situation would be the enactment of legislation which would prevent the deduction of the "good time" allowance from the sentences of prisoners earlier released on parole. Such legislation would retain the commutation law as an inducement to good prison conduct for the large numbers of convicts who are not granted paroles. At the same time it

would extend the length of the parole period in other cases sufficiently to permit the application of effective methods of social readjustment. We believe that the proper development of the Federal parole system is dependent upon its enactment.

F. PREDICTING SUCCESS OR FAILURE ON PAROLE

From time to time persons have speculated on the possibility of devising some instrument, such as prognostic tables, whereby parole boards, judges placing offenders on probation and others could predict, with greater certainty than now seems possible, the future history of different types of offenders. An analogy is made to the use of such devices by insurance companies. The purpose is to render the selection of persons for parole, and for probation, as accurate a procedure as possible.

Back of this speculation lies the idea that if the factors making for success and failure (or for criminality and noncriminality) could be isolated, so to speak, by study of many offenders, then tables could be prepared which would serve as guides in disposing of particular individuals.

It is argued that study of the immediate case would show which of the factors contained in the tables were possessed by the person whose fate was about to be settled. Examination of the tables would then indicate whether the chances for the particular individual seemed to be good, bad, or indifferent. This, it is held, would reduce selection to a much more positive and firm basis, and remove much guesswork. If the prospects were good, the individual could be paroled; if not, he could be held for further training in the institution until the weight of the tables was in his favor.

Pioneering attempts have been made to devise such tables. The "Committee on the Study of the Workings of the Indeterminate Sentence Law and of Parole in the State of Illinois," to which reference has been made, sought to isolate some of the factors making for success and failure among parolees in that State, and their discussion of the subject forms chapter 28 of their report to the chairman of the Illinois parole board.

Other students have tried the same thing. Probably the most thorough of such attempts, so far made in this country, is the work of Dr. Sheldon Glueck, of Harvard University, and of his wife, Eleanor T. Glueck, whose contribution forms chapter 18 of their recent book entitled "500 Criminal Careers." By undertaking to establish the relationship to postparole criminal status of each of over 50 factors about which dependable information could be obtained, Doctor Glueck and his wife tried to devise such tables.

Here we wish only to call attention to these efforts. So far the matter has not reached beyond the theoretical stage—and no actual use, of course, has been made of the tables. The possibility of such a device is alluring, and we urge all students of parole to give it consideration.

Throughout this report we have emphasized our own belief that nothing can take the place of careful study of the individual offender who stands before the magistrate, the authorities of an institution, or the persons charged with the power of granting paroles. Legal conceptions and categories must give way to conceptions and categories having to do with human behavior. Treatment must follow careful diagnosis. Any device for rendering the results of such study of greater use to those who handle criminals, of course, will be of great benefit to society.

G. SOME ESSENTIALS OF GOOD PAROLE WORK

We come now to our suggestions for obtaining a good parole system.

We do not select, for recommendation, any one type of overhead, or administrative, organization. The matter, we think, is not so simple as that, nor has the parole service of the country yet demonstrated that any one type of organization is inevitably superior. There are advocates of central parole boards, like those in Minnesota, New York, and other States, and there are persons who think that parole should be left entirely to the single penal or correctional institution to administer.

We are definitely opposed to the latter procedure. Leaving parole to each institution means that there are as many

policies, standards, and practices as there are institutions in a State, since, without a central policy-making body, there can be no guarantee that any two institutions will adopt the same standards and practices. Moreover, this commonly means that the selection of persons for parole is automatic and that parole is merely looked upon as one means of terminating a sentence. There should be uniformity in the parole policies of a State, and these should be worked out by people not too closely identified with institutional administration.

Our ideas concerning organization will become fairly apparent as the reader scans the following list of essential elements in any good parole system.

Among such elements are:

1. An indeterminate sentence law, permitting the offender to be released conditionally at a time when he is most likely to make good, not at the end of a term fixed arbitrarily in advance.

2. Preparation for parole in the institution. This means little more than preparation for normal social living. Specifically it involves, however—

(*a*) Looking upon parole as the logical, natural way to terminate a prison term.

(*b*) Getting the offender to regard it in the same light.

(*c*) Instructing the offender, while he is still in the institution, in respect to the things that will be expected of him on parole—and not putting off such instruction until the last day.

(*d*) Bringing the offender and his parole officer into contact before the offender leaves the institution.

