THE INDETERMINATE SENTENCE AND THE PAROLE LAW.

REPORTS

PREPARED FOR

THE INTERNATIONAL PRISON COMMISSION.

S. J. BARROWS,
COMMISSIONER FOR THE UNITED STATES.

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DEPARTMENT OF STATE,
Washington, March 1, 1899.

SIR: I have the honor to transmit herewith a report on the indeterminate sentence and the parole law in the United States, in answer to questions submitted by the International Prison Commission, prepared, under the authority of this Department, by the Hon. Samuel J. Barrows, commissioner of the United States to the International Prison Congress.

I have the honor to be, sir, your obedient servant,

JOHN HAY.

Hon. GARRET A. HOBART,
United States Senate.

WASHINGTON, *February 28, 1899.*

SIR: I have the honor to transmit herewith a report on the indeterminate sentence and the parole law in the United States, in answer to questions submitted by the International Prison Commission.

I remain, with great respect, your obedient servant,

S. J. BARROWS,
Commissioner for the United States on the International Prison Commission.

Hon. JOHN HAY,
Secretary of State.

THE INDETERMINATE SENTENCE AND THE PAROLE SYSTEM IN THE UNITED STATES.

INTRODUCTION.

One of the questions assigned for discussion at the quinquennial International Prison Congress, to be held in Brussels in 1900, is whether the indeterminate sentence shall be adopted, and if so, how it shall be framed and administered. For an answer to this question the congress turns with large expectation toward the United States, since it is in a few of our own States that the indeterminate sentence, as applied to criminals, has had its best development and illustration. The United States commissioner, therefore, has felt it important to accede to the request of the International Prison Commission—the executive arm of the International Prison Congress—to furnish a preliminary report on this subject for the information of its members before the meeting of the congress in 1900. It has seemed desirable to give first a brief history of the introduction and development of the indeterminate sentence in the United States so far as it has been adopted.

The preparation of this sketch was confidently committed to Mr. Warren F. Spalding, secretary of the Massachusetts Prison Association, who not only had much to do in framing the Massachusetts law, but is a recognized authority on this subject in this country. Mr. Spalding's paper gives a clear and succinct account of the germ and development of this wholesome law, which we may hope and expect will eventually be more widely adopted in the United States as well as in other countries.

Further considerations on the indeterminate sentence are briefly set forth by Judge Martin Dewey Follett, of Columbus, Ohio, who has given much attention to this subject.

Under the indeterminate sentence no definite period is prescribed by the judge for the incarceration of the prisoner. Two objects are kept in view in committing him to prison: One is the protection of society, and the other the reformation of the prisoner. Under the definite sentence the convict is released at a certain date, whether he is fitted to be released or not. Modern penologists are coming to regard such a method just as illogical as it would be to release a patient on a certain day prescribed in his commitment to an asylum, whether he were cured by that time or not.

The value of the indeterminate sentence as a protection to society lies in the fact that the prisoner is not released until it is deemed safe to discharge him. It is essential, for the full efficiency of the indeterminate sentence, that it shall be combined with some reformatory method of discipline in the prison. Under a system of marks—merits and demerits—the prisoner then works out his own release. But this release is

only granted tentatively. Practically, he serves a portion of his sentence outside the prison walls, under the surveillance of its officers.

Conditional liberation, known as the parole system, has been adopted in twenty of the United States, as will be seen in the following reports. Four others have established a system of conditional pardon, while but seven States have adopted the indeterminate sentence.

In preparing the report on the parole system the commissioner has availed himself of the valuable cooperation afforded by the American Bar Association. A committee of that association on the parole and indeterminate sentence, of which Hon. J. Franklin Fort, of New Jersey, was chairman, has prepared a careful report, based on replies to inquiries sent to all the States. Through the courtesy of that committee the report presented to the American Bar Association, as a result of its diligent labors, is included herewith.

In addition thereto, Judge Fort has furnished the commissioner with letters from governors, prison wardens, and other public officials of the different States to whom questions on the subject were submitted, which were not fully included in the report given to the American Bar Association. The investigation conducted by this eminent association stamps with professional and judicial authority the conclusions reached after careful study and analysis. The commissioner takes this opportunity to return thanks to the association for its cooperation in this matter.

I am also permitted to use an article on the parole system as applied to State penitentiaries, by Maj. A. W. McClaughry, warden of Joliet, Ill., penitentiary, which was prepared for the National Prison Association. This treats of various facts and figures which must be kept in mind in order to secure success for the parole system. It is not enough, as Major McClaughry points out, to place such laws upon the statute book. Important influences must be combined in the prison to fit the criminal to be paroled, otherwise the law simply secures a shortening of the sentence, and the prisoner is neither reformed nor society adequately protected thereby. No penologist in this country has had a wider experience in prison administration than Major McClaughry, and it is interesting to note that the conclusions of a practical and experienced prison warden—who was also chief of police in Chicago during the Columbian Exposition—coincide with the views of penologists and legislators who have framed the laws and judges who have administered them.

For the convenience of lawmakers in other States and in foreign countries, wishing to study the indeterminate sentence, the parole system, or some form of conditional liberation, the various laws of the different States on these subjects in their essential features are presented in an appendix, together with copies of rules and forms in use in the States of Pennsylvania and Utah.

SAMUEL J. BARROWS,
Commissioner for the United States on the
International Prison Commission.

THE INDETERMINATE SENTENCE.

ITS HISTORY AND DEVELOPMENT IN THE UNITED STATES.

By WARREN F. SPALDING,
Secretary of the Massachusetts Prison Association.

The adoption of imprisonment as a method of punishment for crime came in an age when retribution was the only consideration in dealing with criminals.

In devising machinery for the application of the new method of punishment, the central thought was to adapt penalties to offenses. Legislatures and courts wrought together for the solution of this difficult problem. Its commercial aspects (the assumption that a relation like that of debtor and creditor existed between the prisoner and the state) absorbed attention, practically to the exclusion of all others. The question "How much imprisonment will properly punish the crime?" was the uppermost one until within a comparatively few years. The statute books of every nation and every state are loaded with legislation fixing penalties for wrongdoing. The courts have done their best to administer these laws in such a way as to "make the punishment fit the crime."

The theory of definite sentences, whether fixed by statute or selected by judges from a group of possible penalties, has been that there could be such an adjustment of penalty to crime as to further the interests of the community and at the same time deal justly with the offender.

The history of penal legislation is a record of constant changes in statutory penalties, resulting in a mass of laws lacking consistency and uniformity, and full of absurdities and complexities. No principle underlies the penal laws. The penalties for the same crime vary widely in different States, and in the same State there is a marked difference in those provided for offenses substantially alike. It is clear that these defects are due to the lack of a scientific basis for the system.

In attempting to adjust retributive penalties to offenses several factors must be considered—the heinousness of the offense itself; the suffering of the victim, in person or property, and the length of the term of imprisonment necessary to produce in the offender an equivalent amount of suffering, so as to settle the account. In each case there are insuperable difficulties. There is no way in which one human

being can judge of the heinousness of another's act. In civil suits it is comparatively easy to secure justice; to ascertain the debt and compel its payment. But no one contends that it is exactly ten times as bad to steal $10,000 as it is to steal $1,000. The character, environments, training, opportunities, necessities, and temptations of the offender must be considered, as well as his offense. That which in one man would deserve severe condemnation, in another is considered venial.

If the suffering of the offender's victim be taken as one of the factors in fixing the penalty, the administration of criminal law will be in inextricable confusion. A poor woman who is robbed of the few dollars laid aside for old age, suffers more than the millionaire who loses thousands. Requiring "an eye for an eye and a tooth for a tooth" is but a rude and unscientific method, for the loss of an eye or a tooth by one may involve a hundred times as much suffering as it does in another.

The infliction of the proper amount of suffering upon the offender is also very difficult, because two criminals do not suffer alike from the same penalty. Exposure and conviction bring almost unbearable agony to one; to another they are but unimportant incidents in life. One suffers more in a month than another in a year.

Neither of these three things—the heinousness of one's offense, the suffering of the victim, or his own suffering while undergoing the penalty—furnishes a basis for an estimate of the amount of punishment which will "fit the crime." It is impossible to measure off a certain amount of punishment for a certain amount of wrongdoing on any conceivable plan.

But the definite sentence had another purpose—the protection of the community. This is supposed to be secured in two ways: the imprisoned criminal is prevented from doing wrong during his confinement, and he and others are supposed to be deterred from crime by fear of punishment. These have some value. But a system which allows the return of a criminal to the community unchanged in purpose, depending upon his memory of past suffering to prevent his return to crime, does much less than should be done for the protection of society. If deterrence is desired, it is secured from the certainty of punishment rather than from the severity of the penalty. The noncriminal is deterred to some extent by fear of any punishment; but the average criminal is absorbed in the present. He lacks foresight and imagination, and is not materially affected by possible penalties. The only permanent protection of the community must come from his reformation.

Consideration of these principles led thoughtful men to question whether some better system of dealing with the criminal might not be devised. The enactment of laws providing for a reduction of imprisonment by good behavior changed, to some extent, the character of imprisonment. Possible release upon ticket-of-leave had the same effect, making a strong appeal to the selfishness of the prisoner, and producing good results. The parole laws of many American States

increased the force of this appeal. But none of these measures remedied the serious defects of the system of definite sentences. They could not be remedied. So long as the State made retribution the main purpose of its punishments it was impossible to do more than improve the system in minor details. There must be a new system, based upon principles wholly different from those which underlie the definite sentence.

The new system seems to have begun to take form in the minds of prison reformers in the United States in 1867, when Rev. Dr. E. C. Wines, secretary of the New York Prison Association, and Dr. Theodore Dwight, of New York, made a report to the legislature of the State of New York suggesting the abandonment of "time sentences" and the substitution of "reformative sentence." In 1868 Mr. Z. R. Brockway, afterwards superintendent of the New York State Reformatory, furnished a paper for the annual report of the New York Prison Association suggesting that criminals be committed to properly organized institutions until they were cured. In 1870 Mr. Brockway read a paper at the prison congress at Cincinnati, outlining the main features of the system of indeterminate sentences, and of the prison system which would be made necessary by the substitution of reformatoryfor retributive sentences.

Mr. Brockway was at that time in charge of the Detroit (Michigan) House of Correction, an institution used mainly for minor offenses. In 1867 he secured the enactment of the first law passed in the United States which took away from the court the right to say when a sentence of an adult convict should end. It provided that a woman convicted of being a common prostitute might be sentenced to the Detroit House of Correction for a term of three years, and that she might be released, absolutely or conditionally, by the inspectors "upon reformation or marked good behavior."

There were three novel features in this law. It provided for a very long sentence, out of proportion to the offense; it gave to the prison authorities the power to terminate the term of imprisonment fixed by the court, and it conferred upon them power over the prisoner after her discharge, so that she could be returned for misbehavior. The law was rarely used. It is mentioned because it contains some of the principles of the new system.

On the 10th of February, 1871, the Hon. W. C. Hoyt introduced in the Michigan house of representatives a bill containing additional features of the system of reformatory sentences. It was prepared by Mr. Brockway. It provided that any person who should be convicted of an offense punishable in the Detroit House of Correction, and who should be sentenced thereto, should become thereby a ward of the State. The circuit judge of the county of Wayne and the inspectors of the house of correction were constituted a board of guardians; the ward was to be sentenced to their custody and to become subject to their control, instead of being sentenced merely to the institution. At

this point in the bill occurred the vital sentence which has since become historic, as embodying a new principle: "The court shall not fix upon, state, or determine any definite period of time" for the continuance of such custody. Power was given to the board of guardians to detain their wards in the house of correction or to release them, absolutely or conditionally, "upon their showing evidence of improved character."

The release might be merely a release from confinement in the house of correction, or from guardianship, custody, and control, and power was given to resume control and custody and to recommit to the prison at any time prior to the absolute release. It was made the duty of the board of guardians "to maintain such minimum control of their wards" as should prevent them from committing crime, best secure their self-support, and accomplish their reformation; and they were also required to "actively undertake the reformation of their wards by means of culture calculated to develop right purposes and self-control, and by granting them social privileges under such social and legal restraints and influences as will best cultivate right purposes and promote correct conduct, when this may be done in safety."

The bill also contained another provision, couched in language which has also become historic:

> When it appears to said board that there is a strong or reasonable probability that any ward possesses a sincere purpose to become a good citizen, and the requisite moral power and self-control to live at liberty without violating the law, and that such ward will become a fair member of society, then they shall issue to such ward an absolute release.

The bill did not become a law, but it contained the germ of the New York law, which revolutionized our criminal jurisprudence.

In 1869 New York took the initial steps for the establishment of a new institution, authorizing the appointment of a commission "to select a suitable site upon which to erect a State penitentiary or industrial reformatory, for the reception and treatment of convicted criminals," and to report a plan of organization.

A site was selected at Elmira, and the selection was confirmed by the legislature of 1870. The commission had in mind the establishment of a reformatory instead of a penitentiary, and suggested a new form of sentence somewhat like that provided for by the Michigan statute for the punishment of prostitutes. They recommended that "when the sentence of a criminal is regularly less than five years the sentence to the reformatory shall be until reformation, not exceeding five years." Mr. Brockway had not at that time formulated the Hoyt bill.

The lawmakers of New York were not ready for this, even, and the law under which the Elmira Reformatory was established contained no new provision about sentences. The law did contain one novel provision—that the persons sent to the reformatory should not be less than sixteen nor more than thirty years of age. Probably this was the first law ever passed to give to any institution a selected, homogeneous

population, well adapted for reformatory effort, leaving the administration unembarrassed by the presence of unsuitable material.

The buildings were completed in 1876, and Mr. Brockway was called from the Detroit House of Correction to take charge of the new institution. His aversion to the definite sentence had increased. He saw the evil result of having men with definite sentences of various lengths who must be left to the end of their several sentences, no matter how convincing the proof of reformation might be, and who must be discharged at a prearranged time, whether reformed or not. His experience at Detroit had shown him the power of the long, indefinite sentence in securing discipline and in promoting reformation. He appealed to the New York legislature for a change in the law and was successful, securing in April, 1877, the enactment of the law which has had so much to do with making the Elmira Reformatory what it has been and is.

The novel and essential features of the new law are contained in the three following sections:

> SEC. 2. Every sentence to the reformatory of a person hereafter convicted of a felony or other crime shall be a general sentence to imprisonment in the New York State reformatory at Elmira, and the courts of this State imposing such sentence shall not fix or limit the duration thereof. The term of such imprisonment of any person so convicted and sentenced shall be terminated by the managers of the reformatory, as authorized by this act; but such imprisonment shall not exceed the maximum term provided by law for the crime for which the prisoner was convicted and sentenced.
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> SEC. 5. * * * The board of managers shall have power to establish rules and regulations under which prisoners within the reformatory may be allowed to go upon parole outside of the reformatory buildings and inclosure, but to remain, while on parole, in the legal custody and under the control of the board of managers, and subject at any time to be taken back within the inclosure of said reformatory; and full power to enforce such rules and regulations and to retake and reimprison any convict so upon parole is hereby conferred upon said board, whose written order, certified by its secretary, shall be a sufficient warrant for all officers named in it to authorize such officers to return to actual custody any conditionally released or paroled prisoner; and it is hereby made the duty of all officers to execute said order the same as ordinary criminal process.
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> SEC. 8. * * * When it appears to the said managers that there is a strong or reasonable probability that any prisoner will live and remain at liberty without violating the law, and that his release is not incompatible with the welfare of society, then they shall issue to such prisoner an absolute release from imprisonment and shall certify the fact of such release, and the grounds thereof, to the governor, and the governor may thereupon, in his discretion, restore such person to citizenship. But no petition or other form of application for the release of any prisoner shall be entertained by the managers.

It will be seen that the law (1) authorizes the court to impose sentences to the reformatory, but does not allow it to fix their duration. The convict may be held for the maximum term provided by law for his crime; (2) it authorizes the managers to release a convict conditionally, subject to liability to be returned at any time before the expiration of his sentence, and (3) to grant him an absolute release from imprisonment, terminating their control of him.

When the Massachusetts reformatory was established, in 1884, the framers of the law thought it unwise to arouse antagonism by inserting a provision for the indeterminate sentence, though recognizing its importance. They did, however, provide for the release of persons confined on definite sentences. This part of the law was as follows:

SEC. 33. When it shall appear to the commissioners of prisons that any person imprisoned in said reformatory has reformed, they may issue to him a permit to be at liberty during the remainder of his term of sentence, upon such conditions as they deem best; and they may revoke said permit at any time previous to its expiration: *Provided, however,* That no permit shall be issued to a person transferred or removed from the State prison to said reformatory except with the approval of the governor and council. The violation by the holder of a permit, granted as aforesaid, of any of the terms or conditions of such permit, or the violation of any of the laws of this Commonwealth, shall of itself make void said permit.

