A HISTORY OF THE OKLAHOMA PENAL SYSTEM, 1907-1967

Dissertation for the Degree of Ph. D.

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JOHN A. CONLEY

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This is to certify that the

thesis entitled

A History of the Oklahoma Penal System, 1907-1967 presented by

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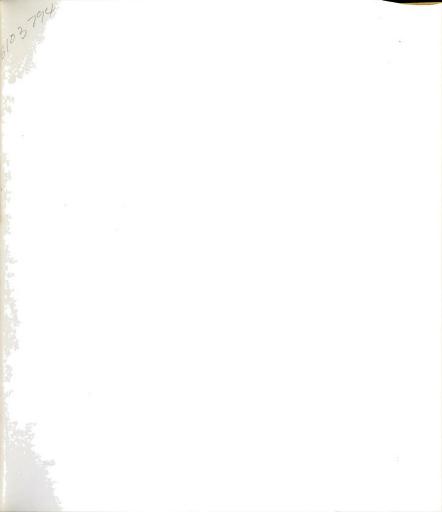
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ABSTRACT

A HISTORY OF THE OKLAHOMA PENAL SYSTEM,

Bv

John A. Conley

One of the major theories of criminology is that penitentiaries were developed as a humanitarian response to the brutal impact of corporal punishment. Imprisonment for punishment replaced the whippings, stocks and pillories. This theory was tested by critically analyzing the debate surrounding the decision to build prisons in the new state.

Another major criminological theory is that the sole motivating force behind the national prison movement from the mid-nineteenth century has been the rehabilitation of the offender. This theory is tested by studying the prisons of Oklahoma on two levels. The first necessitated looking at the penal institutions as a reform in themselves. What social forces brought about the need for prisons? How was that need articulated? What were the primary goals and objectives of the penal institutions?

The second level of analysis considered the penal institution as an object for reform. What shortcomings existed in the new penal system? How were these problems brought to the attention of the public? Did the need for reform surface more than once during the



period under study? If so, were the problems consistent over time? The solutions? What role did the rehabilitative ideal, as expressed in the professional literature, play in guiding the Oklahoma penal system? How successful were the reform attempts?

This is a historical analysis of penal development in Oklahoma from 1907-1967. The study begins with the impact of the social reform movement of the early 1900s on the origin of the penal system and traces the development of that system to 1967. The penitentiary and reformatory are studied independently to determine what social and political forces shaped their operations. Penal reform in general is examined to provide an understanding of the struggle between the forces of change and continuity and to explain the success or failure of the various reform efforts. Finally, the research focuses on the worker and the inmate with the objective of determining what it was like to work for or be incarcerated in Oklahoma's prisons.

This study found that, though the prisons were built in response to a social reform movement, the state never viewed the penal system as a social service agency designed to rehabilitate convicted criminals. The primary value of the prisons to the state was their profit-making potential. The state legislature deliberately refused to change the system even though study after study criticized the corruption, inefficiency, and waste and provided suggestions for reform. Politics dominated the operation of the prisons throughout this period and patronage had a disastrous effect on the recruitment of personnel and the management of the institutions. Finally, this history of Oklahoma's penal system indicated that the idea that



prisons were built and maintained to provide rehabilitation services to the criminal justice process needs to be reconsidered.



A HISTORY OF THE OKLAHOMA PENAL SYSTEM,

Ву

John A. Conley

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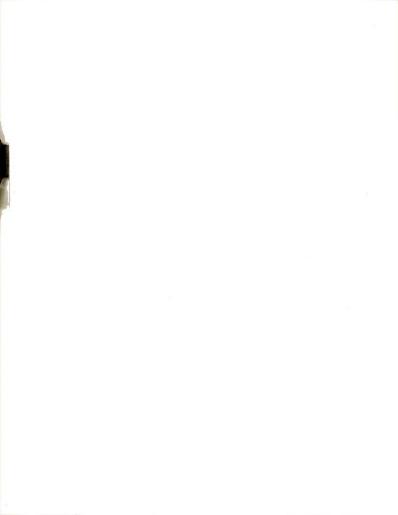
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I wish to thank Pat Chapman for cautioning me not to keep the topic too narrow and Sam Chapman for warning me it was too broad.