(*e*) Making sure that the parole officer is familiar with the home and environmental conditions of his charge before the latter leaves the institution.

3. Selection of persons to be paroled on the basis—

(*a*) Of all the competent information concerning him possessed by the institution, particularly the examinations and recommendations of the scientific members of the staff.

(*b*) Of supplementary information concerning his home, environmental situation, etc., when this is necessary.

(*c*) Preparation, in advance, of a suitable environmental situation into which to release him, such as proper home surroundings, employment awaiting him, etc.

4. Supervision by trained, competent parole officers. This means:

(*a*) Maintenance of an adequate number of officers to insure that the number of parolees being supervised at any one time will not exceed 75, and, if much traveling has to be done, 50.

(*b*) Appointment of officers possessing, as nearly as possible, the following qualifications: A high-school education and, in addition, one of the following—(1) at least three years' acceptable experience (full-time basis) in social-case work with a social agency of good standing or (2) a college education, with at least one year of satisfactory training either in a social-case work agency of good standing or in a recognized school of social service.

The parole officers should also be persons of tact and good address, possessing personalities making it likely that they will be effective in influencing the behavior of others.

5. Supervision should be careful and intensive, in the manner of social-case work.

6. Flexible arrangements for the release of offenders from parole, not automatic release at the end of a year or some other similar period. (When sentences carry maxima, it will probably be illegal to hold offenders on parole beyond the expiration of their maxima.) Supervision can be relaxed as the offender demonstrates his ability to do well.

7. Establishment of adequate standards and techniques for investigations and supervision.

8. An organization to supervise the work of parole officers and make sure that the foregoing standards are lived up to.

9. Payment of salaries to parole officers commensurate with their training, abilities, and duties.

10. Prompt return of offenders who commit further crimes or indicate that they are likely to become public menaces.

11. A record system which will include the keeping of full, useful and accurate case histories of all parolees.

12. Appropriations adequate to all these purposes, since, as we show later, parole is far cheaper than institutional care.

H. COST OF PAROLE

Like probation, parole is an inexpensive way of caring for offenders, and, if well done, is an assistance not only to the reduction of crime but constitutes a great saving to the State. We have already quoted the figures of the New Jersey Department of Institutions and Agencies, which show that the yearly per capita cost of institutional care in that State is about $560, and the yearly per capita cost of parole care is $20; even if the parole system were improved, as it could be, the expense would still remain far below that of maintenance in an institution. This must inevitably be the case, of course, in every community.

Not only is the actual cost less, but the parolee is earning money (for himself and his family or relatives), whereas the prisoner can contribute little or nothing to the support of dependents outside the institution. From every point of view a parole service conducted as such a service ought to be is a benefit to society.

POLICE JAILS AND VILLAGE LOCKUPS

SPECIAL REPORT TO THE NATIONAL COMMISSION ON LAW OBSERVANCE AND ENFORCEMENT

BY

HASTINGS H. HART

Chairman of the Advisory Committee on Penal Institutions, Probation and Parole

I. IMPORTANCE OF POLICE JAILS

The writer was led to propose this study because the city police jail and the village lockup are the most important prisons in our penological system. This statement is contrary to the prevalent ideas of penology, but nevertheless it is absolutely true, for the following reasons:

First, because they outnumber all other prisons, about 3 to 1. We have in the United States about 200 convict prisons, Federal, State and local; and about 3,000 county jails, making a total of about 3,200. In our present study, the first attempt ever made to ascertain the number of city and village lockups, we have listed 9,260 and estimate about 1,600 more not reported, making a grand total of about 10,860.

Second, because in them the vast majority of law violators get their first prison experience. The offender, upon his first arrest, is frightened, often penitent and open to good influences. The police jails should be so planned and so administered as to use this moment of opportunity. More can be done to redeem the young culprit within 48 hours after his first arrest than in six months after his commitment to a convict prison.

Third, because they receive many times the number of inmates sent to all of the convict prisons put together. The latest report of the United States Census Bureau enumerated a total of 51,936 convicted prisoners committed to State and Federal convict prisons in 1927, which would be about 26,000 for six months; but the number reported to us as committed to police jails and lockups in places above 500 population, in six months of 1930, was 1,350,000, which is more than fifty times the number of convicts committed to State and national convict prisons in six months of 1927. Legislatures and State commissions give much attention to convict prisons.