SEC. 34. When any permit granted under the provisions of the preceding section has been revoked, or has become void, as aforesaid, the commissioners of prisons may issue an order authorizing the arrest of the holder of said permit and his return to said reformatory. Said order of arrest may be served by an officer authorized to serve criminal process in any county in this Commonwealth. The holder of said permit, when returned to said reformatory, as aforesaid, shall be detained therein according to the terms of his original sentence; and in computing the period of his confinement the time between his release upon said permit and his return to the reformatory shall not be taken to be any part of the term of the sentence.

In 1886 the law was so changed as to authorize indeterminate sentences. As the form is very different from that of any other State, and contains important features, it is given entire:

SEC. 1. When a convict is sentenced to the Massachusetts Reformatory, the court or trial justice imposing the sentence shall not fix or limit the duration thereof, unless the term of said sentence shall be more than five years, but said convict shall merely be sentenced to the Massachusetts Reformatory.

SEC. 2. Whoever is sentenced to said reformatory for drunkenness, or for being a common drunkard, vagabond, a stubborn child, a vagrant, a tramp, or an idle and disorderly person, may be held therein for a term not exceeding two years.

SEC. 3. Whoever is sentenced to said reformatory for any offense except one of those named in section two of this act may be held therein for a term not exceeding five years, or, if sentenced for a term longer than five years, he may be held therein for the term of said sentence.

SEC. 4. The provisions of sections thirty-three and thirty-four of chapter two hundred and fifty-five of the acts of the year eighteen hundred and eighty-four, relative to the release of prisoners from said reformatory, shall be applicable in the cases of all persons sentenced to said reformatory as herein provided.

The law has since been so amended that the two years' limit applies to all minor offenders and the five years' limit to persons convicted of felonies (penitentiary offenses). Under this form of law uniformity of terms of imprisonment are secured. The maximum terms are as long as it is desirable to hold any person in the reformatory. (There is grave doubt as to the desirability of confining drunkards, tramps, etc., in the same institution with offenders against the person and against property.)

The foundation of the new penal system inaugurated under the New York law is the substitution of imprisonment for reformation for imprisonment for retribution. The reason for the change may be inferred from what has been said of the defects of the system of definite sentences, but the change is so radical, in fact so revolutionary, that the underlying principle of the new system should be stated. The fundamental one is not that "punishment should be made to fit the crime," but that it should be made to fit the criminal. He is imprisoned, primarily, not for doing what he did, but for being what he was. The offense committed by him may or may not indicate his character. He may be far better than his deed; he may be far worse. His crime shows merely his unfitness to be free. It justifies the court in depriving him of his freedom. But the state is not retaliating upon him for his crime. It does not attempt to measure off an amount of suffering which shall, in some indefinite way, pay the debt he owes to the state. It does not attempt to injure him as much as he injured somebody else, or to affix a commercial value and an equivalent penalty to his evil deed.

The definite sentence deals wholly with a convict's past. The penalty is imposed for some finished act. His past character receives some consideration in deciding what his sentence shall be, but changes of character in the future bring no change of penalty. If he was a fairly good citizen, except for his crime, and under baneful prison influences becomes thoroughly criminal in character, his punishment is not increased. If he was wholly bad when committed, and becomes a saint in prison, it will not reduce his punishment. The retribution continues. It is visited upon the prisoner regardless of either penitence or increasing depravity. The only act considered is the one which compelled his imprisonment.

Under the indeterminate sentence the attention of the prisoner and of the state is fixed upon the future. The definite sentence says to him: "You have broken a law. You must be imprisoned five years. You will be released at the end of that time, regardless of your character." The indeterminate sentence says to him: "You are imprisoned because your violation of the law has shown that you are unfit to be free. You must remain in prison until your character changes. When it has changed and has been tested (when you have become fit for liberty), you will be released, and not before." The reasonableness of this way of approaching a prisoner must be apparent.

The treatment of a lawbreaker should not depend exclusively upon a past act. The state has more at stake in his future than it has in his past; it has great interests bound up in his development physically, mentally, morally, spiritually. The relations between the criminal and the state are perpetual. They are not those of debtor and creditor, which will cease when the penalty is "paid." The imposition and service of a sentence are not the completion of a transaction between the state and one of its delinquent subjects.

The decision, by the court, that he has broken one of the laws, establishes a new relation between him and the state. It should change when he changes, but not before. To restore him to his old relations

to the state while he is unchanged is absurd. He should be treated as a criminal, not for a definite time, fixed in advance by the judge, who tries to estimate the value of his one wrong act, committed it may be under exceptional circumstances, but for an indefinite period, to be terminated by those who have him constantly in view when they have reason to believe that he has ceased to be a criminal. And lest this decision, made while a prisoner is under wholesome restraints and stimulated by the impulse of a great desire for freedom, should not be a correct one, his release is conditional, and the continuance of the liberty won by him by well-doing in prison, depends upon a continuance in well-doing outside Thus the punishment is made to fit the criminal at all times and not to "fit the crime," at a given time.

This view of crime and imprisonment puts the emphasis of the imprisonment where it belongs—upon the time of discharge. The return of a convict to the community is of more importance than his removal from it. The judge who imposes a definite sentence decides when he shall return, and compels the community to receive him. It is impossible for him to do this wisely. No one can tell when the prisoner will change, or whether he will ever change. The effect of imprisonment may be to make him better or worse. No judge is competent to decide in advance when he ought to be discharged.

He who restores a convict's liberty needs as much knowledge as he who takes it away. That knowledge can only be had by those who have the opportunity of testing the prisoner and of knowing his conduct under varying circumstances, viz, the prison authorities. It is absurd to suppose that any judge can tell in 1900 whether a criminal will or will not be fit to return to the community in 1905. Under the indeterminate sentence the decision regarding the time of release is postponed until fitness for liberty can be be ascertained.

This view of crime and imprisonment also makes the strongest possible appeal to the prisoner. He becomes conscious that he must change his character, for he finds that he can not be discharged until he changes it. He is not enduring a punishment "inflicted" upon him; the State is not compelling him to pay a debt. He is merely detained until he is fit to be at liberty. He has little to do with the past, but everything to do with the future, for the length of his term does not depend upon what he has done, but upon what he shall do. He will cease to be a prisoner when it is believed that he has ceased to be a criminal, and not before.

This brings about naturally a relation between the prisoner and the warden which can not exist under a sentence for retribution, in which the warden is looked upon by the prisoner as antagonistic to him; as the representative of the power which is taking vengeance upon him for a past act. He wishes liberty; the warden prevents him from getting it.

But under a sentence for reformation the prisoner and those who have him in custody have a common purpose. They further his desire

for liberty by helping him in every possible way to secure it. His criminality must be exterminated before he can be released. Discipline, labor, schools, etc., are means for the great end sought by him. Under a retributive sentence he means to make no effort, mental or moral. He will be released at a given time without it. The sentence for reformation compels the severest effort, but the compulsion is from within the prisoner, not from without. It incites his ambition by an appeal to one of the strongest of all motives—the love of liberty. It fosters independence and self-reliance, by making everything depend on himself. It cultivates forethought and foresight, and makes struggle less irksome by attaching a reward to it. Prison discipline thus ceases to be a restraining force and becomes an impelling one. The cooperation of the prisoner, without which nothing can be accomplished, is secured in most cases sooner or later, and the desired end is accomplished.

As has been seen, the first application of indeterminate sentences was to persons sent to reformatories. It was conceded that, as the purpose of imprisonment in institutions of this class was reformation, the prisoner should be held until he was reformed, and should be discharged when that end was secured. A proper reformatory system could not be created with definite sentences. But the number sent to reformatories constitute only a small proportion of the whole number of prisoners. Retributive sentences were still imposed on prisoners sent to penitentiaries, workhouses, etc.—the mass of all the prisoners. In the course of time it was suggested that the indeterminate sentence might be applied readily to penitentiary prisoners, and the suggestion received some attention. The State of New York was one of the first to give this authority to its courts, but the power to impose indeterminate sentences was permissive and not compulsory. They made little use of it; wisely, perhaps, for it would be difficult to administer an institution having men with two classes of sentences—some who must serve their full time, while others would be released.

In 1895 two great States, Massachusetts and Illinois, passed laws substituting indeterminate for definite sentences to their penitentiaries. The statute of Illinois does not vary materially in form from that which governs sentences to the Elmira reformatory. The Massachusetts law is so different, that it is given in full:

SEC. 1. When a convict is sentenced to the State prison, otherwise than for life or as an habitual criminal, the court imposing the sentence shall not fix the term of imprisonment, but shall establish a maximum and minimum term for which said convict may be held in said prison. The maximum term shall not be longer than the longest term fixed by law for the punishment of the offense of which he is convicted, and the minimum term shall not be less than two and one-half years.

SEC. 2. At any time after the expiration of the minimum term for which a convict may be held in the said prison under a sentence imposed as aforesaid, the commissioners of prisons may issue to him a permit to be at liberty therefrom, upon such terms and conditions as they shall deem best, and they may revoke said permit at any time previous to the expiration of the maximum term for which he may be held

under said sentence. No such permit shall be issued without the approval of the governor and council, nor unless said commissioners shall be of the opinion that the person to whom it is issued will lead an orderly life if set at liberty. The violation by the holder of a permit issued as aforesaid of any of the terms or conditions thereof, or the violation of any law of this Commonwealth, shall of itself make void such permit.

SEC. 3. When any permit issued as aforesaid has been revoked, or has become void, said commissioners may issue an order authorizing the arrest of the holder of said permit and his return to said State prison. The holder of said permit when returned to said prison shall be detained therein according to the terms of his original sentence, and in computing the period of his confinement the time between his release upon said permit and his return to the prison shall not be taken to be any part of the term of the sentence.

(The minimum of two and one-half years was fixed to conform to existing laws in relation to the length of State prison sentences. There is no principle involved in this limitation. It might have been omitted but for restrictions then in force, which could not wisely be removed for lack of prison capacity.)

The provision that releases should only be made with the consent of the governor and council was inserted to facilitate the passage of the law, there being a fear that the legislature might not give so important a releasing power to an appointed board. The restriction has since been removed, so that the commissioners have full power to release.

The framers of the Massachusetts law believe that, for that State at least, which has no criminal code, as some States have, this form of law is superior to the Elmira form. Massachusetts laws give the courts large latitude in sentencing, the maximum sentence being severe enough for the most aggravated offense. Breaking a bake-shop window at night to steal a loaf of bread is an offense in the same category with bank burglary. The laws leave it with the court to make the proper discrimination. But if the Elmira form of law existed the bank burglar and the thief who broke into the bake shop might be held for the same period, which seems unnecessary. It may be that the maximum may be fixed by the court as wisely as the legislature.

The authority given to the court to fix a minimum limit was given out of deference to the prevailing sentiment that crime should be properly punished, and to guard the bill from the attacks of those who might fear to give too much power to the commissioners. The ideal law would give the court power to fix the maximum, but would allow the prison authorities unlimited power to discharge. It is true that the power to fix a maximum limit is not consistent with the fundamental principles of the indeterminate sentence—that a prisoner should be kept until he was reformed—but practically the maximum sentences are as long as are desirable, in most cases.

That sentences to reformatories should be indeterminate is now universally conceded. Whether sentences to penitentiaries should be in this form is still debated. There is a wide difference between the inmates of a reformatory and those of a penitentiary, and the purposes

of the imprisonment of the two classes are not in all respects identical. But in the things essential in determining the wisest form of sentence the penitentiary convict resembles the reformatory convict:

1. Many penitentiary convicts are capable of reformation.
2. While they are in confinement the State should make a definite and systematic effort to secure their reformation.
3. Because they are, as a rule, the most dangerous men in the community, it is important that they should be kept in prison until it is thought that they will be law-abiding and are capable of self-support
4. For the same reason release should be conditional. Having secured liberty by his conduct in prison, he should be required to retain it by obedience to the laws.

The indeterminate sentence will produce in a penitentiary results differing in some ways from those produced in a reformatory, but it is important to the State that it be applied to both. The interests of the prisoner and those of the State are identical. What is best for one is best for the other. It is better for both that a penitentiary convict should be held in a grasp which will adapt itself to his character as it develops or is revealed; which will be severe if it is necessary and lenient if possible; that he shall have an inspiration to reform; that there should be power to keep him as long as the good of the community requires, and that he should be in custody after his release. Public and private interests demand the substitution of indeterminate for definite sentences to penitentiaries. They also demand that the penitentiary system shall be reformatory instead of retributory.

The indeterminate sentence compels changes in prison administration. Under the definite sentence the prison is an agency for carrying out the order of the court, which directs that the convict be "imprisoned" merely. Incidental to this are matters relating to diet, clothing, the maintenance of order, sanitary regulations, etc. But the principal aim is to retain the prisoner in custody. The indeterminate sentence looks to his future. Men who are merely to be "imprisoned" for a period fixed in advance by the court may be treated in a mass. Men who are to be released when thought to be fit for liberty must be dealt with as individuals. It is easy to punish a criminal; it is difficult to reform him. But if a man is to be released only when fit for liberty, the State must do its best to secure that fitness.

The indeterminate sentence puts the prisoner in a favorable attitude for the work. Under a definite sentence he is in an attitude of resistance. He sets himself to endure unflinchingly the punishment which has been imposed. He sees that the State has attempted to measure off a certain amount of penalty for his crime. He criticises the result of the attempt. He does not agree with the court as to the character of his offense or as to the penalty. He sees that the State aims to repress the evil in him, and he resists. The indeterminate sentence makes a different impression upon him. He can not disagree with the

proposition that he lost his right to be at liberty by a misuse of his freedom, and that he should not have his liberty restored until he has proved that he is likely to make a right use of it. He would resist repression of evil in him, but he respects the attempt to develop his good qualities.

Under the old system little was to be gained by effort, for the time of his discharge was fixed. Under the new system, everything depends upon effort—upon industry, conduct, studiousness, etc. Every detail of his life is under observation; every act bears upon the important question when he shall be released. "Good time" laws, authorizing the reduction of a definite sentence for good conduct, test the power of the prisoner to refrain from doing evil. But the surveillance, grading, and marking of a reformatory system go further. They teach him that he must learn to do the things he ought to do, as well as to leave undone the things he ought not to do.

The retributive system produces in prison a type of life wholly unnatural. The dependence is upon force, no matter how gently it may be applied. One will dominates all the inmates. The reformatory system aims to reproduce inside the prison the natural life of a free community. The main appeal is to self-interest. The motives which are strongest to restrain good men from evil deeds are relied upon to induce bad men to do well. Self-discipline is substituted for official discipline. Instead of one dominating will, there are as many wills as there are inmates, and all under self-control. Good character brings advantages and bad character losses, as they do outside the prison. The prisoner is not kept in prison; he keeps himself there. He may release himself.

He may not respond to these appeals at once. These motives were not strong enough to keep him out of prison; they may not, at first, be strong enough to enable him to get out, or even to move him to make a struggle. But in time, as he sees men go out who came in with him, and realizes that he is depriving himself of liberty, he will make an effort to secure it.

The system fits all classes of prisoners, but is of greatest value to the worst men, and to those whose criminality is due to lack of mercy. It cultivates the qualities which have greatest power to restrain from wrong and to impel to correct living.

One of the essential features of the system which the indeterminate system makes necessary is gradual liberation. Progress upward from one grade to another, with higher standards and lessening restraints, is a severe test of the development of character. Sudden and complete liberation from a strictly penal institution has ruined many a discharged prisoner who would have stood if his release had been gradual, and under tests of his ability to use added liberty.

One of the principal objections made to the indeterminate sentence is that it transfers to an administrative board powers which have been supposed to belong exclusively to the judiciary. When these laws were first enacted this was urged as a legal objection, as well as a sentimental one, and their constitutionality was questioned. More careful consideration has generally resulted in a withdrawal of the criticism.

The line which separates judicial and other functions is necessarily indistinct, in many cases. It is the function of the State, through its legislative body, to declare what acts are criminal, and to affix penalties to criminal acts. These penalties may be definite, leaving the courts no discretion. In Massachussets, for instance, the penalty for murder in the first degree is death. An "habitual criminal" must be sentenced to the penitentiary for twenty-five years. The court has no discretion. In most cases, however, the legislature allows great latitude to the courts in administering punishments, giving them a choice of penalties. This power to decide what the length of the term of imprisonment shall be has been, until recently, a judicial duty, not because it was a strictly judicial act, but because the legislature imposed it upon the courts.

The strictly judicial function of courts in criminal cases is to ascertain the guilt of the accused. Constitutions have jealously guarded his rights at this point, lest his liberty be taken away arbitrarily and unjustly. Some methods of procedure may be regulated by the legislature, but no law-making body can take away certain rights of a man accused of a crime. The duty of conducting criminal trials—of ascertaining the guilt of the accused—must be performed by the court. It can not be taken away or transferred by the legislature to any other body or person. The duty of deciding whether a penalty shall be imposed upon a convicted person is probably a strictly judicial function, but in many cases it seems to be hardly more than ministerial, for the legislature takes away all judicial discretion, leaving the court only the duty of announcing the penalty prescribed by the law and issuing an order for its enforcement.