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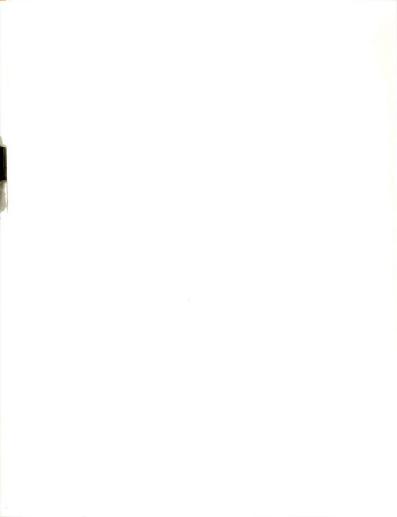


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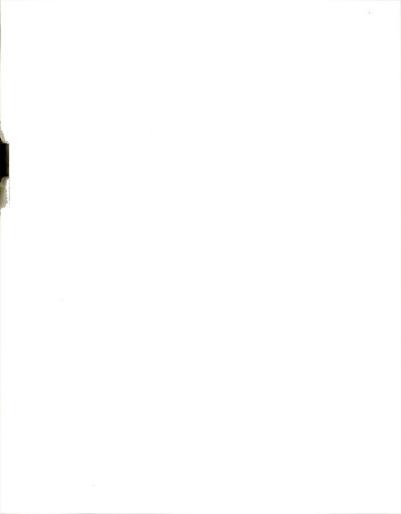
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INTRODUCTION

American criminologists and social historians have largely ignored the historical roots of crime and its control. This is surprising considering the amount of historical research conducted on criminal justice during the Progressive era by such outstanding scholars as Thorsten Sellin, Harry E. Barnes, Negley K. Teeters, Roscoe Pound, and Jerome Hall. These scholars showed that to better understand law, crime, and justice researchers had to study the

Pound and Hall were interested in the efficacy of the law and thus focused their attention on its operation in and on society. See Roscoe Pound, An Introduction to the Philosophy of Law (New Haven: Yale University Press, 1922), Outline of Lectures and Jurisprudence (Cambridge: Harvard University Press, 1928), Criminal Justice in America (New York: Henry Holt and Company, 1930), Social Control Through Law (New Haven: Yale University Press, 1942); Jerome Hall, Living Law and Democratic Society (Indianapolis: Bobbs-Merrill Co., 1949), Theft, Law, and Society 2nd ed. (Indianapolis: Bobbs-Merrill Co., 1952); Barnes was a historian self-trained in criminology whereas Teeters and Sellin were criminologists who viewed their historical scholarship as necessary to understanding criminological phenomena. See Johan Thorsten Sellen, Pioneering in Penology: The Amsterdam Houses of Correction in the Sixteenth and Seventeenth Century (Philadelphia: University of Pennsylvania Press, 1944); Harry E. Barnes, A History of Penal, Reformatory, and Correctional Institutions of the State of New Jersey: Analytical and Documentary (New York: Arno Reprint of 1918 edition, 1974), Repression of Crime: Studies in Historical Penology (Montclair, New Jersey: Patterson-Smith Reprint of 1926 edition, 1969), and The Story of Punishment: A Record of Man's Inhumanity to Man 2nd edition revised (Montclair, New Jersey: Patterson-Smith reprint of 1930 edition, 1972); Negley K. Teeters, <u>The Cradle of the Penitentiary: The Walnut Street Jail</u> (Philadelphia: Pennsylvania Prison Society, 1953), <u>The Prison at Philadelphia</u> Cherryhill: The Separate System of Penal Discipline, 1829-1913 (New York: Columbia University Press, 1957).



historical interrelationship between these abstract notions and their implementation in society. Succeeding generations failed to follow their lead.