II. DEFECTS OF POLICE JAILS AND LOCKUPS

Our study reveals that throughout the United States, the majority of the 11,000 police jails and lockups are literally a public nuisance, and are unfit for the purpose for which they are designed.

First, many are located in city halls, village buildings, or fire stations, where they occupy space needed for other purposes, and where dirty, noisy, and drunken prisoners are brought into close proximity with public officers and visitors.

Second, some lockups are in separate buildings, on the city hall square, necessitating architecture conforming to that of the city hall, while others are located on eligible and expensive corner lots requiring too expensive architectural faces. As a result, money is expended for architectural effect which ought to be used to make the building efficient for its intended purpose.

Third, thousands of police jails and lockups are fire traps and not infrequently prisoners have been cremated in them.

Our study shows that of the lockups in the small villages of seven States, out of 393, only 169, or 43 per cent, were reported as fireproof. Conditions are better in the larger cities, and we found that out of 1,366 cities of 2,500 to 25,000 inhabitants, 949, or 70 per cent, were fireproof, still leaving 323 that were inflammable.

Fourth, many lockups are antiquated buildings unfit for the purpose. In New England, 20 lockups out of 100, taken at random, are more than 50 years old; in Pennsylvania 10 out of 100 are more than 50 years old, and out of 1,366 lockups in different States, 40 per cent are more than 20 years old. Practically all of these old lockups are insanitary, without adequate lighting, heating, ventilation, or plumbing.

Fifth, very few lockups make proper provision for the segregation and classification of women, witnesses, and young people. It is common for young and inexperienced prisoners and even children to be thrown into intimate association for days at a time with vicious, depraved, and diseased criminals.

Sixth, many lockups in small cities and villages are used also as lodging places for tramps and vagrants. Our report shows that on the average lockups in places of less than 5,000 inhabitants contain more lodgers than prisoners. This practice works badly both ways. On the one hand, it causes persons who are simply unfortunate to be locked up and treated as prisoners, and, on the other hand, these lodgers who may be dirty and verminous make it almost impossible to keep the lockup clean and sanitary.

Seventh, very few lockups are properly furnished. Usually the prisoners sleep on wooden or iron bunks, generally without mattresses or blankets. If blankets or mattresses are provided, they are seldom kept clean and the bunks are often verminous.

In many lockups one or two clean rooms with proper bedding are provided for women, but generally women of all kinds associate without classification.

Eighth, the "third degree" is practiced extensively throughout the United States, with cruel and illegal treatment and sometimes torture of persons accused of crime, whether innocent or guilty. This unjust practice is excused on the ground that it is necessary "in order to secure the ends of justice."

Ninth, there is a lack of State supervision of lockups. State prisons and reformatories are managed by State authorities and are subject to supervision by the legislature and other governmental agencies. State supervision of jails prevails in many commonwealths.

There is State supervision of police jails and lockups in New York, New Jersey, Minnesota, and Oklahoma. The Pennsylvania Department of Welfare inspects "only on complaint"; Alabama "does not exercise supervision over jails or lockups in cities of less than 10,000"; in Georgia the department of public welfare has "inspected a few village lockups."

New York is the only State which publishes reports of the condition of police jails and lockups. The State Commission

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of Correction has condemned and put out of business over 60 lockups, yet the last official report (1929) showed 67 lockups that were not fireproof and 57 in which the conditions were severely criticized.

State inspection is absolutely necessary in order to guard against abuses in construction and administration. Abuses in lockups continue because of the general indifference of the local people. State prisons receive attention from governors, legislatures, and commissions. County jails may have State inspection but police jails and lockups generally are left to the caprice and indifference of local officials and citizens of cities and villages where even clergy and social workers pay little or no attention.

III. SCOPE AND METHOD OF THE STUDY

The time and resources available did not permit a complete or elaborate investigation. The study was therefore limited to the following facts: (1) The location of the jail, whether in a separate building or in some other public building. (2) The materials of the building and whether it is fireproof. (3) Provisions for classification of prisoners, juveniles, insane, and lodgers. (4) Population: Reasonable capacity; largest number at one time and estimate of total number received in six months; number present on date of report, males, females, prisoners, and lodgers.