In imposing a definite sentence to imprisonment the court not only decides that he shall be imprisoned, but also fixes the date at which the community must receive him back. The fixing of this date can hardly be considered "judicial" in its nature, though the duty has been usually imposed upon the courts, and the power has been exercised by them. It may as well be exercised by any other body designated by the legislature. The commitment of an insane person to a hospital is a "judicial" duty. Only a court can decide that one shall be deprived of his liberty because he has lost his reason. The power can not be delegated. But it is universally conceded that the power releasing a person so committed belongs to the administrative branch of the Government. Restoration of liberty must be dependent upon changed conditions. When those conditions have changed is a question for experts, and the decision can not be made in advance. The same reasons which justify the State in putting the question of the release of the insane into the hands of administrative hospital officials, justify

it in putting the question of the release of criminals into the hands of administrative prison officials.

If expediency is considered, it seems plain that the power can be exercised more wisely by the prison board than by the court. Such a board has all the knowledge which the court has in regard to the offense and to the man when he was found guilty. They are matters of record. It has opportunity to gather many additional facts as to his past. It has him under the most careful observation, and subjects him to searching tests. It is said that a prisoner is able to assume virtues which he does not possess and so may deceive the authorities, but it is far easier to act a part for an hour or two in the dock, before the court, than month after month under the eyes of trained officers. As a matter of expediency the decision of the question when the community shall be compelled to receive a criminal back can be intrusted to a prison board more wisely than to a court. The liability to error is greatly reduced. The danger that an injustice may be done by keeping a prisoner longer than he would have been kept under a definite sentence, and too long, is not to be feared. There is no foundation for the assumption that a prisoner has a claim or right to be released "when he has been punished enough," or as much as other men who have committed a similar offense.

One of the great advantages of the indeterminate sentence is found in the assistance which it gives in the reinstatement of the prisoner in the community. When a man comes from prison under a definite sentence the community has no reason to believe that he is fit for reinstatement. But release from an indeterminate sentence carries with it an assurance that those who have had the prisoner in custody and under observation believe that he is fit to be at liberty. The difference in the reception of the two discharged prisoners is very marked. As a rule the latter can obtain employment while the former finds it difficult to do so.

The conditional release is granted for the purpose of testing the correctness of the judgment formed while the person was in confinement. Correct behavior in prison, and progress from grade to grade, are not infallible tests of reformation. The prisoner may be too wicked to withstand temptation, or too weak. He may be lacking in purpose or in stamina. The sentence holds over him after his discharge, until he has reestablished himself in the community. He feels the restraint of this and responds to it. It is a part of the test for character to which he has been subjected from the first.

A conditional pardon (and even a conditional release on parole from a definite sentence) suggest to his mind a revision of the sentence, a reversal, to some extent, of the judgment of the court, but release from an indeterminate sentence is merely a change in the place of serving of his sentence. It is a part of the system. He is allowed enlarged liberty, but is still a prisoner. The effect is salutary, upon him and upon the community.

Some fear is expressed that in giving up the definite sentence there

will be a loss of deterrent power. On the contrary, it is increased. The man who is discharged from a definite sentence is absolutely free. He can be returned to prison again only after a conviction for a new offense. He may go where he pleases, into the worst surroundings and associations, with impunity. But the release from an indeterminate sentence gives him only regulated liberty. The authorities still control him and restrict his movements and he may be returned for any misdoing, even if it is not criminal, without a new conviction. The post-penitentiary effects of the indeterminate sentence are far more deterrent than those of the definite sentence can be.

The steadily increasing use of the indeterminate sentence in the United States is the best proof of its utility. Twenty years ago there was but one reformatory for men, that at Elmira, N. Y., and one for women, at Sherborn, Mass. Reformatories for men now exist in New York, Massachusetts, Pennsylvania, Minnesota, Ohio, Illinois, and Indiana, with others in process of construction in New Jersey and Wisconsin. Other States are carefully considering plans for establishing them. They are devoted exclusively to young men. With a homogeneous population, a definite purpose to reform the inmates, facilities for doing its work, the indeterminate sentence and conditional release, the reformatory is accomplishing a great work. Before many years every large State will have a reformatory for young men.

The sentiments in favor of the adoption of the indeterminate sentence for penitentiary prisoners is growing rapidly. Massachusetts and Illinois are using it. Several States have authorized the courts to impose such sentences, but do not require it, as yet. Other States have the subject under consideration. In 1898 it was adopted by Massachusetts for the State workhouse, in which vagrants, tramps, and drunkards are confined. The maximum term of imprisonment is one year for drunkards and two years for other offenders. The opposition from legislators, courts, and leading citizens has died away, and nothing but conservatism prevents its general adoption for all classes of institutions.

All this has been accomplished within but little more than twenty years from the enactment of the first statute of this nature.

AIMS OF THE INDETERMINATE SENTENCE.

By Judge Martin Dewey Follett, of Columbus, Ohio.

Some learned judges and statesmen hesitate to apply the principles of an indefinite sentence to a criminal convict going to a reformatory or to a penitentiary, holding that the trial judge can better fix a correct limit of just punishment for the offense of the convict than can the officer who keeps the prisoner. These thinkers seem to be held by the principle that the confinement and punishment of the criminal must equal the character of the offense, and that no one but a commissioned judge should limit the time.

Though a wise, honest, clear-minded, and judicious judge is necessary for a correct jury trial, the whole jury system is framed to permit the jury to find the facts, the character and grade of the offense, and the connection of the accused with the offense, his innocence or guilt, and then the trial judge to estimate, guess at (for how can he know with exactness?) the proper time for the future punishment, the duration of an adequate punishment. The difficulty of this estimate for the future punishment has become apparent, and thoughtful persons and intelligent legislators have sought a remedy.

Among other experiments for many offenses, legislators have fixed a minimum and maximum of duration of time; and then some have allowed the prisoner himself to shorten that time fixed by the trial judge, directing the keepers of the prisoner to give him credit in time, in days and months, for his meritorious conduct; and some legislators have allowed the jury that finds the guilt of the accused not only to find and fix the degree of guilt but the punishment itself; also, to find and fix the duration of his punishment, even to change capital punishment to life imprisonment. This practice has been sustained by higher courts, and it must upset the claimed sole prerogative of the trial judge.

But we think that mere punishment, exact punishment, is not possible—is not the goal of desirable penal legislation. We seek the security and peace of society, and we desire the prisoner purged of his tendency to criminal acts, and when he is prepared and able and willing and striving to live a proper life, as he has shown by his spirit and daily conduct while he has been tested in confinement and when he has had more and more liberty, as his keeper could allow him to have, and

then for a further period when on his parole, at last to receive a full discharge and have complete liberty to remain and abide with good citizens as a true man, having redeemed his own manhood.

By hard experience the prisoner may learn that his own bad character and conduct stand between him and his full freedom, and that, like the rest of men, he controls his own destiny. His hope of freedom draws and stimulates him and leads to highest action and best results.

The keeper is on constant watch. He has controlled, educated, and studied the prisoner, hourly and daily, for months and sometimes for years, while the prisoner was growing, changing, and becoming a reformed man, and with such experience and responsibility with many such persons the keeper must be able to determine more correctly than can the jury that tried the prisoner's guilt or the judge who directed such trial as to when confinement should cease and the hopeful prisoner go free.

What about the prisoner who, as the keepers believe, grows day by day more hardened and vengeful? Do you think best that he go free after his maximum time has expired? If society is to be protected and its peace and safety are to be assured, the known criminal convict must not be at liberty to prey again upon society with his criminal acts, but after his arrest and due conviction he should be kept in restraint until it is probable that he may be trusted to remain in free society. To my mind all criminal prisoners should stand alike, only give each the benefit of any doubt.

There can be no good and enlightened government without the full accountability of each person who is a part of and under such government. If one claims exemption from responsibility, or that personal crime is the result of a diseased condition of the criminal, and is not a voluntary and willful act of the criminal, or that he is not accountable, let him be fully quarantined from society; he is too dangerous to be at large and public safety requires his confinement.

REPORT OF THE COMMITTEE OF THE AMERICAN BAR ASSOCIATION.

To the American Bar Association:

The committee on parole and indeterminate sentences of prisoners beg leave to submit the following report:

At the last meeting of the association, held at Cleveland, the following resolution was adopted:

Resolved, That a committee of five be appointed by the president to report at the next meeting of the association, which, if any, of the States have adopted acts for the parole or indeterminate sentences of persons convicted of crime, what decisions as to the constitutionality and interpretations thereof have been rendered therein, and whether such acts have proven beneficent in their execution, together with such general information as in their judgment may be of public interest on these and kindred subjects.

The committee met at Cleveland immediately following their appointment and determined to seek information upon the subjects embraced in the resolution from the executives of the several States. A letter was agreed upon, drafted and sent to the governor of each State and Territory, of the tenor following:

NEWARK, N. J., *March 1, 1898.*

Hon. ——— ———,

Governor of ———.

MY DEAR SIR: At the last meeting of the American Bar Association, held at Cleveland, Ohio, a committee composed of five representative lawyers of as many States, was appointed to gather information and report upon three subjects:

First. Which States have adopted by statute a system of parole for convicts.

Second. Which States have adopted a statute permitting indeterminate sentences; that is, simply sentencing the convict to prison without fixing in the sentence any term, but leaving the discharge to the pardon power or some board or other authority, as circumstances may make advisable.

Third. Which States, if any, have established intermediate prisons wherein those who are first offenders or under a certain age only (say 30) may be confined.

We earnestly request you to furnish us with an answer to each of these inquiries as soon as convenient. If a statute relating to either of these subjects has been adopted or is in operation in your State, will you kindly give us your opinion of the effect, beneficial or otherwise, thereof. Your consideration of this request can not but result in good to your own and your sister States, as it is the intention of the committee to report fully on all these questions in such manner that useful information on these several subjects may be promptly laid before the executive and legislative departments of all the States.

With great respect, yours, very truly,

J. FRANKLIN FORT,
For the Committee.

Responses were received from all the States and Territories except Arizona, Arkansas, and Mississippi.

The replies were full and contained, besides the information sought, many valuable suggestions.

The resolution seems to call for report by this committee on four distinct propositions.

1. Which, if any, of the States have adopted acts for the parole of prisoners convicted of crime?
2. Which have adopted indeterminate sentences?
3. Whether said acts in execution are beneficial?
4. The decisions of the several States as to their constitutionality.

The following States have laws authorizing the parole of convicts independent of the power of pardon: Alabama, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Kansas, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Utah, and Wisconsin.

In addition to these States, Iowa, Vermont, Virginia, and West Virginia have a system of conditional pardon, which in its operation is very similar to that under the statutes conferring the power of parole upon the inspectors or other board or authority having the custody of the penitentiaries or reformatories of the other States. Maryland has a law which permits the trial court to parole any convict for any crime not capital, without sentence, subject to recall for sentence at any time.

In addition to these States the chief executives of the following States, which have no parole statutes, write your committee that they favor the enactment of such a law by their respective States: New Mexico, North Carolina, Oregon, Tennessee.

This summary shows that twenty-five States have parole acts of some character in actual operation, with four States awaiting their enactment upon the advice of the chief executives thereof. This class of law is of a late growth. Five years ago they did not exist in more than five States, and probably in but one, ten years ago. Several of the States adopted parole acts at their legislative session of 1897, notably, Alabama, Connecticut, Idaho, and Indiana.

South Dakota passed a parole act in 1890 and repealed it in 1893. The reason assigned is "that it was deemed ineffective in a great many points." In what the ineffectiveness consisted we are not advised, but probably in the imperfection of the act.

There seems to be one general limitation upon the power of parole in the acts of all the States, and that is that no person convicted of murder in the first or second degree can be paroled.

The latest and seemingly most carefully considered statute on the subject is that of the State of Indiana, being chapter 53 of the laws of 1897 of that State.

Another limitation exists in many of the States, in fact in most of them; that is, that the parole act shall only apply to prisoners who are

serving a term for their first offense, and in some acts a further restriction exists which limits the operation of the law to prisoners who are between the ages of 16 and 25 or 30 at the time of their conviction. Several of the States, however, do not make either the fact of first offense or age a condition giving the right to parole—the right existing in the discretion of the prison board as to all offenders. Kansas is of this class.

AS TO INDETERMINATE SENTENCES.

The expression "indeterminate sentence" of prisoners is indefinite. Strictly speaking, the right to impose such sentences does not exist in any State. Statutes permitting what are commonly called indeterminate sentences are such only in degree. The best definition of what has come to be known as an indeterminate sentence is a sentence imposed by a court without fixing a definite period of limitation or term of imprisonment, but which simply directs that the convict be imprisoned or placed in the custody of the prison authorities, to be held for not less than the minimum and not longer than the maximum period fixed by law for the offense for the commission of which the prisoner stands convicted.

The States of New York, Massachusetts, Pennsylvania, Minnesota, Illinois, Ohio, and Indiana have such statutes. The States which have adopted this method of sentence seem to approve of it in operation.

The use of the so-called indeterminate-sentence feature is in most of the States confined to prisoners who are first offenders and who are between the ages of 16 and 30 years, and in most cases the States have erected, or created out of one of the prisons already existing, a place of confinement for such prisoners, called a State reformatory.

This method of sentence, properly handled under the control and direction of competent and humane men, may, as is claimed by the States operating it, work well, but the data before your committee, while very full, are not sufficient to satisfy us that we should at this time give it an unconditional approval. Coupled with the parole system, which works beneficially, if reports are to be relied upon, it may be a wise method of sentence, but only, of course, with that system existing. But even with that system it might also work great hardship from many causes which will readily suggest themselves.

The judge that tries the case and hears all the evidence or statements of the prisoner and complainant should, it seems to your committee, be required to fix a period beyond which the prisoner could not be detained. There are often many mitigating circumstances in criminal cases. Let us illustrate. Suppose the statute were to make the commission of a certain act a misdemeanor and fix the penalty at not less than one or over five years, and the convict be sentenced to imprisonment under that statute by this method. He remains at least one year, and unless pardoned or paroled may remain five years in confinement for that offense, and yet the judge, had he had any discretion

in imposing the sentence, might not have deemed it a case worthy of over one year at the very most, and but for the minimum penalty he might even have deemed six months a sufficient imprisonment. Yet under this form of sentence the prisoner may be held five years, dependent upon the will of the prison board. Human nature is very weak. A trivial violation of some rule of prison discipline may extend the prisoner's term far beyond the length of time which the judge imposing the sentence might have thought full penalty for the crime. It may be that it is wise to have a minimum and a maximum term of imprisonment in every statute for crime, but the judge imposing the sentence, in our view, should be authorized, if he thinks it a case for so doing, to fix the limit of possible time of the prisoner's term of service. There should be no case where under any possible contingency it might happen that a prisoner could be held in custody beyond the time which the trial judge deems a sufficient punishment for the crime of which he stands convicted.

It seems to your committee that if the so-called method of imposing an indeterminate sentence of the character above defined is beneficial, that the limitation herein suggested, viz, that the judge sentencing should fix a maximum term at or below that fixed for the offense by statute, would be still better and more certain to result in exact justice in every case. It is, of course, the theory of the drafter of this class of penal statutes that the prisoner will be discharged on parole long before the maximum period is reached. That is good in theory, and he may so be—probably would so be—but the case of the convict who might not so be must be also provided for, and the fixing by the judge of a definite term of imprisonment at or under the maximum fixed in the statute would assure that punishment should never exceed the penalty which the trial court felt would fully atone for the crime, and it would not interfere with the operation of a parole by the prison authorities at any time before the fixed term expired, if they thought the conduct and interests of the prisoner warranted it.

The language of the sentence clause of the Indiana statute hereinbefore referred to is this:

> The court trying such person shall sentence him to the custody of the board of managers of the Indiana Reformatory, to be confined at the Indiana Reformatory or at such place as may be designated by such board of managers, where he can be most safely and properly cared for, * * * and that he be confined therein for a term not less than the minimum time prescribed by the statute of this State, as a punishment for such offense, and not more than the maximum time prescribed by such statutes therefor, subject to the rules and regulations established by such board of managers.

It will be noticed that this method of sentence eliminates all judicial discretion, forces, if any sentence is imposed by the judge, at least the minimum, and transfers to a board of managers—a nonjudicial tribunal—the right in its discretion to hold the offender until the expiration of the maximum term of years or penalty fixed by statute for the crime of

which the prisoner was found guilty. All discretionary right to impose a light sentence, arising out of mitigating circumstances in any case, is taken from the trial judge.