Only recently have scholars become interested once again in the historical roots of crime and its control. The decade of the 1960s with its urban unrest, assassinations and general social instability raised substantive questions about crime in general and the criminal justice system in particular. We have yet to see a definitive history of crime in the United States, but recent scholarship has produced interesting and challenging monographs on this history of selected police departments, 2 juvenile delinquency and the juvenile court movement, 3 and the penitentiary. 4

²Roger Lane, Policing the City: Boston, 1822-1885 (Cambridge: Harbard University Press, 1967); James F. Richardson, The New York Police: Colonial Times to 1901 (New York: Oxford University Press, 1970) and Urban Police in the United States (New York: Kennikat Press, 1974); William J. Mathias and Stuart Anderson, From Horse to Helicopter: First Century of the Atlanta Police Department (Atlanta: George State University, 1973)

³Robert M. Mennel, Thorns and Thistles: Juvenile Delinquents in the United States, 1825-1840 (Hanover, New Hampshire: University Press of New England, for the University of New Hampshire); Joseph M. Hawes, Children in Urban Society: Juvenile Delinquency in Nineteenth Century America (New York: Oxford University Press, 1971); Robert H. Bremmer, ed., Children and Youth in America: A Documentary History, 2 Vols. (Cambridge: Harvard University Press, 1970-1971); Anthony Platt, The Child Savers: The Invention of Delinquency (Chicago: University of Chicago Press, 1969).

⁴David Lewis, From Newgate to Dannemora: The Rise of the Penitentiary in New York, 1795-1848 (Ithaca: Cornell University Press, 1965); Mark T. Carleton, Politics and Punishment: The History of the Louisiana State Penal System (Baton Rouge: Louisiana State University Press, 1971); David J. Rothman, The Discovery of the Asylum: Social Order and Disorder in the New Republic (Little, Brown and Company, 1971).



The concern here is with the origin and development of penal systems. Most of the scholarship on this topic agrees that the penitentiary was the result of humanitarian reform. Imprisonment as an alternative means of punishment replaced hangings, whippings, stocks, and pillories. Another generally accepted theme is that the sole motivating force behind the prison movement from the mid-nineteenth century has been the rehabilitation of the offender. These conclusions have certain weaknesses. First they are based on research that has concentrated on the eastern seaboard states, particularly New York and Pennsylvania, because of the development of contrasting penal systems in those two states. Second, the bulk of the historical research in this area has been on the philosophical differences of the various social and penal reform groups. As a result the literature is dominated by intellectual history and ignores the concerns and interests of the implementing bodies such as penal administrators, legislatures, and governors.

This study is a modest attempt to test those themes by studying penal developments in a midwestern state and by focusing on the implementation and operation of the penal system. Oklahoma was chosen because, as the 46th state to join the Union in 1907, it had the opportunity to learn from the mistakes made earlier by other states. Oklahoma was also a border state and the question of whether it followed the southern plantation or the northern reformatory model is also of interest. Finally, this study is a clear indication that historians are influenced by current events because Oklahoma is currently undergoing a period of intense penal reform and this activity



whetted this researcher's interest in what had happened in the past. ⁵
The period under study covers 60 years from statehood in 1907 to 1967
when the state created its first statewide department of correction.

The role of humanitarian reform in the origin of the penal system is explored as well as the lasting power of that reform impulse as reflected in the Department of Charities and Correction. A detailed study of the development of the penitentiary and reformatory is conducted to determine how these products of reform succeeded in meeting the objectives set for them. This is followed by an extensive study of the social, political, and economic forces that helped shape public policy regarding the operation of the penal system. This part of the study looks at the two institutions as objects for reform. Finally, the study examines the workers and the inmates as two separate but interacting parts of the prison community to determine what it was like to be an employee of the penal system or an inmate in one of the prisons.