The accompanying questionnaire was prepared, including the above-named points, to be filled out by the officer in charge of public safety building, police station, precinct station, or village lockup, as the case might be. The question immediately arose how to secure replies to the questionnaire, in view of the fact that the committee had no authority to require answers or to compensate the officer. If the questionnaire was received by a police chief or a village constable, he would naturally hesitate as to the duty or propriety of furnishing such information to an irresponsible inquirer, outside of his own community. Public officers are besieged by such inquiries, many of which properly go unanswered.

On the following page is a copy of the questionnaire.

No._____
Date received_____

In case records are not available kindly give approximate figures.

Description of city police jail ( ) or village lockup ( ) located in _____ State_____.

(1) Check name under which building containing lockup is known:
City hall_____ Village hall_____
Police station_____ Fire hall_____
Or is it a separate building? _____
Or, having no lockup, do you use county jail? _____

(2) Check the materials of the building:
Brick_____ Stone_____
Concrete_____ Wood_____
Steel_____ Or_____
Is lockup fireproof? _____
Built about what year? _____

(3) Check any of the following classes which you keep separate:
Males_____ Prisoners:
Females_____ Awaiting trial____
Juveniles____ Serving sentence__
Insane_____ Whites_____
Lodgers_____ Negroes_____
Or_____ Or_____

(4) Capacity and population of lockup:	Prisoners	Lodgers
(*a*) How many inmates can the lockup reasonably hold at one time?		
(*b*) Largest number of inmates present at one time since January 1, 1930		
(*c*) Your estimate of total number of inmates received during period of January–June, 1930		
(*d*) Of this total (*c*), how many prisoners were serving sentence?		

(5) Prisoners and lodgers present at midnight, Wednesday, current week, date _____ 1930:	Males	Females
(*a*) Number of prisoners over 18 years old		
(*b*) Number of prisoners under 18 years old		
(*c*) Number of lodgers		

Signed_____
Official position_____

Kindly return questionnaire to the office of Doctor Hart, Advisory Committee on Penology, 130 East Twenty-second Street, New York, N. Y., in inclosed return envelope; no stamps required.

The difficulty of securing answers to the questionnaire was met by a simple expedient. A letter was addressed to the

mayor of the city, or the president of the village council, reading in part as follows:

> The National Commission on Law Observance and Enforcement, of which Hon. George W. Wickersham is chairman, desires us to obtain information with reference to city police jails and village lockups of the United States, and we ask for your cooperation.
>
> Strange to say, information has never been collected relative to the number, the location, or the condition of police stations and lockups, and we are seeking replies to a few simple questions. * * *
>
> Will you do us the favor to instruct the officer in charge of your police jail or lockup to fill out the blank on the back of this sheet and mail it in the inclosed envelope?

The questionnaires were sent out to about 15,000 cities and villages. The results, except for villages having a population of less than 2,500, were surprisingly complete, as will be seen by Table I, which follows. We are most grateful for the cooperation of at least 15,000 mayors, sheriffs, and police officers.

Every one of the 51 cities having a population above 150,000 reported; this, however, did not mean 51 reports only, but 420, because 38 of these cities have more than one lockup. New York City, for example, returned 45 reports and Philadelphia 43. Most of these 420 reports were made with care and apparent accuracy.

Of the 69 cities having a population of 75,000 to 150,000, 88 per cent reported; of the 167 cities having a population of 25,000 to 75,000, 73 per cent reported. Of all the 287 cities having a population above 25,000, 234, or 81 per cent, reported.

The returns from the cities and villages having a population below 25,000 were much less complete—46 per cent of those having 2,500 to 25,000 and 28 per cent of those having a population of 500 to 2,500. Many of these smaller places have no police stations, making use of the county jail or the nearest village lockup, while others use the county jail for the detention of police prisoners.

The answers to the questionnaires were tabulated in seven classes—cities of more than 25,000 population; cities of 10,000 to 25,000; cities of 5,000 to 10,000; villages having a population of 2,500 to 5,000; those of 1,000 to 2,500; those of 500 to 1,000; and those having a population below 500.

Seven tables were prepared as follows:

Table I.—Condensed statement of number of prisoners detained in police lockups, compared with population of places reporting cities in which they were located.

Table II.—Complete report of the material in Table I, by States and sections and political divisions.

Table III.—Prisoners in police lockups, January–June, 1930, in the 51 largest cities in the United States.

Table IV.—Prisoners in police lockups, January–June, 1930, in cities of 75,000 to 150,000.