Your committee see no necessity for the statute fixing a minimum term of years. If a maximum is fixed by statute and the trial judge thinks a general sentence sufficient, in which case the prisoner must serve the full time prescribed by statute, well; but if the judge feels that the maximum penalty is too great, then he should have power to fix the limit of time that the prisoner could be held in confinement at such period as he thinks right below the maximum fixed by statute.

ARE PAROLE STATUTES BENEFICIAL?

Upon the question of the beneficial character of parole statutes the opinions received by your committee are unanimous. Only one State (South Dakota), as we have seen, has repealed a parole act once adopted. The States which have tried it longest are its firmest advocates.

In California the law has been in operation for five years: 72 prisoners have been paroled; only 8 have violated their paroles, leaving 64 who have remained at large and done well. The letter of the warden transmitted by the governor says:

> I heartily approve of it [the parole law], and believe that it has done much good already and will continue to increase in usefulness in the future.

In Massachusetts the secretary of the prison commission, by direction of the governor, writes that—

> The operation of these laws in the main is beneficial. As far as possible the prisoner is placed on his good behavior in order that he may shorten his sentence; as a rule, this object is attained, and I am safe in saying that upon the whole these laws are wise.

In Michigan 128 prisoners were paroled previous to 1898. Fifteen are now on parole and only 9 violated their parole, all the others receiving honorable discharges. Of the 9 who violated the parole, all but one was returned to the prison; that one having gone over into Ohio, is there a prisoner for larceny.

The secretary of the prison board of Michigan writes:

> I am authorized to say that Governor Pingree is much in favor of it and prefers the exercise of the parole law to that of absolute clemency as extended in a pardon.

In Minnesota, where there is an excellent parole and reformatory system, they write:

> As to the effect of the parole law in our State, I would unhesitatingly say that it had been beneficial, but would add that its success, in my opinion, depends almost entirely upon the way it is administered; carefully carried out, the effect will be good; carelessly enforced, the effect will be bad.

Two results are claimed for the law in this State.

First. It greatly lessens the number of severe punishments necessary to maintain a high standard of prison discipline.

Second. It affords a humane and effective means of reaching and bringing out the better elements of the prisoners.

The statistics show in Minnesota 50 per cent less solitary punishment cases during the four years of the operation of the parole law than the four years preceding.

One hundred and seventy-seven were released on parole in that State during the four years; only 17 violated the conditions and only 3 escaped from the State.

Governor Holcomb, of Nebraska, says:

> I am of the opinion that the parole system has proven beneficial in the administration of our criminal law.

The governor of North Dakota approves the law and thinks the act is even too restrictive.

Governor Bushnell, of Ohio, writes a very full and interesting letter, and says:

> The effect of the parole law in Ohio has been good, as it affords to prisoners the incentive of conforming to the rules of the penal institution and thus acquiring the benefits offered, which often lead to marked changes in their lives. But a small proportion of the paroled prisoners from the Ohio Penitentiary are reported for violation of rules.

In Pennsylvania the law is fully commended, and this is one of the States in which it has been longest in operation. There they advocate the employment of agents by the State to secure paroled prisoners employment as soon as the parole is granted.

In Utah they have an excellent and thorough parole system, of which the Governor heartily approves, and the papers forwarded to your committee indicate that the high opinion of the law expressed by the governor is well founded.

In New York, where the law has been longest in force, it is most highly praised.

States having conditional pardon features, similar in effect to parole, like Vermont and West Virginia, where the prisoner conditionally pardoned can be recalled by the governor at any time, write strongly indorsing the beneficial effects of the system.

This necessarily brief reference to the correspondence with the governors of the several States, which is a fair sample of it all, must suffice for this report, and yet it is amply sufficient to justify your commitee in reporting that we find the parole laws in operation to be working beneficially, and that we deem their wise execution and extension in the interests of sound public policy and the prisoner.

THE CONSTITUTIONAL QUESTION.

We have given much thought and some research to the question of the constitutionality of acts for indeterminate sentence. It is largely a question of the construction of the several State constitutions.

Indeterminate sentences—so called—as herein defined have been sustained as constitutional in the following States: Ohio, Peters *v.* State,

43 Ohio, 629; Illinois, People *v.* Reformatory, 148 Ill., 413; Genge *v.* People, 167 Ill., 447; Indiana, Miller *v.* State, 49 N. E. Rep., 894 (904); Massachusetts, Commonwealth *v.* Brown, 167 Mass., 144.

In Michigan, in a well-considered case, the court held an indeterminate-sentence act unconstitutional. The reasoning in the Michigan case commends itself as worthy of the most careful consideration of the courts and bar of the country.

The act there declared unconstitutional was of the kind the policy of which we have hereinbefore questioned—acts which fix a minimum and maximum and leave the sentencing judge no discretion.

The act declared constitutional in Massachusetts, in Commonwealth *v.* Brown above cited, directed that the convict be held "not less than two and a half years and not more than a maximum fixed by the court not longer than the longest term fixed by law."

That language conceding the wisdom of putting in a statute any minimum penalty (which your committee do not grant) we believe constitutional, and a wise method of sentence, as it leaves the maximum penalty to the discretion of the judge and guards against otherwise possible excessive terms of imprisonment.

INTERMEDIATE PRISONS FOR FIRST OFFENDERS.

In formulating our inquiries, your committee asked for information as to which States had created intermediate prisons or reformatories, to which only first offenders under a certain age, say 30, could be sent.

Such institutions are found to exist in the following States: New York, Massachusetts, Pennsylvania, Minnesota, Illinois, Ohio, Indiana, and to be in process of erection in New Jersey and Wisconsin, and that this plan of prison reform is under consideration in Maryland, Missouri, and Iowa.

Such institutions seem wise and promotive of the most beneficent results. First offenders should not be permitted to associate with confirmed convicts, and the increase of reformatories for the confinement of youthful first offenders is in line with modern humane principles in the administration of the criminal law.

CONCLUSION.

This investigation has been a delightful one, and full of information of interest to the man of humane instincts and advanced views. It is gratifying to learn that the idea that penal statutes are purely punitive is rapidly passing away, and that with the growth of civilization has come the belief that for the protection of society against offenders more is to be gained by parole and similar acts—which lead the convict to expect speedy liberty, and if he is true to himself, rehabilitation in society—than by stripes and bonds or solitary confinement. That "hope springs eternal in the human breast" is as true of the convict

as any other person, and so long as hope remains there is chance for his reformation.

In concluding this report, your committee deems it proper to say that this association, whom it represented, is indebted to the governors of the several States for their prompt and courteous replies and the useful information furnished; and this fact also justifies the suggestion that the prompt action by the several State executives, and the many requests they have made in their replies for copies of any report which this committee should make to the association, is striking evidence of the estimate in which any investigation, report, or action by this association is held.

JOHN FRANKLIN FORT,
ROBERT W. WILLIAMS,
JOHN H. STINESS,
JOHN D. LAWSON,

Committee of American Bar Association on Parole and Indeterminate Sentences of Prisoners.

THE PAROLE SYSTEM AS APPLIED TO THE STATE PRISONS.

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Concerning the wisdom of the indeterminate sentence—or "terminable," as Dr. F. H. Wines calls it—and parole as applied to juvenile criminals in our reformatories there is now scarcely a question; but as applied to adults and to State prisons there is great discussion as to its merits, and in several States which have lately adopted it the law is assailed by bench and bar to a considerable extent and may be said to be undergoing a crucial test. The legislation establishing it, while following the same general plan, is in some States crude and unsatisfactory. This has brought upon the whole scheme of indeterminate sentence and parole the censure of some good men, as well as that of many of those who think that an offender is necessarily a criminal and has "no rights that a white man is bound to respect."

The fact that I have been connected with the application of the indeterminate sentence and parole system in two reformatories for minors and one State prison for adults is the reason given by my official superiors for assigning to me the duty of speaking upon the subject.

I shall confine myself to the subject of the parole system as applied to State prisons. For a clear and concise description of the parole system in the different States I beg to refer to the address of Dr. Wines before the last Prison Congress, as reported in its proceedings.

The success of the parole system in the treatment of crime means that two things must be accomplished:

I. The first offender, or the criminal capable of reform, must be discovered, and when discovered so trained and disciplined that he may be returned to society prepared for good citizenship, and when returned placed in position in which he can support himself by his labor.

II. The habitual or professional criminal, or the criminal who rejects reform, must be discovered, and when discovered retained within the walls as long as the law may warrant and he continues to remain by choice in the criminal class.

To accomplish these two objects three conditions are necessary:

1. Proper facilities in prison building, equipment, and official service must be obtained for the skillful analysis, separation, and classification of the grades of prisoners—the corrigible and incorrigible.

2. The hopeful or corrigible prisoner must be fully prepared for parole by having his history, habits, and tendencies carefully considered, and his discipline—which includes training to obedience and self-control, and especially training to industrial efficiency—carefully looked after.

3. The hopeless or incorrigible prisoner—that is, the habitual or professional criminal—must be completely identified, his history carefully collected, and the justice of his retention fully established, while at the same time discipline, as above defined, must be patiently applied to him in the hope that he may "cease to do evil and learn to do well."

"Proper prison building" is a phrase that may mean much. It may mean that the structure of nearly all our older prisons contains the old idea of a "lockup," in which ventilation, sanitation, moral elevation, and almost every other "ation" have been sacrificed in the desire to build with the least apparent expense to the State, the greatest profit to the building contractor, or the least scandal to the political party in power. Too many of our older institutions contain in their very shape and appearance the feudalism of the Norman, when it is the humanity of the American which should be architecturally enshrined.

Hospitals do not, as a rule, possess battlements, towers, and turrets at the loss of accommodations for the sick. Why should prisons, which are moral hospitals? An old office building in the city which has not been refitted with the conveniences for which needs have been born within the last few years is almost a "haunted house." Yet we are nearly a century behind the age in carrying the reform movement into prison architecture. Why must we still put two "fellows of the baser sort" into a cell 4½ by 7 feet in size, accompanied by a pestilential cell bucket, and ask them to accept exalted ideas of morals and etiquette and general decency?

Why should one prison adopt the cell block or congregate system of cell arrangement while another prison has the solitary plan alone? The two systems should be combined in one general prison plan, so that even the working hours may mean not the mixing of the good and bad elements of a prison population, but a quarantine of the bad and the mutual helpfulness of the good. If you have three grades, why not have three prisons in one and adopt rooms without grated doors for the highest class of prisoners?

Hospitals to-day have special wards for fevers, for tuberculosis, for surgery, etc. Why should not prisons have separate wards or departments for the moral diseases which are to be treated therein? Prison discipline would thus become much more simple to prisoner and officer, and the ideas of gradation and graduation more natural to all. Would it not also be well to have somewhere between prison and parole a barrack, or place of detention, or a place of refuge, if you like, unwalled, unbarred, and not too closely guarded?

Here an opportunity to work for wages, also the opportunity to seek

employment, being given, the system of diminishing surveillance would be much more complete and less of a risk run, both by prison and prisoner, than in the present sudden transition from the barred cell and evening count to the temptations and pitfalls of the parole.

With such an arrangement for the paroled man who makes a mistake, or who meets with disaster, the return to surveillance need not be so tremendous a calamity as now, and therefore there would be less probability of violation of parole by flight.

At present it is a matter of difficulty to obtain employment for paroled men who have no friends, for nearly every decent employer regards it as a matter of too much uncertainty to expect the man just released from rigorous prison discipline to remain under parole surveillance. Employers as a rule are unable to understand why a man should be content to yield even so much of his native independence, because they are unable to realize the misery of absolute confinement. The intermediate, or detention, or barracks prison would also remove from the employer who proves tyrannical much of his power to exercise tyranny over a paroled man, for voluntary return to this place would not mean so much of failure and disgrace as a voluntary return to prison now means.

In the matter of equipment there is a coming need in almost every prison since the advent of the anticonvict labor idea. If manufactures, which send the product of prison labor into the markets of the world and thus yield directly and simply to the support of the prisons and prisoners, are to be abolished, some new form of industry must be supplied, as schooling and preservation for hand and brain. The form of industry must be rational and in keeping with the requirements and methods of outside employment, too, or the prisoner goes into the world again a crippled man. Take shoemaking, for example. Suppose a man is taught in prison to make shoes by hand, after the manner of Crispin in the days of our forefathers. When he applies for work in some modern factory he will learn that his years of shoemaking might have been almost as well spent in clay modeling or mud pie building, for the rapid piece or machine worker is the man of to-day. Therefore, the work provided for the prisoner, if at all tending to fit him for outside industry, must be experimental and expensive if it can not be, in part at least, self-supporting. Work there must be, if progress is to be made, and the sooner we settle the question of equipping our institutions so that the inmates may be properly trained to industrial efficiency the sooner we shall remove a very great danger which threatens the parole system. Why is not the abolition of the parole system demanded on the same ground that productive labor in prison is opposed, for does not each parole furnish a competitor to some free laborer? The man can not really be a free laborer until he is finally discharged, and as a paroled prisoner is generally obliged to accept lower wages than he would if free, is he not thus in competition with the respectable and law-abiding workman?

The guard force of the average prison must receive more attention than heretofore if the highest success for the parole system be attained.

The preparation of the prisoner for parole demands that the institution shall be free from all but scientific influences and objects. The work of rescuing the criminal and restoring him to good citizenship is a science requiring years of practical experience to attain, and is far too important to be longer hidden under the embarrassment of party politics and the constant domination of the necessity of getting votes. It is time that the people were awakened to the wrong of trying political experiments with institutions which have in their keeping the lives and souls of men. Medical hospitals are not conducted on the basis of party success, and moral hospitals can not be successfully conducted on that basis.

The paroling power should be dependent on expert management, and that management should be left entirely free to follow the methods best suited to the work of rescue and reform. It is therefore of great importance that all good citizens unite in placing the management of penal and reformatory institutions on the plane of the best service to the State. Some means should be devised for securing to all such institutions nonpartisan boards of managers composed of clear-headed, practical business men, as well as clear-headed, practical professional men, and, if you please, women of the same class who know how to differentiate sentiment from sentimentality. The management or mismanagement of penal institutions should cease to be a credit or a reproach to some political party, but should grace or disgrace a State.

One of the most important elements in the preparation of the prisoner for parole is the perfect freedom of the management in the handling and control of prisoners and its devotion to the work for the work's sake. Practical and not purely theoretical means must be employed, and if the management by years of patient service has shown its ability and devotion to the work it should no more be subjected to the annoyance of cranky reformers and unpractical people with fads than it should be subjected to the designs of the politician.

Following this there should be a grand advance in the personnel of guards and officers of the prisons. They who are the hands, eyes, ears, and mouth of reformatory prison work must be attracted to and retained in the service because of natural taste for and adaptation to this line of work, and must cease to be mere party followers who are receiving pay for former political or other service. The salaries paid for this work should be commensurate with the intelligence and fitness which the work requires. The officers, from highest to lowest, should be models on which the reformation of the prisoner is attempted. The habit of imitation is largely responsible for the making of criminals, and can be largely used for their betterment. The presence of constant models in the official staff of an institution is of very great importance. By models, I do not mean models of leniency and softness and gush, but models of manliness and strength and Christian hopefulness. This is the plane we should

approach even if we never quite reach it. Enlistment in prison service should, in some respects, resemble enlistment in military service—for definite periods, under definite requirements, with reenlistments, veteran service pay, and with honorable retirement on certain conditions of age and physical disability. The service should be honorable and appointees should always be men who will honor the service.

In the preparation of a prisoner for parole, his obedience to the laws and regulations of the prison must, of course, form the principal part of the basis on which his parole is to be considered and earned, but his history, habits, ideas, and tendencies must also be carefully taken into account in order to determine the question of his probable future course. When he first enters the prison he must be made to understand that the paroling board will send him out on parole only when it is convinced that he is a safe subject to trust with the liberties of the parole. He must be made to feel that no outside influence of any kind, political or personal, can help him in the least; that no attorney or anyone else can present arguments before the board in his behalf. He is to be studied as a man, and if found to possess manly qualities may be given the opportunity to live outside as a conditionally free man. He must also understand that his return to the prison is certain if found too weak to live properly, or voluntarily following unlawful or degrading paths.

The history of his past life as given by himself should be carefully noted and verified whenever that is possible. He should be skillfully questioned in such a way as to bring out the prevailing ideas under which his life has moved, his family history, and all that has tended to make him weak or strong. This view is taken under the supposition that the object of the parole law is the individual treatment and study of criminals, for they can not be paroled in classes or companies if the protection of society remains one of the principal duties of the prison authorities. With this analysis and study of the man it becomes all the more important that he be afterwards handled and supervised by intelligent officers and teachers. The way to obtain intelligent officers and teachers is to obtain the recognition of prison work as a profession of skilled intelligence, and to make intelligence and fitness the requirements necessary to appointment as a prison officer.

Everything possible should be done to awaken and stimulate the prisoner's personal pride. Sometimes pride is about the only feeling that seems to be left to the criminal after his conscience has been long silent, and by it a man may sometimes be started on the right course.