Historians have ignored Oklahoma's penal system. The only secondary sources available were two books written in the early 1900s, one by an ex-convict and one by an ex-employee of the penitentiary. 6 Histories of Oklahoma barely mention the penitentiary. This study

⁵For evidence that the historian's topic is influenced by contemporary issues, see Robert A. Skotheim, editor, The Historian and the Climate of Opinion (Reading, Massachusetts: Addison-Wesley Publishing Company, 1969).

⁶ Ide D. Nash, My Prison Experience in Oklahoma: Bootlegging A Failure and a Lecture to Young Men (Hugo, Oklahoma: The Husonian, 1918); Robert Park, History of the Oklahoma State Penitentiary, Located at McAlester, Oklahoma (McAlester, Oklahoma: McAlester Printing Company, 1914).



relied on the official records of the state and the manuscript collections at the Oklahoma State Archives and the University of Oklahoma. This manuscript is the first scholarly attempt to document the origin and development of Oklahoma's penal system.

CHAPTER I

THE ORIGIN OF THE PENITENTIARY AND HUMANITARIAN REFORM

The incarceration of convicts in most western territories followed a similar pattern. Most territories house their prisoners in federal territorial jails on a contractual agreement usually based on a daily per capita fee. Because they did not have local or federal jails of sufficient capacity Wyoming and Oklahoma differed from the rest of the territories, and contracted their inmates to other states. Wyoming sent its convicts to the Nebraska State prison and Oklahoma shipped its convicted criminals to the Kansas State Penitentiary at Lansing. 1

In 1890 the Legislature of the Oklahoma Territory authorized the Governor to contract with the State of Kansas for the incarceration and care of Oklahoma's convicted criminals. The contracts were signed by the Territorial Governor and the warden of the Kansas

The territories paid local sheriffs the cost of transportation of these immates to the state prisons. Wyoming had a federal prison at Laramie, but chose to send its inmates first to Nebraska and later to Illinois state prison at Joliet because of cheaper rates. Sheriffs became fat on the fees allowed for transportation. See Blake McElvey, "Penology in the Westward Movement," Pacific History Review (1933), 2:418-438, Gaston Litton, History of Oklahoma at the Golden Anniversary of Statehood, 4 Vols. (New York: Lewis Historical Publishing Company, 1957). I, 443.

penitentiary and provided for the incarceration of Oklahoma criminal offenders who had been sentenced "to the penitentiary for one year or more." For a daily fee of 25 cents per capita, the warden provided "food, clothing, bedding, and medical treatment" for the inmates. Upon the inmate's release the warden furnished him with "a suit of citizens (sic) clothes of the value of 15 dollars, and five dollars in money" and Oklahoma reimbursed Kansas for these costs upon receipt of quarterly reports from the warden. County officials from Oklahoma transported the convicts to Lansing at territory expense, but the convicts were on their own when they were released.²

This contractual arrangement served the needs of Oklahoma during its territorial days. There were numerous attempts by the Territorial Council to get a penitentiary bill passed, but the various governors never signed them into law. Although there were many fights in the legislature regarding the location of the penal institution, the basic problem was that a defect in the organic law creating the Oklahoma Territory limited the amount of money which could be spent on public institutions. Further opponents to a penal institution argued that the increased cost in capital outlay was not justified when compared to the cost of the contract with Kansas.

This line of reasoning was effective and it showed that the political leaders of the territory were willing to use strong economic

Zournal of House Proceedings of the Fourth Legislature
Assembly of the Territory of Oklahoma 1897 (Gutherie: Daily Leader
Press, 1897), 49 hereafter cited as Oklahoma Territory House Proceedings, 1---; Quotes are from Contract between Governor of Oklahoma
Territory and Warden of Kansas Penitentiary, 1898; State Archives,
Department of Charities and Corrections, Administrative Files



 $\mbox{arguments}$ in their debates. At no time during the territorial days \mbox{did} the question of the rehabilitation of the inmates surface as an issue. 3