Table V.—Prisoners in police lockups, January–June, 1930, in cities of 25,000 to 75,000.

Table VI.—Prisoners in police lockups, January–June, 1930, in cities of 2,500 to 25,000.

Table VII.—Prisoners in police lockups, January–June, 1930, in places of 500 to 2,500.

Table VIII.—Showing number of additional lockups reported by sheriffs.

Table IX.—Showing number of fireproof lockups.

Table X.—Showing number of cities and villages using county jail instead of lockup.

Of the foregoing, only the first three tables are presented in this report, the remainder being omitted for lack of space.

TABLE I.—*Summary of prisoners detained in police lockups, as reported by officials of incorporated places, compared with population of cities and villages reporting, arranged by classes of population*

[Reports received from incorporated places. Groups of places classified according to size of population]

Class	Size of places [1]	Number of places	Number of reports received	Per cent of number of places	Prisoners detained in police lockups: 6 months, January–June, 1930	Population of places reporting (1930 census)	Ratio of police prisoners to 100,000 population
I	Above 150,000	51	51	100	842,957	31,343,381	2,690
II	75,000 to 150,000	69	61	88	160,506	6,426,300	2,500
III	25,000 to 75,000	167	122	73	119,567	5,778,086	2,069
	Total above 25,000	287	234	81	1,123,030	43,548,367	2,575
IV	2,500 to 25,000	2,500	1,168	46	194,561	[2] 10,000,000	1,945
V	500 to 2,500	6,450	1,829	28	32,702	[2] 2,000,000	1,635
	Grand total	9,237	[3] 3,231	-------	1,350,293	55,548,367	2,429

[1] Fourteenth Census of United States, 1920, Vol. I, Table No. 51.
[2] Estimated population of places reporting.
[3] In addition to 3,231 reports received, approximately 1,300 incomplete reports were received from Classes IV and V and about 1,000 from places below 500 population.

TABLE II.—*Number of prisoners detained in police lockups January–June, 1930, as reported by local officials, arranged by States and size of city*

SUMMARY OF POLICE PRISONERS

States and sections	Size of city or town										Grand total (100 per cent)
	150,000 or over		75,000 to 150,000		25,000 to 75,000		2,500 to 25,000		500 to 2,500		
	Number of prisoners	Per cent of total	Number of prisoners	Per cent of total	Number of prisoners	Per cent of total	Number of prisoners	Per cent of total	Number of prisoners	Per cent of total	
THE NORTH											
New England:											
Maine					1,450	58	877	35	188	7	2,515
New Hampshire			2,000	45	587	14	1,781	41	60		4,428
Vermont							2,093	99	88	1	2,181
Massachusetts	39,150	60	10,740	17	8,266	12	6,789	11			64,945
Rhode Island	4,762	60	1,100	14	1,558	20	495	6			7,915
Connecticut	5,317	41	1,931	15	3,632	28	2,046	16	34		12,960
	49,229	52	15,771	17	15,493	16	14,081	15	370		94,944
Middle Atlantic:											
New York	75,283	74	8,911	9	6,225	6	9,756	10	781	1	100,956
New Jersey	12,728	29	13,648	32	9,389	21	7,291	16	1,172	2	44,228
Pennsylvania	101,516	70	15,457	10	11,105	7	16,675	12	1,064	1	145,817
	189,527	65	38,016	13	26,719	9	33,722	12	3,017	1	291,001
East North Central:											
Ohio	73,346	70	2,660	3	11,807	12	14,389	13	1,416	2	103,618
Indiana	9,656	40	7,150	28	4,450	20	3,646	16	180	1	25,082
Illinois	119,589	85	4,229	3	6,377	4	7,687	6	1,954	2	139,836
Michigan	40,125	74	3,397	6	5,434	10	4,103	8	677	2	53,736
Wisconsin	9,953	50			5,034	25	4,743	20	576	5	20,306
	252,669	74	17,436	5	33,102	9	34,568	10	4,803	2	342,578
West North Central:											
Minnesota	11,8[illegible]	63	3,100	16			2,906	16	799	5	18,641
Iowa			8,193	57	2,340	15	3,004	21	1,036	7	14,573
Missouri	73,495	98			61		1,180	1	1,044	1	75,780
North Dakota							1,330	87	196	13	1,526
South Dakota					100	8	959	70	311	22	1,370
Nebraska	1,500	35	1,300	31			658	17	735	17	4,193
Kansas			7,200	58	1,220	10	3,455	27	637	5	12,512
	86,831	67	19,793	16	3,721	3	13,492	10	4,758	4	128,595
THE SOUTH											
South Atlantic:											
Delaware			3,000	88			420	12	65		3,485
Maryland	29,814	95			1,131	4	68		333	1	31,346
District of Columbia	24,930	100									24,930
Virginia	5,850	21	8,967	33	5,020	18	5,974	22	1,396	6	27,207
West Virginia					3,600	52	2,216	32	1,068	16	6,884
North Carolina			2,065	12	3,350	19	10,745	62	1,171	7	17,331
South Carolina							2,047	66	1,120	34	3,167
Georgia	10,000	51	3,126	16	2,618	13	2,496	13	1,483	7	19,723
Florida			12,199	60			6,053	30	1,827	10	20,079
	70,594	46	29,357	19	15,719	10	30,019	20	8,463	5	154,152
East South Central:											
Kentucky	6,000	44			2,000	15	5,031	37	618	4	13,649
Tennessee	15,180	51	11,000	37			3,246	10	405	2	29,831
Alabama	6,874	35			7,844	39	4,106	20	986	6	19,810
Mississippi							4,166	87	603	13	4,769
	28,054	41	11,000	16	9,844	15	16,549	24	2,612	4	68,059
West South Central:											
Arkansas			250	6	948	20	2,633	55	888	19	4,719
Louisiana	14,150	76					3,211	17	1,233	7	18,594
Oklahoma	4,405	26	4,500	27			6,422	38	1,394	9	16,721
Texas	35,315	70	4,102	8	5,693	11	5,006	10	902	1	51,018
	53,870	59	8,852	10	6,641	7	17,272	19	4,417	5	91,052