The grading system is useful is seizing and developing this feeling when it is possible to discover it. But the grading system, if used at all, should be thorough, and different buildings, clothing, food, privileges, and treatment should aid in the work. Different kinds of labor should also be employed in establishing the difference between grades.

All this is very difficult to arrange for, if the existence of the laws against convict labor furnish a practical prohibition of everything that may be marketable. And if you are to teach honesty and uprightness is there consistency in attempting to do it with merely penal labor? The indignation of the starving Irishman whom the wealthy man hired to move a pile of brick from one side of the street to the other and back again, and who threw up the job after half an hour's work "Bekase he wos too sinsible an Oirishman to be threated like a bloody fool!" is a good illustration of the effect of useless or sham labor on the average prisoner.

The whole plan of reformatory work in prison is threatened by the prospect of losing from the prisons the good, honest work that produces something of usefulness and value. The silent lesson that a man learns in producing something by toil and effort, which is in turn to be purchased by the toil and effort of some other man, because of its usefulness and value to him, has in it something of that mysterious charm which makes the man of the world outside successful.

Every prison has seen more or less of the effect of this subtle influence. Even the dead beats of a prison prefer work that means something.

The influence of a good library can not be small in reformatory work. But the library should be well kept up and the use of the books ably directed. Courses of reading on attractive subjects when properly planned and suggested have great weight for good. Libraries should be built up in courses of reading on definite subjects.

How to make moral instruction attractive and effective in the preparation of the prisoner for parole is a difficult question. I believe that chapel exercises should not be made tiresome in length of preaching or in the effort to argue theological questions. Simple sermons are the best. Good feeling should be cultivated by varying the religious exercises with interesting addresses, orations, or lectures on the topics of the day, on scientific subjects, or with readings of certain kinds. The gramophone has proven very interesting on several occasions, and musical treats are very helpful. The prisoner should feel that he is not to be the target for religious sharpshooting, but that something helpful is to be given to him every time he goes into the chapel.

A well-conducted Sunday-school, if teachers can be obtained for separate classes, or if conducted in a skillful and attractive manner as one class, is of very great aid. But the most effective and lasting impression possible is in the cell-door visits of a conscientious and tactful chaplain. A true friend is always powerful.

The parole of prisoners who should be retained in prison and not paroled so soon is, here and there, a defect in the administration of the parole system which has already brought it into discredit in some places and is likely to seriously impair public confidence in the principle. You will agree with me, I am sure, that the only true basis for the issuance of conditional release is a scientific basis, the unimpassioned investigation and conclusion that there is a reasonable probability that the prisoner, if released, will live at liberty without violating the law, including the law of the conditions of his parole.

The yielding of the authorities to the prisoner's personal persuasion, to the persuasion of his relatives and friends, if he has any, even the

release of a prisoner because his family conditions are such as to require assistance, the assistance he might render if he properly behaved himself, and yielding to the persuasion of prominent political persons who desire to please constituents by the premature discharge of somebody they are interested in, are all centers of decomposition and will ultimately destroy the principle of parole, or at least greatly impair its usefulness. Much has to be done yet to inform and brace public sentiment so we may be permitted not only to discharge or parole prisoners when there is good reason to believe they may live without further crime; not so much this as permitted to retain them under such custodial restraint and training as is wise and proper, until they are with reasonable certainty fitted to go out. The danger is on this side of the question. There is another trouble in some institutions, namely, a strong tendency to take chances by releasing men sooner than they ought to be paroled, because of the overcrowded condition of the reformatory or prison, so that the question comes up, Which is the least of two evils—to retain the prisoners under training in the overcrowded institution, or to send them out on a small margin of probability that they might get on in free society? This is a condition that can only be met by supplying accommodations and facilities so that they may be properly detained.

Then, again, the police must be interested to take a different attitude toward prisons and reformatories. One prisoner, as you know, released sooner than the police authorities believe to be best, one prisoner who goes wrong again, disseminates throughout the police department of a great city a feeling of irritation and lack of confidence in the reformatory treatment of convicted criminals. The police notion of reformation, too, is frequently that of the common thoughtless crowd, namely, that prison authorities are always willing to parole a prisoner when he seems to be persuaded to promise to reform. They ought to withdraw their confidence from a reformatory system which is thus based, but, through the influence of the National Prison Association, I am persuaded that the institutions can be brought to a more scientific basis of reformatory treatment, and, the police once convinced of it and made to understand it, I am sure there can be wrought out good cooperation of the police with the prisons in the supervision and restraint of prisoners sent out on parole, all for the protection of society from crime, through the prevention of it rather than by the revengeful punishment of the criminal.

In the troublesome question of finding a situation and an employer for a man deemed worthy of parole, I believe that as far as possible the prisoner should aid in the matter by attempting to get work from his former employer. No one is so apt to know the amount of risk in taking the ex-convict as his former employer—and when former employers can not be induced to help a man or to look favorably upon him, his case should be carefully considered before he is paroled. If a man has no friends he is very apt to have been undeserving of friends, and if acquaintances, relatives or former employers are unwilling to aid, the man is a doubtful candidate for parole liberties.

Of course, some friendless men in prison are worthy, and for these the State should provide aid. I suggest that a branch of the penal system of the State should be the barracks, or a place of detention, with workshops and accommodations for a number of men where the parole period can be passed by those unable to go directly from the prison to an employer.

Perhaps the most important as well as the most difficult duty in the administration of the parole law is to keep within the prison walls those who should not be paroled—the habitually and professionally criminal, the perverts and criminal degenerates.

It will be probably shocking to those to whom the idea of helping convicts out is paramount to have it asserted that the duty of keeping certain convicts in prison for the longest possible period is of as great importance as the paroling of those who apparently have had enough of imprisonment. Yet it is in this part of the work that the greatest care should be exercised, if justice be done, for it is a most serious matter to condemn a fellow-creature, traveling the same brief span of life with ourselves, already in trouble and wretchedness, to prolonged trouble and wretchedness. Still it must be, and, under the law of the indeterminate sentence, the prison authorities and the paroling board must take the responsibility.

The fact that prisons are necessary, and that laws continue to be broken, human life and property assailed, and monstrous acts of cruelty done, makes it of prime importance that they who are ruthlessly and hopelessly criminal shall be restrained and punished. It is a sorrowful thing to contemplate the lives that are so hopelessly wrong, and to view the awful misery that perverted human will and perverted human hearts can bring to such a brief existence.

In the study and selection of those to whom the gates are to continue closed there is need again of intelligent and efficient help. The reports and observations of subordinates must, with what is obtainable of the professional or habitual criminal's history, form a basis on which his retention is to ratify to others the settled conviction of the skilled and scientific observer that the prisoner is too crooked to parole. And in this matter of the handling and observation of prisoners is it fair to put fifty or sixty officers in competition with a thousand or twelve hundred men, unless those fifty or sixty officers are shrewd and intelligent in greater proportion than the men with whom they have to deal? And if half of your force are mere political or social dummies that tired politicians or disgusted relatives of "influence" want out of the way, is there any wonder that unjust things may be done amid the blunders sure to follow?

It is of prime importance that in addition to the crookedness of nature

that may crop out during their terms of service there should be positive identification of those who are thought to be habituals or professionals, and that their history should be collected from authentic sources. To this end there should be an immediate adoption in every prison, penitentiary, reformatory, workhouse, house of correction, and police department in the United States of the most efficient sytem of identification in existence—I know you are ready to hear me add—"the Bertillon system."

But the Bertillon system is of too delicate a nature to be carelessly or inaccurately applied, and the chief source of dissatisfaction with it, or of opposition to it, is the fact that inaccurate measurements are productive of worse confusion than the ancient method its enemies still pursue, of thumbing over old albums of photographs in a "rogue's gallery" and pretending to remember thousands of faces and names.

One thing is necessary—the Bertillon system must have a head—an American Bertillon. It must have a central or national bureau, under Government authority, whose chief shall be the superintendent of the system, and from whose hand all licensed operators shall receive a diploma of skill. It should be his duty to arrange the annual inspection of all operatives and the correction of errors in methods and practices. The work of identifying criminals is important enough to demand national legislation on the subject, the establishment of a national bureau, and the presentation of national diplomas or certificates of skill to operatives who properly qualify, and none others should be permitted to practice it.

There should be immediate provision made in each State, upon the formation of the bureau, for the interchange of descriptions, through this bureau, with prisons and police departments in other States. Extradition of escaped convicts should be refused unless accompanied by anthopometric measurements and photo of the convict.

The escape of the second-termer from at least the half of his maximum term should not be permitted, and the third-termer should, in most cases, serve the maximum term in full. No influence of any "outside" nature should be permitted in any way to interfere with rigid adherence to these rules. Exception should be made only when the mental condition of the prisoner throws grave doubt upon his responsibility for the crime which made him a second or third termer, and in such event he should be committed to the asylum for insane convicts.

Let no man conclude from what I have said that I deem the parole system unsuccessful, when compared with the system of definite sentences, to which it has succeeded. When we compare the parole system, defective as it is, with the old system, especially in States where the jury fixed the length of sentence and where almost every sentence which did not reflect the prejudice of the locality that furnished the jury was a compromise, reached, after a scheme of "marking" and "averaging," or sometimes of gambling or casting lots in the

jury room, that tended to destroy in the minds of both prisoner and people all respect for courts of justice, and presented in the prison such a hotchpotch of sentences for the same crime as to effectually destroy in the prisoner's mind all notion of justice—I say when we compare even the defective present with the hideous past, we may well imitate the example of the great Apostle—thank God and take courage, and go resolutely on unto the perfection of a system that has in it more of hope and blessing for fallen and criminal humanity than all the past centuries have shown.

Let us patiently and perseveringly insist on the application of common sense to the difficulties and problems that confront us in its administration, and the success of what we know as the parole system as applied to prisons for adults is not doubtful.

APPENDIX.

EXTRACTS FROM CORRESPONDENCE.

[Submitted by the committee of the American Bar Association.]

ALABAMA.

At the last session the general assembly enacted a law to parole convicts, giving the governor entire discretion to impose conditions. Based upon the experience of the one year it has been tried, the governor is very much pleased with its operation results.—[Chappell Cory, private secretary to the governor.]

COLORADO.

Colorado has the indeterminate sentence for first offenders convicted of minor crimes, who are sent to the Colorado reformatory at Buena Vista, where they are paroled by the board of commissioners under the advice of the warden. A parole system is also in force at the State Industrial School for Boys at Golden and at the State Industrial School for Girls at Denver. It is believed by this board and by the prison officials that the indeterminate sentence is the proper form, and that under wise administration the results are most beneficial in discouraging recidivists.

Recently in this State a prisoners aid society has been organized to assist worthy discharged prisoners to find work where they may be protected from police annoyances while endeavoring to live down their shame arising out of a penitentiary sentence. The State board of pardons also offers a reward or hope to deserving prisoners who, while technically guilty of crime, are sufficiently punished by the fact of being sentenced, and upon being pardoned they generally become useful citizens. The percentage of reforms through the action of the board of pardons is very large, though it is difficult to obtain exact figures because pardoned offenders prefer to drop from view and do not report to this office. Very few cases of pardoned criminals have appeared again in the courts of the State. In the four years' existence of this board we have learned of probably 6 cases in all the 250, approximately, pardoned men who have again fallen into criminal ways.—[C. L. Stonaker, secretary State board of charities and correction.]

CALIFORNIA.

The law has been in operation five years in this State. In that time there have been paroled from the two prisons—San Quentin and Folsom—72 prisoners. Of this number 8 have violated the conditions of their parole, leaving 66 who have remained at large and done well. Under the circumstances, I think this is a good showing.

The board of directors have been extremely careful in granting paroles to convicts. The law was vigorously assailed by the press and by the various sheriffs and police officers throughout the State at the time of its passage, which has made the board more particular in granting paroles than would have been the case under ordinary circumstances. My judgment is that the law has been a success and a decided benefit to society. It has relieved the governor's office very largely from constant applications for pardon.

The strongest reasons advanced in favor of the law are that it gives a paroled prisoner a chance of coming in contact with the world on the outside for a period before his final release from prison authorities and to comply rigidly with the conditions of his parole.

The hardest period of a convict's life is upon his discharge from prison. He is brought face to face with conditions that he has become estranged from by his incarceration in prison. It is hard, even for an honest man who has never been convicted of a crime to obtain work in a strange community at all times. How much harder it is for one recently discharged from prison with a cheap suit of clothes on his back that brands him as a convict. The result is that after trying for a time to earn an honest livelihood, and being met on every side with rebuffs and disappointment he naturally turns again to criminal life. This condition is prevented by the parole law, they become familiar with the conditions on the outside, and when their final release comes it is not a surprise to them, and they pursue the even tenor of their ways, and return to criminal life because of a natural inclination rather than a necessity.

The parole law reaches many cases that could not or should not be reached by pardon.

I heartily approve of it, and believe that it has done much good already and will continue to increase in usefulness in the future.—[Charles Aull, warden State prison, California.]

INDIANA.

At the biennial session of the Indiana general assembly, January, 1897, there was enacted a law providing for a system of parole for convicts, including indeterminate sentences, leaving the release of prisoners to the discretion of the boards of managers. An intermediate prison was also established, where first offenders under 30 years of age are confined. The intermediate prison, which is located at Jeffersonville, Ind., is known as the Indiana reformatory, and is under the control of a nonpartisan board of managers. The State prison is located at Michigan City, Ind., and is under the management of a nonpartisan board of directors, who likewise are empowered to parole inmates under certain circumstances. There is some division of opinion concerning the efficacy of the operations of the new law, but the judgment of those best informed is to the effect that it will ultimately prove satisfactory.—[Chas. E. Wilson, secretary to the governor.]

KANSAS.

In answer to your first query, I desire to say that with the exception of our State reformatory, located at Hutchinson, Kans., we have no provision for a system of parole for convicts. Those criminals above the age of 25 who are convicted of crime in the State of Kansas are sent to the penitentiary for a definite term of years.

In answer to your second query: In 1895 the reformatory at Hutchinson was opened for occupation. The statute creating this institution provides that prisoners convicted and sentenced to this institution shall not be sent for a definite time, but that unless they are paroled by the board of managers or pardoned by the governor they shall serve the maximum penalty which is provided by statute for the crime for which they were convicted. This institution is under control of a board of managers appointed by the governor, who have the right at any time to order the removal from the penitentiary at Lansing of any convict under the age of 25 who shows by his conduct, or by the circumstances surrounding his case, that he is susceptible to reformation. The board of managers have not the power to pardon, but may release on parole or discharge the prisoner upon expiration of sentence.

I presume that my answer to your second query also answers your third, as the Hutchinson reformatory is an intermediate prison where first offenders or convicts who have not become hardened criminals are retained. Our experience with this institution leads us to believe that the people of this State have finally discovered

the best method of dealing with erring boys and youthful criminals. There is connected with the institution a farm of 640 acres, which last year produced some 12,000 bushels of corn and many of the vegetables necessary to maintain the inmates of the institution. There is also a tailor shop in connection with the institution, and several of the trades are taught. Few of the young men who have been paroled from the institution have been returned to it for any reason, and we think that the training they receive at this place has tended and will tend to make of the young criminals intrusted to the care of the institution respectable, at least, in the majority of cases. On the whole, our experience with this branch of work, I may say, has been wholly satisfactory, at least to those who have observed closely its workings, and we think we now have the best means of dealing with the younger criminal element.—[F. W. Elliott, executive clerk.]

MASSACHUSETTS.

In the year 1894 a law was enacted in this State providing for the parole of a prisoner from our State prison after he had served two-thirds of his first sentence. In 1895 a law was enacted providing for an indeterminate sentence to the State prison; that is, the court in each case fixed a minimum and maximum term, to illustrate, for not less than five years or more than ten.

In our reformatories a maximum term is fixed according to the character of the offense; for misdemeanors, two years, and for felonies, five years. A release may be granted at any time previous to the expiration of these terms upon conditions established by the commissioners of prisons.

We have no law which provides for an indeterminate sentence pure and simple.

In answer to your third question asking if we have prisons where those who are first offenders are sentenced, I would say that we have none, although our reformatory practically covers the class to which you probably refer. Men may be, however, and in some cases are, sentenced to the reformatory more than once.

Regarding an opinion of the practical operation of these laws, I have to say that in the main they are regarded as beneficial. As far as possible the prisoner is placed on his good behavior in order that he may shorten his sentence; as a rule this object is attained, and I am safe in saying that upon the whole these laws are wise.—[J. Warren Bailey, secretary board of prison commissioners.]

MICHIGAN.

I hand you herewith a pamphlet showing the operation of the parole law in Michigan. This law was adopted in 1895, and on August 8 of that year the first convict was paroled under its provisions. Prior to January 1, 1898, there had been paroled from the various prisons of this State 128 convicts. Of these there are about 15 now on parole, and of the remainder all but 9 observed the conditions of their parole and received honorable discharge. Of these 9 all but 1 were returned to prison, and that one, immediately upon being paroled, left the State and within a month was convicted of larceny at Toledo and is now serving a term of three years at Columbus, Ohio.

It may, perhaps, interest you to know what these violations consisted of. One, as indicated above, was the larceny of a horse at Toledo; one, larceny of a horse at Saginaw; one, defrauding landlord and failing to report to warden; one returned because first friend refused to be responsible; remainder were returned for indulging in intoxicating liquors and frequenting places where same was sold.

There is a diversity of opinion relative to the merits and benefits obtained from this law, but three of the four wardens of this State are very much in favor of it, and I can authoritatively say that Governor Pingree is much in favor of it and prefers the exercise of the parole law to that of absolute clemency as extended in a pardon.

This State at one time had an indeterminate sentence law, but same was declared unconstitutional by our supreme court.—[S. A. Tomlinson, secretary advisory board of pardons.]

MINNESOTA.

In our State we have three institutions to which public offenders may be sentenced. The State training school at Red Wing is for offenders of both sexes under the age of 16 years. The State reformatory at St. Cloud is for offenders between the ages of 16 and 30 years, sentenced for their first offense. It is, however, optional with the court whether the prisoner be sentenced to the reformatory or to the prison, even though it be his first offense and of the above age. All others are sentenced to the State prison at Stillwater.

The State reformatory was established in 1889, and all prisoners are sent there on an indeterminate sentence, the length of service being determined by the board of managers. They, however, can not grant a final release until the minimum time prescribed by law has been served. The board may parole the prisoner at any time they think it proper to do so, the length of service on parole also being determined by them, the only limitations being that they can not grant a final release until the minimum time prescribed by the statute for the crime has been served, and can not, of course, detain the prisoner longer than the maximum penalty so prescribed.

In 1893 the State legislature passed a law allowing the courts to sentence a prisoner to the State prison under the same conditions as they were sentenced to the reformatory. It is known as "sentenced to the prison on the reformatory plan." These prisoners are held under the control of the board of managers of the prison, the only limitation being those above indicated. About one-third of the prisoners sentenced to the prison are at present sentenced in this way, and the plan seems to be gradually growing in favor with the courts. Besides the prisoners sentenced to the prison on the reformatory plan, those sent on a definite sentence are also eligible to parole under the following conditions: They must be serving their first sentence for felony; they must have served at least one-half their full sentence in the prison and been at least six months in the first grade before they may be paroled.

As to the effect of the parole law in our State, I would unhesitatingly say that it has been beneficial, but would add that its success, in my opinion, depends almost entirely upon the way it is administered; carefully carried out the effect will be good; carelessly enforced the effect will be bad.

I inclose, under separate cover, copy of the last report of the prison and reformatory. In the prison report you will find a synopsis of the grading and parole law; also rules of the board of managers as to its enforcement. I also send blank copies of parole agreement, labor contract of employer of parole prisoners, and monthly report of prisoner on parole, from which you can get an idea of our methods. I was requested not long ago to summarize the record of parole convicts from the prison, and attach hereto such summary, which may be of interest to you.

I might add, in conclusion, that the pardon power in our State is vested in a board consisting of the governor, chief justice of the supreme court, and the attorney-general. The parole law has had the effect to lessen the labors of the pardoning board, and they are now called upon to act only in such cases as the law fails to provide for.—[F. A. Whitting, State agent.]

The records of the prison show the total number of prisoners paroled from the Minnesota State prison from July 1, 1892, to February 10, 1898, to be 259:

Number discharged by expiration of sentence or by the board of managers	173
Number now on parole	46
Number violating parole and returned to institution	28
Number violating parole and still at large	3
Pardoned while on parole	8
Died while on parole	1
Total	259

MISSOURI.

In complying with your request to furnish information regarding the inclosed communication from Mr. J. Franklin Fort, who is a member of the committee of parole and indeterminate sentences of prisoners of the American Bar Association, I have the honor to state that as to the first proposition, wherein inquiry is made as to whether or not this State has adopted by statute a system of parole for convicts, the legislature of our State, in 1897 (acts of 1897, p. 71), enacted a law empowering the circuit and criminal courts to parole persons convicted for violation of the criminal laws of our State. This act provides that a judge having jurisdiction of the offense charged may, in his discretion, when satisfied that any person against whom a fine has been assessed or a jail sentence imposed, or any person actually confined in jail under judgment of a justice of the peace will, if permitted to go at large, not again violate the law, parole such person and permit him to go at large upon such conditions and under such restrictions as the court or judge granting the parole shall see fit to impose; such court or judge may, at any time, without notice to such person, terminate such parole by simply directing execution to issue on the judgment, or, in case the person shall have been actually confined in jail, the parole may be terminated by directing the sheriff or jailer to retake such person under the commitment already in his hands. After a parole has been terminated, as above provided, the court or judge may, in his discretion, after the payment of all costs in the case, grant a second parole; but no more than two paroles shall be granted the same person under the same judgment of conviction. If a parole shall be terminated, the time such person shall have been at large on parole shall not be deducted from the time he shall be required to serve, but the full amount of the fine shall be collected or the full time in jail be served the same as if no parole has been granted.

Should any person under the age of 25 years be convicted of any felony, except murder, arson, or robbery, and imprisonment in the penitentiary assessed by the court or jury as the punishment therefor, and sentence shall have been pronounced, the court before whom the conviction was had, if satisfied that such person, if permitted to go at large would not again violate the law, may, in his discretion, by order of record parole such person and permit him to go and remain at large until such parole shall be terminated; provided, that the court shall have no power to parole any person after he has been delivered to the warden of the penitentiary. When a person who has been convicted of a felony has been paroled by the court, the court granting such parole, or the judge thereof, in vacation, may terminate the same at any time, without notice to such person, by merely directing the clerk of said court to make out and deliver to the sheriff, or other proper officer, a certified copy of the sentence, together with a certificate that such person has been paroled and his parole has been terminated, and such officer, upon the receipt of such certified copy of sentence, shall immediately arrest such person and transport and deliver him to the warden of the penitentiary in the same manner as if no parole had been granted; and the time such person shall have been at large upon parole shall not be counted as a part of his sentence, but the time of his sentence shall be counted from the day of his delivery to the warden of the penitentiary. When persons who have been convicted of a felony shall be paroled, as heretofore stated, it becomes the duty of the court before, or at the time of granting the parole, to require the person paroled, with one or more securities, to enter into bond to the State of Missouri, in a sum to be fixed by the court, conditioned that he will appear in court on the first day of each regular term of court and during each and every day of such term of court during the continuance of such parole, and not depart without leave of court. Such bond shall be approved by the court, and forfeiture may be taken and prosecuted to final judgment in the same manner as now provided by law in cases of bonds taken for appearance of persons awaiting trial upon information or indictment. It is made the duty of every person paroled to appear at each regular term of the court granting the parole, or at the court at which the judge granting the parole presides, during the continuance of such parole, and furnish at his own expense proof, to the satisfaction of the court, that he has since his parole, or since the last date at which such proof has been furnished, complied with all the conditions of such parole and conducted himself as a peaceable and law-abiding citizen.

The act also provides that when persons have been paroled and shall have been at large under such parole for a certain designated time, which is graduated according to the gravity of the offense committed and for which he is convicted, and the court granting the parole shall be satisfied that the reformation of such person is complete and that he will not again violate the law, such court may, in its discretion, by an order of record, grant an absolute discharge. The order of discharge shall recite the fact that such person earned his discharge by good behavior, and such discharge shall operate as a complete satisfaction of the original judgment by which the fine or jail sentence or imprisonment in the penitentiary was imposed. It is made the further duty of the court granting the parole to require the person paroled to pay or give security for the payment of all costs that may have accrued in the cause, unless the person paroled shall be insolvent and unable to either pay said costs or furnish securities for the same. In the latter case the costs shall be paid by the State or county as in other cases without such persons being required to serve any time in jail for nonpayment of fine or costs. Such payment of costs by the State or county shall not relieve such persons from liability therefor, but if at any time before his final discharge he shall become able to pay said costs, it shall be the duty of the court to require said costs to be paid before granting a discharge, and said costs when so paid shall be turned into the State or county treasury, as the case may require. Any person receiving his final discharge under the provisions of this law shall be restored to all the rights and privileges of citizenship.

Upon the second proposition submitted I have to say that this State has not adopted a statute permitting indeterminate sentence; that is, simply sentencing the convicts to prison without fixing in the sentence any term, but leaving the discharge to the pardon power of some board or other authority, as circumstances may make advisable. Our statute provides that the sentence shall be imposed upon the person convicted in the verdict of the jury by which he is found guilty, unless a plea of guilty is entered and no trial or jury demanded by the defendant. The minimum and maximum limit of the punishment is fixed by statute. Nor have we adopted in this State an indeterminate prison, wherein those who are first offenders or under a certain age only may be confined. We have, however, a statute which prescribes that where a person convicted is under a certain age the sentence may be committed to confinement in the reform school for boys or the industrial home for girls, as the case may be. Section 5741, Revised Statutes of Missouri, 1889, among other things, provides that "in all cases of indictment against a boy under the age of 18 years and over the age of 16 years for a felony, on conviction, either upon plea of guilty or upon the finding of a jury, the judge before whom said boy is convicted may, in his discretion, commute the punishment to commitment to the reform school for boys."

In all cases of misdemeanor charged against any boy under the age of 16 years, if upon conviction the punishment assessed is a term in the county jail, or if the punishment be a fine and such fine is not paid, the circuit court before whom said boy is tried may, in lieu of the regular punishment therefor, commit him to the reform school. In all cases of conviction of a felony of any boy under the age of 16 years the punishment of which would be imprisonment in the penitentiary or in the county jail, the court before whom such conviction is had shall, in lieu of such punishment, commit said boy to the reform school; and in all cases of conviction of any boy under the age of 16 years for a misdemeanor before a court of record the court may, upon its own motion or upon the suggestion of the prosecuting attorney or of the father, mother, guardian, or, if there be no father, mother, or guardian, then of anyone who appears as next friend to such boy, inquire into the boy's character and surroundings; and if the court is satisfied that the boy comes under any of the classes specified in the preceding section and that it would be for the

best interests of said boy or of the community in which such boy lives to send him to the reform school, the court shall commit such boy to the reform school.

The board of managers of the reform school have power to release and discharge for good conduct any boy from the reform school and return him to his parents or guardian, but the discharge or release shall be upon the condition of continued good conduct and that said boy, his parents, guardian, or other person, shall report to the board from time to time, during the minority of such boy, his conduct and occupation.

Section 5760, Revised Statutes of Missouri, 1889, provides that every girl over the age of 7 years and under the age of 20 years, who shall be convicted before any court or magistrate of competent jurisdiction of being a disorderly person, or of any offense not punishable by imprisonment for life, may, except in cases deemed incorrigible, be sentenced to the industrial home for girls until she shall reach the age of 21 years if such court or magistrate shall deem the girl so convicted a fit subject to be committed to said home. Before a sentence made by a police court shall be executed and the girl placed in the industrial home for girls it shall be approved by the judge of the circuit court or probate court of the county and his approval indorsed on the commitment.

The manner in which these schools are established, conducted, and maintained is not, I presume, of any importance in so far as this communication is concerned, and I think the information above given answers the questions propounded as fully as they may be from the statutes now in force in our State. As to their effect, beneficial or otherwise, you may make such comments and expressions as to you may seem advisable.—[Edward C. Crow, attorney-general.]

NEBRASKA.

I am of the opinion that the parole system has proven beneficial in the administration of our criminal law, and yet there are many circumstances connected with the exercise of the privileges of the parole law which demand much care and investigation in each individual case, or harmful results may follow. I find it a very satisfactory manner of disposing of many applications for pardon or commutation of sentence, where some merit exists and yet not enough to warrant executive clemency to the fullest extent. In cases where an inmate has a family dependent upon him, and family ties that bind him to one locality, a parole may be granted much more safely than where these conditions do not surround the prisoner, even where the offense itself and the circumstances surrounding it are the same in both cases.

I am also of the opinion that while the statutes permit of parole being extended as soon as the minimum term for which the prisoner might have been sentenced has expired, it is best not to parole a prisoner until at least one-half of the term for which he has been sentenced has expired, and I try to invoke this rule in paroles granted by me.

Nebraska has no indeterminate-sentence law.—[Silas A. Holcomb, governor.]

NEW YORK.

Your letter of the 1st of March, directed to Governor Black and forwarded by him to the office of the superintendent of State prisons, has come to me for further reply.

Reformatories based upon the so-called indeterminate-sentence principle, variously applied by the laws of the several States, including in their administration the parole of prisoners, already regularly in operation are, in the chronological order of their establishment, as follows:

New York State Reformatory, at Elmira; Massachusetts State Reformatory, at Concord; Pennsylvania State Reformatory, at Huntingdon; Minnesota State Reformatory, at St. Cloud; Illinois State Reformatory, at Pontiac; Ohio State Reformatory, at Mansfield; Indiana State Reformatory, at Jeffersonville.

In addition I have been informed that there are authorized by law, with appropriations, reformatories in process in New Jersey and Wisconsin and that the plan of prison treatment is under earnest consideration in Maryland, Missouri, and Iowa, and of foreign countries, in England, Germany, and France.

The general laws for the punishment of felonies have been more or less modified, from the purely punitive or retributive purpose to the purpose of protecting society by the rehabilitation and under the restraints of the parole system after the time of the discharge of the prisoner, in the following States: New York, Ohio, Illinois, Pennsylvania, Indiana, Massachusetts, and Wisconsin.

While I am not absolutely certain about it, yet my impression is that in all of the above States where reformatories have been established or change of legislation has taken place the parole practice is incorporated.—[Z. R. Brockway, general superintendent Elmira Reformatory.]

Your circular letter addressed to Governor Black has been referred to me. Answering your questions, I have to say:

First. This State, in its three State prisons, has adopted a system of parole for convicts. It is optional with the judge whether he sentences to a determinate or an indeterminate sentence. If indeterminate, he fixes the maximum and minimum terms of sentence, but few judges have ever sentenced prisoners in this way.

Second. Prisoners are sentenced to the New York State Reformatory at Elmira, the court not fixing the term of sentence, but the maximum period to be served is limited to the maximum period for which the prisoner might have been sentenced for the crime of which he is found guilty. I will ask Superintendent Brockway to give you more information on this subject.

Third. The New York State Reformatory might be called an intermediate prison, as offenders under 30 years of age may be sentenced thereto.

The population of our State prisons is divided into groups and grades on the basis of the criminal records of the prisoners. The population of Sing Sing is made up almost entirely of first offenders, second offenders are confined at Auburn, and those who have served more than two previous terms at Clinton prison.—[Austin Lathrop, superintendent of State prisons.]

NORTH DAKOTA.

Your circular letter of the 1st instant to Governor Briggs, asking for certain information in reference to the penal code of this State, is at hand, and in reply would say we have a statute which authorizes the board of trustees of the State Penitentiary to parole persons confined therein within certain restrictions, and to establish rules and regulations under which such persons may be allowed to be put on parole.

Persons who may not be paroled are those convicted of the crime of murder in the first or second degree; those convicted of a felony in any jurisdiction other than that for which they are being punished; persons who have not served the minimum time of imprisonment prescribed by law for the crime for which convicted; persons who have not maintained a good record at the penitentiary for at least six months previous to parole.

The requirements precedent to a parole are: That the warden, in writing, recommend parole to the board of trustees; that at least four members of the board of trustees approve and indorse such recommendation; that the governor approve and indorse the recommendation; that the friends of the person furnish satisfactory evidence to the board, in writing, that employment has been secured for the prisoner with some responsible citizen of the State, whose responsibility is to be certified to by the judge of the county court of the county in which the citizen resides; and that the board be convinced that the prisoner will conform to the rules and regulations adopted by the board.

The grounds for recommending parole shall be the prisoner's general demeanor and record of good conduct at the penitentiary; and neither the warden, board, nor the governor are permitted to receive, hear, or entertain any petition or arguments of attorneys when considering the recommendation for parole of any prisoner. During the parole the prisoner shall be in custody and under control of the board of trustees, and subject at any time until the expiration of the term for which he was sentenced to be taken in actual custody and returned to the penitentiary. Full authority is given the board to enforce the rules and regulations made by them.

Our State has no statute permitting an indeterminate sentence, nor is there established any intermediate institutions for the confinement of first offenders.

Very little opportunity has been had during the present executive's term to observe the practical workings of our parole law. On general principles, it would seem to be a wise and salutary measure, and possibly it is too restricted in its operations.—[Geo. H. Phelps, private secretary to the governor, executive office, Bismarck.]

Ohio.