TABLE II.—*Number of prisoners detained in police lockups January–June, 1930, as reported by local officials, arranged by States and size of city*—Continued

SUMMARY OF POLICE PRISONERS—Continued

States and sections	Size of city or town										Grand total (100 per cent)
	150,000 or over		75,000 to 150,000		25,000 to 75,000		2,500 to 25,000		500 to 2,500		
	Number of prisoners	Per cent of total	Number of prisoners	Per cent of total	Number of prisoners	Per cent of total	Number of prisoners	Per cent of total	Number of prisoners	Per cent of total	
THE WEST											
Mountain:											
Montana							3,506	97	98	3	3,604
Idaho							826	80	243	20	1,069
Wyoming							1,769	95	129	5	1,898
Colorado	10,211	71			1,334	9	2,789	19	206	1	14,540
New Mexico							300	100	14		314
Arizona					3,500	60	2,280	39	135	1	5,915
Utah			5,498	89	190	3	395	6	75	2	6,158
Nevada							2,644	99	68	1	2,712
	10,211	28	5,498	15	5,024	14	14,509	40	968	2	36,210
Pacific:											
Washington	6,850	36	4,281	22	2,509	13	4,807	25	800	4	19,247
Oregon	7,200	81					1,443	17	209	2	8,852
California	87,922	76	10,502	9	795	1	14,099	12	2,285	2	115,603
	101,972	71	14,783	10	3,304	3	20,349	14	3,294	2	143,702

SUMMARY OF PRISONERS, BY GEOGRAPHICAL SECTIONS[1]

New England	49,229		15,771		15,493		14,081		370		94,944
Middle Atlantic	189,527		38,016		26,719		33,722		3,017		291,001
East North Central	252,669		17,436		33,102		34,568		4,803		342,578
West North Central	86,831		19,793		3,721		13,492		4,758		128,595
The North	578,256		91,016		79,035		95,863		12,948		857,118
South Atlantic	70,594		29,357		15,719		30,019		8,463		154,152
East South Central	28,054		11,000		9,844		16,549		2,612		68,059
West South Central	53,870		8,852		6,641		17,272		4,417		91,052
The South	152,518		49,209		32,204		63,840		15,492		313,263
Mountain	10,211		5,498		5,024		14,509		968		36,210
Pacific	101,972		14,783		3,304		20,349		3,294		143,702
The West	112,183		20,281		8,328		34,858		4,262		179,912
Grand total, United States	842,957		160,506		119,567		194,561		32,702		1,350,293

[1] For details see Tables I, II, III, IV, V, and VI.