First. This State has a law which provides that a convict who has maintained a good record at the penitentiary may be paroled after he has served the minimum time provided by law for his offense. Due advertisement of such parole must be made in papers of the county in which he was convicted. Such a paroled prisoner is required to report to the officers of the institution every thirty days, and upon his violation of any of the rules applying to paroled prisoners he must be returned to the prison at the expense of the State. Before a parole can be granted, a prisoner must produce evidence from a citizen or citizens in good standing that he will be given employment immediately upon his release. At the expiration of the term for which he was sentenced such paroled prisoner, if his record has been good, is restored to citizenship.

Second. There is no indeterminate sentence to the Ohio Penitentiary except that provided by law for criminals of the habitual class. When a man has been convicted of a criminal offense three times he is sentenced for a determinate period and also for life under this habitual-criminal designation. Such a prisoner can only be pardoned upon the recommendation of the board of pardons to the governor, who can then commute his sentence, thus making him eligible for release or parole.

Third. Ohio has established at Mansfield, Richland County, an institution designated by law as the Ohio State Reformatory. It is supposed to receive criminals between the ages of 18 and 30, and all sentences thereto are for indeterminate periods. Under the law the board of managers have full power to discharge an inmate of the reformatory when, in their opinion, his release will not be detrimental to society, and when it is apparent to them that he has reformed, or there is good promise of his leading a correct life.

The effect of the parole law in Ohio has been good, as it affords to prisoners the incentive of conforming to the rules of the penal institution, and thus acquiring the benefits offered, which often lead to marked changes in their lives. But a small proportion of the paroled prisoners from the Ohio Penitentiary are reported for violation of rules. The very large majority of them earn their citizenship papers and keep out of trouble after their terms expire. The plan of the Ohio State Reformatory is supposed to be a good one; but as the institution was only opened in September, 1896, there has not been sufficient time to observe the full effect of the law and the species of detention and correction. It is the aim of Ohio to afford the criminals the chance to reform. There are now four distinctly penal institutions in the State, there being a boys' industrial school and a girls' industrial home in addition to those mentioned. At the school and home for boys and girls every effort is made along educational and reformatory lines.—[Asa S. Bushnell, governor of Ohio.]

Oregon.

The State of Oregon has, first, not a statutory system of parole for convicts; second, no statute permitting indeterminate sentences; third, no intermediate prison for first offenders.

About 20 or 25 per cent of convicts are made "trusties," and in that way shorten their terms. Few violate the confidence of the superintendent, and when one runs away a vigorous effort is made to retake him. If retaken, he forfeits all merits and serves his term in full. The governor is inclined to favor indeterminate sentences.—[W. S. Duniway, private secretary to the governor, executive office.]

Pennsylvania.

By an act approved April 28, 1887, this State provided for the imprisonment, government, and release of convicts in the Pennsylvania reformatory at Huntingdon. Under this act any court in this Commonwealth exercising criminal jurisdiction may sentence to this reformatory any male criminals between the ages of 15 and 25 years, and not known to have been previously sentenced to a State prison in this or any other State or country, upon the conviction in said court of such male person of a crime punishable under existing laws in a State prison. Such sentence shall not fix or limit the duration thereof. The term of such imprisonment of any person so convicted shall be terminated by the board of managers of the reformatory; but such imprisonment shall not exceed the maximum time provided by law for the crime for which such prisoner was convicted.

Upon the opening of the reformatory, shortly after the passage of this act, this law went into effect, and has been in satisfactory operation up to the present time. In one feature I believe an improvement could be made. At the present time, when a convict has by good conduct merited parole, his friends are required to secure him an occupation. This is, of course, more readily done in some cases than in others, and while some are immediately discharged others have to wait a long time before their parole, after they have merited it, can be granted. The friends of the prisoners in many cases are of limited influence, and can only secure employment for them in the same environment and among the same associations as the prisoner had when he fell. If the reformatory could employ agents to secure positions for prisoners deserving parole as soon as it was merited it would be a great point gained, and remove what now is a cause of dissatisfaction on the part of those prisoners that are not discharged when they feel that they have merited a release.

I doubt if it would be well to extend this system beyond its present limits.

I inclose a copy of the acts of assembly relating to the Pennsylvania Industrial Reformatory.—[Cadwalader Biddle, general agent and secretary, board of public charities.]

Utah.

I have the honor to inform you that this State has adopted a statute providing for the parole of convicts. Under it six convicts are now on parole. A question has recently been sprung, however, involving the constitutionality of this provision. The questioners take the ground that our constitution confers the power to pardon convicts and to commute punishments upon the State board of pardons, whereas the statute in reference gives the authority to parole, which they claim to be a commutation of punishment, to the State board of corrections. It is probable, therefore, that when the subject comes to be tested our law will be held unconstitutional. Permit me to say, however, that I shall use my utmost endeavor to have a similar law enacted that will be constitutional, and conferring the authority upon the board of pardons, as there is no doubt in my mind as to the beneficial effects of the parole of prisoners.

We have no statute permitting indeterminate sentences, except that we have an industrial school where incorrigible children and youthful criminals are sentenced

to be confined until they are 21 years of age, or until reformed. We have no intermediate prison between the industrial school and the State prison.

Under separate cover I send you a copy of the law now in force providing for the parole of convicts, and also the rules of the board of corrections relating thereto.

For your further information, please note also our system of grading prisoners provided in our law. As a reformatory and disciplinary measure, the grading of prisoners has proven also very beneficial.—[Heber M. Wells, governor.]

[Revised Statutes of Utah, 1898.]

"2251. *Parole of prisoners.*—The board (board of corrections) shall have power to establish rules and regulations under which any prisoner who is now or hereafter may be imprisoned under a sentence other than for murder in the first or second degree, and who may have served a minimum term provided by law for the crime for which he shall have been convicted (and who shall not have previously been convicted of felony and served a term in a penal institution), and any prisoner who is now or hereafter may be imprisoned under a sentence for murder in the first or second degree, and who has now or hereafter shall have served under said sentence twenty-five full years, may be allowed to go upon parole outside of the prison buildings and their inclosures, but to remain, while on parole, in the legal custody and under the control of the board and subject at any time to be taken back within the institution."

STATE LAWS.

ALABAMA.

EXTRACTS FROM CRIMINAL CODE.

[Chap. 185, art. 3.]

"5459, (4532), (5001), (4324), (773). *Remission of imprisonment on recommendation of inspectors.*—The governor may, in his discretion, remit a part of the imprisonment of a convict on the written recommendation of the board of inspectors; * * * but no such remission must be granted on the recommendations of the inspectors alone, unless the convict has been imprisoned one-third of the term for which he was sentenced, or, when imprisoned for life, or for more than twenty years, has served at least seven years."

This remission of sentence is independent of the rule for the deduction of a certain number of months per annum for good behavior.

February 13, 1897, page 867, paragraph 1:

"The governor may, whenever he thinks best, authorize and direct the discharge of any convict from custody, and suspend the sentence of such convict without granting a pardon, and prescribe the terms upon which a convict so paroled shall have his sentence suspended. Failure to comply with the terms of the parole makes the convict liable to rearrest and the serving of his original sentence."

CALIFORNIA.

EXTRACTS FROM THE PENAL CODE AND STATUTES.

[Statutes, 1893, page 183. Approved March 23, 1893.]

"SEC. 1. The State board of prison directors of this State shall have power to establish rules and regulations under which any prisoner who is now or hereafter may be imprisoned under a sentence other than for murder in the first or second degree, who may have served one calendar year of the term for which he was convicted, and who has not previously been convicted of a felony and served a term in a penal institution, may be allowed to go on parole outside of the buildings and inclosures, but to remain while on parole in the legal custody and under the control of said board. * * * If any prisoner so paroled shall leave the State without permission from said board, he shall be held as an escaped prisoner and arrested as such."

The usual rules are applied in these cases for forfeiture of conditions, etc.

Credits for good behavior and commutations of sentences are also the rule in this State.

CONNECTICUT.

PAROLE INDEPENDENT OF PARDON.

[Chap. CCXXXI. Approved June 10, 1897. Extract.]

SEC. 1. Any prisoner may be allowed to go at large on parole in the discretion of the board of pardons, and while so at large remain in the legal custody and control of said board. The following are exceptions to this rule: Convicts serving life sentence; previous conviction for felony, or bad record while in prison. They must have served at least one-half of the full term of their sentence, not reckoning time earned by good conduct.

An affirmative vote of a majority of the members of the board of pardons is necessary. No convict shall be paroled until suitable employment has been provided for him.

SEC. 2. Conviction for a second offense while on parole reaffirms the first sentence.

SEC. —. The parole becomes absolute at the expiration of the full term of the sentence.

IDAHO.

PAROLE INDEPENDENT OF PARDON.

[Act approved March 12, 1897. Extracts.]

SEC. 1. The board of pardons shall have authority to issue a parole to any prisoner, except those serving life sentences or who have been convicted before for a felony, provided that he has served at least one-third of the full term for which he was sentenced, not reckoning any good time.

SEC. 2. Such convict while on parole shall remain in the legal custody and under the control of the board of pardons.

SEC. 3. That in considering applications for parole it shall be unlawful for the State board of pardons to entertain any petition, receive any written communication, or hear any argument from any attorney or other person not connected with said penitentiary in favor of a conditional pardon of any prisoner; but the said board may, if they deem proper, institute inquiries by correspondence or otherwise as to the previous history or character of any prisoner: *Provided*, That no prisoner shall be so paroled except upon the recommendation of the warden.

SEC. 4. Convicts are divided into three grades, together with a system of marks. * * * No prisoner shall be released on parole unless he shall have been for six months preceding a member of the first grade.

ILLINOIS.

INDETERMINATE SENTENCE.

[Criminal Code, chap. 38. Extracts.]

498, par. 1. Every person over 21 years of age who shall be convicted of a felony or other crime punishable by imprisonment in the penitentiary, excepting treason, murder, manslaughter, and rape, shall be sentenced to the penitentiary; but the court imposing such sentence shall not fix the limit or duration of the sentence, and the term of imprisonment of any person so convicted and sentenced shall not exceed the maximum term provided by law. * * *

PAROLE INDEPENDENT OF PARDON.

502, par. 5. The prison board shall have power to establish rules and regulations under which prisoners within the penitentiary may be allowed to go on parole outside of the penitentiary building and inclosure, but to remain while on parole in the legal custody and under control of the prison board. * * * No prisoner to be released on parole until suitable arrangements have been made by the prison board for his employment, together with a proper home, free from criminal influences.

503. The warden is to keep in communication with all prisoners under parole, and when, in his opinion, any prisoner has served not less than six months of his parole acceptably * * * he shall make certificate to that effect to the prison board, and said board, with concurrent action of the judge who sentenced and the governor's approval, may have the prisoner discharged from full liability under the sentence. Previous conviction in this or any other State for felony prevents the operation of the parole system.

IOWA.

CONDITIONAL PARDON.

[Code of Iowa, chap. 49, par. 2132.]

The pardoning power is vested solely in the governor. He may impose conditions, as the following citation from the reports shows:

"The governor may grant a pardon on conditions; and when one condition was that he might revoke it upon such showing as he might deem sufficient, *held*, that the person pardoned could not claim a judicial investigation as to whether he had violated the condition." (Arthur *v.* Craif, 48, 264.)

MARYLAND.

CONDITIONAL PARDON.

[Maryland Code, Art. VI, par. 6.]

The governor, upon giving the notice required by the Constitution, * * * may pardon any person convicted of crime on such conditions as he may prescribe, or he may, upon like notice, remit any part of the time for which any person may be sentenced to confinement in the penitentiary, on such like conditions, without such remission operating as a full pardon to any such person.

MASSACHUSETTS.

PARDON INDEPENDENT OF PAROLE.

[Public Statutes of Massachusetts.]

When it shall appear to the commissioners of prisons that any person imprisoned in said reformatory has reformed, they may issue to him a permit to be at liberty during the remainder of his term of service, upon such conditions as they deem best. * * *

Sentences to State prison are for a maximum and minimum term.

Sentences to the State reformatory do not fix the term, unless the term of said sentence shall be more than five years.

MICHIGAN.

INDETERMINATE SENTENCES.

[Chap. 337, pars. 96, 136. Approved October 2, 1889. Extracts.]

SEC. 1. Any person convicted of a crime, except imprisonment for life or a child under fifteen years of age, may be, in the discretion of the court, given a general sentence of imprisonment. * * * The term of such imprisonment may be terminated by the board as authorized by this act; but such imprisonment shall not exceed the maximum term provided by law for the crime for which the prisoner was convicted and sentenced; and no prisoner shall be released until after he shall have served at least the minimum term.

PAROLE.

[Chap. 337, 9613d.]

SEC. 3. The board of control of prisoners shall have power * * * to allow prisoners to go on parole outside of the buildings and inclosures, but to remain while on parole in the legal custody and under the control of said board. * * * While on parole a convict is subject to be returned to prison for cause, and should he commit another crime his first sentence must be served in full before beginning the term of the second.

SEPARATION AND CLASSIFICATION.

[Chap. 337, 9613e.]

SEC. 4. The board shall make such rules and regulations for the separation and classification of prisoners sentenced under this act into different grades, with promotion and degradation, according to the merits of the prisoners * * * .

MINNESOTA.

PRISONERS ON PAROLE.

[Statutes of Minnesota, chap. 35, par. 3594. Extract.]

The board of managers has power to allow prisoners to go beyond the limits and inclosures of the reformatory, subject at all times to the legal custody and control of said board. * * * Such paroled convicts are subject to rearrest and return to the reformatory for cause. * * * Suitable persons may be appointed in any part of the State charged with the duty of supervising prisoners released on parole.

This State has the maximum and minimum law relating to sentences.

MISSOURI.

PRISONERS ON PAROLE.

Parole before imprisonment.

[Laws of Missouri. Act approved April 1, 1897.]

SEC. 1. The circuit and criminal courts of this State and the court of criminal correction of the city of St. Louis shall have power, as hereinafter provided, to parole persons convicted of a violation of the criminal laws of the State.

SEC. 3. When any person under the age of twenty-five years shall be convicted of any felony except murder, rape, arson, or robbery, and imprisonment in the penitentiary shall be assessed by the court or jury as a punishment therefor, and sentence shall have been pronounced, the court before whom the conviction was had, if satisfied that such person if permitted to go at large would not again violate the law, may, in its discretion, by order of record, parole such person and permit him to go and remain at large until such parole shall be terminated as hereinafter provided: *Provided*, That the court shall have no power to parole any person after he has been delivered to the warden of the penitentiary.

NEBRASKA.

PAROLE INDEPENDENT OF PARDON.

[Statutes of Nebraska. Criminal Code, chap. 111, 7305, acts of 1893.]

SEC. 570. The governor shall have power in the case of any prisoner who is now or hereafter may be imprisoned in the State penitentiary under a sentence other than murder in the first or second degree, who may have served the minimum term provided by law for the crime for which he was convicted (and who has not previously been convicted of felony and served a term in any penal institution within the United States of America), and in the case of any prisoner who is now or hereafter may be imprisoned under a sentence for murder in the first or second degree, and who has now or hereafter shall have served twenty-five full years, to allow any such prisoner to go on parole outside of the inclosure of said penitentiary, to remain while on parole within the State under the control and in the legal custody of the governor, and subject at any time to be taken back * * * for causes named.

NEW JERSEY.

PAROLE INDEPENDENT OF PARDON.

[General Statutes of New Jersey, par. 2419. Act approved April 16, 1891. Extracts.]

SEC. 1. It shall be lawful for the court of pardons to grant to any convict now or hereafter undergoing imprisonment in any of the penal institutions of this State a license to be at large upon such security, terms, conditions, and limitations in all respects as to the court shall seem proper, which said terms, conditions, and limitations shall be indorsed upon or annexed to such license; such convict shall continue to be legally in custody after the granting of such license, and shall be liable to be taken at any time and returned. * * *

SEC. 2. Such license must be signed by the governor, or person administering the government, and attested by the clerk of said court. The said court or the governor have the power at any time, in their discretion, to revoke said license.

NEW YORK.

INDETERMINATE SENTENCES.

[Revised Statutes and General Laws of New York.]

PAR. 2386. Any person who shall be convicted of an offense punishable by imprisonment in the New York State reformatory at Elmira, * * * the courts imposing such sentence shall not fix or limit the duration thereof. The term of such imprisonment * * * shall be terminated by the managers of the reformatory. * * *

PAROLE INDEPENDENT OF PARDON.

PAR. 2357. The board of managers shall, under a system of marks or otherwise, fix upon a uniform plan under which they shall determine what number of marks or what credit shall be earned by each prisoner sentenced under the provisions of this act as the condition of increased privileges or of release from their control. * * *

When it appears to such managers that there is a strong or reasonable probability that any prisoner will live and remain at liberty without violating the law, * * * then they shall issue to such prisoner an absolute release from imprisonment. Said managers may appoint suitable persons in different parts of the State, charged with the duty of supervising prisoners who are released on parole. * * *

NORTH DAKOTA.