TABLE III.—*Prisoners in police lockups, January–June, 1930*

[51 largest cities having a population above 150,000 (1930 census), arranged by ratios]

Name	Population	Prisoners in police lockups, January–June, 1930		Ratio of police prisoners per 100,000 population
		Lockups	Prisoners	
San Antonio, Tex	231,542	1	14,266	6,119
St. Louis, Mo	821,960	14	49,732	6,038
Kansas City, Mo	399,746	9	23,763	5,944
Fort Worth, Tex	163,447	1	9,043	5,531
Washington, D. C	486,869	16	24,930	5,120
San Francisco, Calif	634,394	11	32,464	5,117
Nashville, Tenn	153,866	3	7,680	4,990
Boston, Mass	781,188	21	35,756	4,577
Pittsburgh, Pa	669,817	16	28,407	4,241
Houston, Tex	292,352	4	11,906	4,073
Los Angeles, Calif	1,238,048	14	50,090	4,046
Dallas, Tex	260,475	2	10,100	3,877
Baltimore, Md	804,874	8	29,814	3,704
Atlanta, Ga	270,366	1	10,000	3,698
Philadelphia, Pa	1,950,961	43	71,516	3,666
Denver, Colo	287,861	2	10,211	3,547
Chicago, Ill	3,376,438	39	119,589	3,541
Richmond, Va	182,929	3	5,850	3,197
Cincinnati, Ohio	451,160	8	14,277	3,164
Akron, Ohio	255,040	1	8,000	3,137
New Orleans, La	458,762	11	14,150	3,084
Memphis, Tenn	253,143	1	7,500	2,963
Cleveland, Ohio	900,429	17	26,139	2,903
Toledo, Ohio	290,718	3	8,409	2,893
Columbus, Ohio	290,564	2	7,908	2,721
Indianapolis, Ind	364,161	1	9,656	2,651
Birmingham, Ala	259,678	1	6,874	2,647
Portland, Oreg	301,815	1	7,200	2,386
Oklahoma City, Okla	185,389	1	4,405	2,377
Buffalo, N. Y	573,076	18	13,047	2,277
Detroit, Mich	1,568,662	16	35,394	2,256
Hartford, Conn	164,072	2	3,517	2,143
Youngstown, Ohio	170,002	1	5,106	2,004
Syracuse, N. Y	209,326	6	4,090	1,954
Newark, N. J	442,337	7	8,628	1,951
Louisville, Ky	307,745	5	6,000	1,949
Flint, Mich	156,492	3	3,015	1,927
Oakland, Calif	284,063	9	5,368	1,889
Providence, R. I	252,981	8	4,762	1,882
Seattle, Wash	365,583	5	6,850	1,873
Dayton, Ohio	200,982	1	3,507	1,745
Worcester, Mass	195,311	1	3,394	1,738
Milwaukee, Wis	578,249	7	9,953	1,721
Rochester, N. Y	328,132	7	5,631	1,716
St. Paul, Minn	271,606	7	4,536	1,670
Minneapolis, Minn	464,356	6	7,300	1,572
Jersey City, N. J	316,715	7	4,100	1,295
New Haven, Conn	162,655	1	1,800	1,106
Grand Rapids, Mich	168,592	3	1,716	1,018
New York, N. Y	6,930,446	45	52,515	758
Omaha, Nebr	214,006	1	1,500	701
Total	31,343,381	420	851,364	2,717

It will be observed from Table I that the 234 cities reporting, which had a united population of 43,548,000, reported 1,123,000 commitments to public lockups during the six months ending June, 1930, which is an average of 2,575 for each 100,000 of the population. The most satisfactory statistics are those from the cities having more than 150,000 population, because all of them reported.

Table II shows the number of prisoners detained in police lockups from January to June, 1930, as reported by local officials, arranged by States and population of cities, with a summary by geographical sections.

This table does not include lockups in villages under 500 population, nor does it include prisoners in the cities from which no report was received. We estimate that the number of prisoners unreported would add at least 250,000 to the 1,350,000 already reported, making a probable total for the six months of about 1,600,000, which would be at the rate of 3,200 per year.

Table III covers the 51 cities having above 150,000 inhabitants, showing the number of lockups, the number of prisoners, and the ratio of police officers for each 100,000 of the population. (The figures here given are more recent and complete than those in Table I.)

The average number of prisoners during the six months ending June, 1930, for each 100,000 inhabitants was 2,713, one-half of the cities being above that ratio. It is surprising to discover that only one other city (Omaha, Nebr.) has as low a ratio as New York City, which shows 758 prisoners for each 100,000 people. New York City showed a total of 52,515 prisoners in six months as compared with 119,589 in Chicago, 50,090 in Los Angeles and 49,732 in St. Louis. On inquiry, Police Commissioner Edward P. Mulrooney explained that the low ratio of lockup prisoners in New York City is due to the fact that a majority of misdemeanants, including about one-half of arrested persons, brought to precinct stations, are served with a summons and released without confinement, whereas in many cities such individuals are listed as lockup prisoners.

In the course of this study we accumulated from the answers to the questionnaires and other official reports a large amount of material showing dangerous fire risks, insanitary conditions, lack of classification, humiliation and degradation of inexperienced criminals, and even of witnesses and

insane people not accused of any crime. All of this material is omitted for lack of space.

IV. REMEDIES FOR THE DEFECTS OF POLICE JAILS AND VILLAGE LOCKUPS

First, provide for at least six classifications in every police jail to separate males and females, old and young, sick and well, dangerous and harmless classes. To this end, the system of two or three tiers of cells in a single room should be abolished and each floor should be separate and distinct.

Second, keep each prisoner in a separate cell and abolish the practice of doubling up prisoners or confining 6, 8, or 10 in a single cell. Abolish the practice of allowing prisoners to associate in idleness in the corridors. Usually the confinement of police prisoners is less than 24 hours and very seldom more than 2 or 3 days. In those exceptional cases where prisoners remain for a longer period, they may be allowed to do cleaning or other work around the prison under supervision; but not to loaf and visit with other prisoners. The number of cells should be sufficient to provide separate confinement for the expected maximum number of prisoners in all cases except extraordinary emergencies caused by riots or police raids.

Third, every police jail or lockup should be strictly fireproof. Cells should not be located in inflammable buildings. In the smaller villages where the village hall is not a fireproof building, the lockup should be a separate and detached building, constructed on simple plans similar to the Minnesota plans exhibited in this report.

Fourth, women prisoners in the hands of the police should be kept absolutely separate from male prisoners where communication would be impossible. The best plan is that which is to be followed in the new house of detention in the city of New York, and has been followed for years in Philadelphia and in Cleveland and Akron, Ohio. In these cities women prisoners are kept in separate and distinct buildings of simple construction and without expensive cells and strong locks. In each of these buildings the women prisoners are under the exclusive charge of women. The

popular notion that women can not successfully handle unruly and belligerent women prisoners is a mistake. Special telephonic connection with the police department should be available but its use is very seldom necessary.

Fifth, legislation should be adopted to abolish the illegal and unregulated practice of the "third degree" by policemen and detectives. Provision should be made by law, as in European countries, whereby the prisoners after arrest are examined by a civil officer, duly classified and authorized. The police should be required, as in England, to inform the prisoner immediately upon his arrest that any statement which he makes may be used against him. Police Superintendent August Vollmer, of Berkeley, who is recognized as one of the most competent police superintendents in America, has stated that he never used the third-degree methods, but that he obtained more confessions, and more reliable ones, without its use than could be obtained by this unlawful plan. Superintendent French, of Columbus, Ohio, made a similar statement.

Sixth, in every State provision should be made by law for the supervision and inspection of police stations by a responsible State commission, with power to condemn buildings unfit for use, in accordance with the long-standing practice in the States of New York and Minnesota. This legislation should also provide for the inspection of police stations and lockups semiannually by local health officers, on blanks to be prescribed by the State supervising board. These reports should be made both to the State board and to the local authorities. This plan was put in operation in Minnesota in 1895 and produced highly satisfactory results.

Seventh, the personnel of jailers, guards, and matrons in police lockups should be radically improved. They should be selected with care according to their fitness for the job. The place should not be given to a man because he is growing old or has flat feet, or has ceased to be alert. A special course of training for jailers in police stations should be established in the police training schools.

Eighth, police jails and lockups should be intelligently planned by competent architects. In cities they may be

built in the top of a police station, with a special elevator, provided the building is absolutely fireproof. In villages it is cheaper and more practical to build a separate fireproof one-story lockup either on the same lot or a lot adjacent to the village building.

We have prepared four model plans for police stations and lockups which are designed to promote the reformation of the lockup system.

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