PAROLE INDEPENDENT OF PARDON.

[Revised Criminal Code, chap. 17, par. 8556. Amended 1891. Extract.]

The board of trustees of the penitentiary are hereby empowered to parole persons confined in the penitentiary * * * with the following exceptions:

(1) Murder in the first and second degree; (2) former conviction in any jurisdiction of another felony; (3) a prisoner who has not served the minimum time of imprisonment prescribed by law for the crime of which he was convicted; (4) a prisoner who has not maintained a good record in the penitentiary for at least six months previous to his parole.

The requirements precedent to a parole are as follows:

(1) The warden, in writing, recommends his parole to the board of trustees; (2) at least four members of the board of trustees must approve; (3) the governor must approve and indorse; (4) the friends of the prisoner must furnish satisfactory evidence, in writing, to the board of trustees, that employment has been secured for him with some responsible citizen of the State and certified to be such by the jury of the county court of the county where such citizen resides; (5) the board of trustees is convinced that he will conform to the rules and regulations adopted by said board.

PAR. 8559. It shall not be lawful for the warden, the board of trustees, or the governor, or any or either of them, in considering or recommending the parole of any person confined in the penitentiary, to receive, hear, or entertain any petition or any argument of attorneys; but the only ground for such recommendation shall be such person's general demeanor and record of good conduct at the penitentiary.

OHIO.

PAROLE INDEPENDENT OF PARDON.

[Ohio Statutes, Title III, chap. 2, 7388-9.]

SEC. 8. The board of managers shall have power to establish rules and regulations under which any prisoner who is now or hereafter may be imprisoned under a sentence other than for murder in the first or second degree, who may have served a minimum term provided by law for the crime for which he was convicted (and who has not previously been convicted of felony), and served a term in a penal institution, and any prisoner who is now or hereafter may be imprisoned under a sentence for murder in the first or second degree, and who has now or hereafter shall have served under said sentence twenty-five full years, may be allowed to go on parole outside of the buildings and inclosures * * * subject to rules and regulations as to forfeiture of conditions and return to prison.

[7388-10. Extract.]

To obtain this parole, the application must be recommended to the board of managers by the warden and chaplain of the penitentiary, and notice of such recommendation shall be published for three successive weeks in two papers of opposite politics in the county from which such prisoner was sentenced. * * * The managers must have reasonable ground for believing that he will, if released, live and remain at liberty without violating the law. * * * Good conduct is essential. * * * No petition or other form of application shall be entertained by the managers, and no attorneys or outside persons of any kind shall be allowed to appear as applicant for the parole of a prisoner.

[7388-11. Extract.]

SEC. 2. Habitual criminals, after the expiration of the term for which sentenced, may be, in the discretion of the board, paroled, subject to such rules and regulations as they may deem best in each case.

INDETERMINATE SENTENCE.

[Ohio Statutes, (7388-6), Title I, chap. 2.]

SEC. 5. Every sentence to the penitentiary of a person hereafter convicted of a felony, except for murder in the second degree, who has not previously been convicted of a felony and served a term in a penal penitentiary, may be, if the court having said case thinks it right and proper, a general sentence of imprisonment in the penitentiary. The term of such imprisonment of any person so convicted and sentenced may be terminated by the board of managers as authorized by this act; but such imprisonment shall not exceed the maximum term provided by law for the crime of which the prisoner was convicted and sentenced; and no prisoner shall be released until after he shall have served at least the minimum term provided by law for the crime of which he was convicted. * * *

PENNSYLVANIA.

Rules relating to parole are given in another part of the appendix.

UTAH.

Rules relating to parole are given in another part of the appendix.

VERMONT.

CONDITIONAL PARDON.

[Vermont Statutes, chap. 230, par. 941.]

SEC. 5306. The governor may discharge a convict in the State prison or house of correction, sentenced by the authority of the State, on such conditions as he judges proper. The discharge shall state the sentence upon which such convict was committed, the conditions of his discharge, and that, if he fails to keep the same, he shall be deemed to have escaped from the institution from which he was discharged and be liable to be returned thereto and imprisoned for the whole term for which he was sentenced.

VIRGINIA.

CONDITIONAL PARDON.

[Acts of general assembly of Virginia. Approved March 3, 1898.]

1. That whenever any person is confined in the penitentiary for any offense, and shall have served out half of his term of imprisonment, he shall be allowed to file a petition with the board of directors of the said institution, setting forth that he has served half of his term, obeyed the rules, etc. * * *

2. The said board, or any two of them, * * * shall inquire into the statements made therein. * * * They may then recommend him to the governor for a conditional pardon.

3. The governor, after examining the petition and the proof filed to sustain it, and the recommendation of the board of directors, may grant a conditional pardon. * * *

6. This act is not to be construed as in any way interfering with or abridging the authority now conferred on the governor by law with reference to granting absolute pardons.

WEST VIRGINIA.

CONDITIONAL PARDON.

[Code of West Virginia, chap. 14, par. 129.]

* * * for any case wherein the governor has power to grant a pardon, instead of granting the same unconditionally, he may, after sentence, grant it upon such conditions as may be deemed proper by him and be assented to by the person sentenced.

WISCONSIN.

PAROLE INDEPENDENT OF PARDON.

[Wisconsin Statutes, chap. 201a.]

It appears by the Wisconsin statutes that convicts are not paroled directly from its State prison, but are previously transferred to the State reformatory.

THE BOARD OF CONTROL.

SEC. 4944p. * * * The board of control may also cause to be transferred any prisoner confined in the State prison, who is serving out his first sentence therein, to the reformatory under such rules and regulations as they may prescribe. Said board may establish rules and regulations under which, with the approval of the governor in each instance, prisoners within the reformatory may be allowed to go on parole within the legal custody and under the control of the board. * * * The removal, temporary or conditional release, and return as aforesaid shall be with the consent and by the authority of the governor.

SEC. 4944k. Said board may appoint suitable persons in any part of the State charged with the duty of supervising prisoners who are released on parole. * * *

RULES AND REGULATIONS PERTAINING TO PAROLE.

Utah adopted the rules under which she grades and paroles prisoners June 10, 1896, and they, being among the latest and evidently selections from the good of all other States, are given herewith.

UTAH STATE PRISON.

RULES FOR GRADING PRISONERS.

1. Inmates of the Utah State prison will be placed in three grades, first, second, and third; the first being the highest, the second the intermediate, and the third the lowest.

2. Each prisoner committed to the prison will enter the second grade, and may be promoted by the warden to the first grade for being obedient, attentive, industrious, and studious for three consecutive months, and who has not been reprimanded or reported during that time.

3. The warden may reduce prisoners from the first to the second or third, or from the second to the third, or punish them otherwise for breaches of the peace and discipline of the prison.

4. Prisoners may be restored to former grades or advanced to higher grades by the warden on satisfactory evidence that they intend to comply strictly with the requirements of that grade.

5. Prisoners will not be paroled except from the first grade. Prisoners of the first grade will be allowed to grow their hair and mustaches, and to purchase for their own use articles allowed by the warden, and may be allowed other privileges consistent with the discipline of the prison.

6. Prisoners of the first grade will be called by their names. They may write letters twice each week, and may have visitors twice each month, viz, first and third Thursdays in each month.

7. Second-grade prisoners will be confined to their cells and may write to relatives and friends twice each month, viz, the 10th and the 20th. They will be shaved once each week and have their hair cut once each month. They will be known and called by number only. They may have visitors once each month, viz, first Thursday in month.

8. Third-grade prisoners will be confined to their cells, and not be allowed to associate or come in contact with other prisoners, and will be deprived of all privileges. They will be known and called by their number only. They will be shaved once each week, and have their hair cut once each month.

RULES FOR PAROLING PRISONERS.

1. No prisoner will be paroled who has not been in the first grade continuously for a period of at least three months, except in the case of prisoners who are in the first grade upon the adoption of these rules, and these may be paroled at the discretion of the board.

2. No prisoner will be released on parole until satisfactory evidence is furnished the board in writing that employment has been secured for such prisoner from some responsible person, certified to be such by the auditor of the county where such person resides.

3. No prisoner will be paroled until the board of corrections are satisfied that he will conform to the rules and regulations of his parole.

4. Every paroled prisoner will be liable to be retaken and again confined within the inclosure of said institution for any reason that shall be satisfactory to the board, and at their sole discretion, and will remain therein until released by law.

5. It will require the affirmative vote of all members of the board to grant a parole, and upon his release the prisoner will be given a parole reading as follows:

[See Pennsylvania form of parole agreement, deemed more full by the committee.]

The following is a copy of the form of letter sent with each employment agreement to the proposed employer, and the employment agreement, etc., required in paroling prisoners in the State of Pennsylvania, a State in which this system has been long in operation.

COPY OF EMPLOYMENT AGREEMENT.

NOTE.—The proposed employer will fill in and sign the following form, and when such has been duly certified by the proper person as required, it must then be forwarded to the general superintendent of the Pennsylvania Industrial Reformatory, Huntingdon, Pa.

To the Board of Managers Pennsylvania Industrial Reformatory, Huntingdon, Pa.

GENTLEMEN: I (employer's name here), at present engaged in the —— business at No. —— —— street, —— Pa., hereby declare my willingness to take into my employ, and if his conduct is satisfactory, to continue in my employ until he receives his final discharge (which will not be less than seven months from the date of his parole) —— ——, No. ——, at present an inmate of the Pennsylvania Industrial Reformatory; and I agree to pay the said —— —— the sum of $ —— per —— for his services. (State whether this includes his board or not.)

I also agree to take a friendly interest in the said person, to counsel and direct him in that which is good, and that I will promptly report to the management of the reformatory any unnecessary absence from work, any tendency to low or evil associations, or any violations of the conditions of his parole; and I will see that he forwards his monthly report to the general superintendent of the reformatory on the first of each month, and will certify to its being correct.

—— ——.

Dated at ——, Pa., —— ——, 189—.

The following certificate must be signed by one known to be occupying an official position, such as a judge, prothonotary, recorder, clerk of a court, notary public, or alderman, in which case the person so certifying is requested to designate his official position and affix his official seal thereto. Where such signature can not be conveniently obtained, the certificate may be signed by one who is well known to one or more members of the board of managers as a reputable and reliable citizen. Failure to observe this rule will cause the return of the application.

Attention is called to the fact that this requirement is not merely a formal one, but one of necessary importance to the board of managers and the employed. The person certifying should be fully acquainted with and satisfied as to the character and ability of the proposed employer to comply with the above agreement before certifying thereto.

To the Board of Managers Pennsylvania Industrial Reformatory, Huntingdon, Pa.:

I hereby certify that I am personally acquainted with the above-named —— ——, and I believe him to be in every respect a fit and proper person to have the supervision and care of —— ——, who is an inmate of the Pennsylvania Industrial Reformatory, and I believe that he will faithfully comply with the conditions as set forth in the above agreement.

[SEAL.]

—— ——.
—— ——.

Dated at ——, Pa., —— —, 189—.

COPY OF LETTER SENT WITH EMPLOYMENT AGREEMENT TO PROPOSED EMPLOYER.

PENNSYLVANIA INDUSTRIAL REFORMATORY,
Huntingdon, Pa., ——, 189—.

—— ——,
—— ——:

At the request of —— ——, No. ——, at present an inmate of this institution, I inclose a blank employment agreement, which he states you will sign or have signed for him, and relative to which I desire to give the following information:

Before he can obtain his release on parole he must obtain employment at some legitimate work whereby he may be able to maintain himself properly for at least six months from the date of his parole and until such time as he receives his final discharge, which will be granted him by our board of managers.

2. In case he finds it desirable to change his employment or residence, he shall first obtain the written consent of the board of managers, through the general superintendent of said reformatory.

3. He shall, on the first day of each month, until his final release, write the general superintendent of said reformatory a report of himself, stating whether he has been constantly at work during the last month, and if not, why not; how much he has earned, and how much he has expended, together with a general statement as to his surroundings and prospects, which report must be indorsed by his employer.

4. He shall in all respects conduct himself honestly, avoid evil associations, obey the law, and abstain from the use of intoxicating liquors.

5. As soon as possible after reaching his destination, he shall report to the said —— ——, present this parole, and at once enter upon the employment provided for him.

6. He shall, while on parole, remain in the legal custody and under the control of said board.

7. He shall be liable to be retaken and again confined within the inclosure of said reformatory for any reason that shall be satisfactory to the board of managers, and at their sole discretion, until he receives written notice from the general superintendent that his final release has been ordered by the court which sentenced him to the reformatory.

The management of said reformatory has a lively interest in the subject of this parole, and he need not fear or hesitate to freely communicate with the general superintendent in case he loses his situation or becomes unable to labor by reason of sickness or otherwise.

Given in duplicate this —— day of ——, 189—.

—— ——,
—— ——,
—— ——,
Managers Pennsylvania Industrial Reformatory.

Countersigned:

—— ——,
General Superintendent.

I, ——— ———, an inmate in the Pennsylvania Industrial Reformatory, hereby declare that I have carefully read and do clearly understand the contents and conditions of the above parole, and I hereby accept the same and do pledge myself to honestly comply with said conditions.

Signed in duplicate this —— day of ———, 189—.

——— ———.

The person signing the agreement must be a reputable citizen, engaged in such business or work as requires him to employ assistance, and who will be willing to employ said person for the time named.

The proposed employer must also agree to promptly report to the general superintendent of the reformatory any violation of the parole agreement signed by the inmate, a copy of which he is furnished with and which the employer should ask to see. The employer must promptly report any absence from work, any tendency to evil associations on the part of the paroled inmate under his supervision, and must also certify the required monthly report which the said paroled inmate is to forward to the general superintendent of the reformatory on the first day of each month during the time he is on parole.

After the agreement is signed it must be properly certified to, as required, by the judge or clerk of court, or other officer, who can affix his seal of office, and should then be returned to me, after which due inquiry will be made as to the employer, his business, and his ability to comply with the terms of the agreement.

The employment paper should, if possible, be returned on or before the first day of next month, and if everything is satisfactory and the employment approved by the board of managers at their meeting held on the second Friday of the month, he will be released in about four days thereafter.

Very respectfully,

——— ———,
General Superintendent.

COPY OF PAROLE AGREEMENT FURNISHED EACH INMATE ON HIS RELEASE ON PAROLE.

Know all men by these presents, that the board of managers of the Pennsylvania Industrial Reformatory, at Huntingdon, Pa., desiring to test the ability of ——— ———, No. ——, an inmate of said reformatory, to refrain from crime and lead an honorable life, do, by virtue of the authority conferred upon them by law, hereby parole the said ——— ———, and allow him to go on parole outside the buildings and inclosure of said reformatory, but not outside the State of Pennsylvania, subject, however, to the following rules and regulations:

1. He shall proceed at once to the place of employment provided for him, viz, with ——— ———, and there remain until he receives notice of his final discharge.

Description.

No. ——. Name, ——— ———. Age, ——. Height, ——. Weight, ——. Complexion, ———. Eyes, ———. Hair, ———. Marks, ———. Crime, ———. Date of sentence, ———, ——. County, ———. Court, ———. Date when admitted, ———, ——. Date of parole, ———, ——. Occupation, ———. Residence, ———.

THE STATE BOARD OF CORRECTION.
By ——— ———, *Chairman.*
——— ———, *Secretary.*

The form of monthly report required to be forwarded by a paroled prisoner, as stated in paragraph 3 of the parole agreement above set out as used in the State of Minnesota, which is a good sample of that of all the other States, is as follows:

MONTHLY REPORT

Of ——— ———, No. ——. Paroled ——— ———, 189—.

To ——— ———,
Warden Minnesota State Prison, Stillwater, Minn.

1. By whom have you been employed the past month?—A. ———.
2. At what kind of work?—A. ———.
3. How many days have you worked?—A. ———.
4. What has been your wages per day or month?—A. ———.
5. How much of your earnings have you expended and for what?—A. ———.
6. How much money have you now on hand or due you?—A. On hand, $——; due me, $——.
7. If you have been idle during any portion of the month state why.—A. ———.
8. Are you satisfied with your present employment? If not, why not?—A. ———.
9. Where do you spend your evenings?—A. ———.
10. Do you attend church?—A. ———.
11. Have you used tobacco?—A. ———.
12. Have you used intoxicating liquor?—A. ———.
13. State what books, papers, or magazines you have read.—A. ———.
14. Have you attended any public meeting, dances, picnics, or parties during the month? If so, where and when?—A. ———.
15. State in a general way your surroundings and prospects.—A. ———.
16. Have you had any trouble or misunderstanding with anyone? If so, state full particulars.—A. ———.

Remarks: ———.

Dated at ———, Minn., this —— day of ———, 189—.

——— ———.

STATEMENT OF EMPLOYER.

I have read the above statements of paroled prisoner, and certify that to the best of my knowledge they are true.

Countersigned:

——— ———.