The auditors of Oklahoma felt that this contractual arrangement was economically sound. From 1890 until 1894 the total biennial cost of incarceration and transportation of inmates was less than \$7,000 for a prison population of between 70 and 115 inmates. For the years 1895-1896 the total cost doubled, due largely to an increase in the number of inmates, to a total of \$22,373. But the Auditor still claimed in his report to the Governor that the cost was favorable to the territory and that it would be "poor policy to incur the expense of establishing a penitentiary within the territory." He estimated that the expenses for this service in the next biennial period would be approximately \$38,000.4

COST OF INCARCERATION OF OKLAHOMA CONVICTS AT KANSAS PENITENTIARY

Year	Maintenance	Transportation	Total
1893	\$ 3,160.75	\$ 1,185.54	$$\overline{4,246.29}$
1894	3,823.00	2,779.07	6,602.07
1895	8,360.75	2,817.90	11,178.65*
1896	8,806.75	2,387.79	11,194.54
1897**	13,500.00	2,500.00	21,000.00
	•	5,000.00*	
1898**	15,000.00	2,500.00	17,000.00

Actition, History of Oklahoma I, 524; Journal of the Council Proceedings of the Sixth Legislative Assembly of the Territory of Oklahoma 1901, 143, 194, 210, 242, 308, 340, 415. Hereafter cited as Oklahoma Territory Council Proceedings, 1---; Oklahoma Territory Council Proceedings, 1897, 874, 882-883, 964, 1201, 1395; Oklahoma Territory House Proceedings, 1897, 775-776, 994-998.

⁴The auditor's report showed the various costs of the inmate contract for a four year peiod and was compiled for a presentation by this writer:



In 1898, however, Kansas authorities notified Oklahoma officials that because of the lack of employment of their own prisoners, they were forced to increase the daily rate to 50 cents per inmate. Oklahoma negotiated that demand down to 35 cents and this remained in effect until 1905 when the contractual fee was raised to 40 cents per inmate. ⁵ Even with these increases Oklahoma was still paying an annual rate for inmate care which was less than half what it cost to care for the blind, deaf mutes, and the insane within the territory. ⁶ The primary difference was that for convicts the territory did not have to expend funds for capital improvements and personnel.

Rising costs and rising inmate populations, however, forced some Oklahoma officials to question the viability of continuing the

⁵Oklahoma Territory Council Proceedings, 1899, 42.

 $^{\mbox{\scriptsize 6}}\mbox{\scriptsize The annual cost per capita for the care of these charitable classes was:$

 Convicts
 \$127.75

 Blind
 275.00

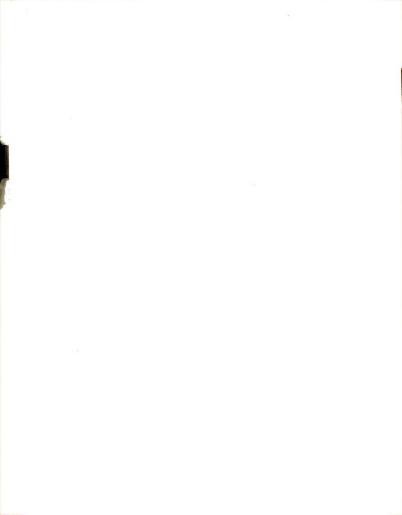
 Deaf Mutes
 275.00

 Insane
 200.00

See Ibid., 702-711. Oklahoma Territory contracted with private individuals or companies for the care of these groups of deviants and the asylums were located in the territories. The contract for the insane indicated that the laws of Illinois "shall govern" the regulation and treatment of this group, Oklahoma Territory Council Proceedings, 1899, 711.

^{*}This figure represented a "deficiency" estimate for a contingency fund. For the auditor's reports and the economic arguments in favor of the interstate contract see Oklahoma Territory House Proceedings, 1897, 100-103, 119-120; Oklahoma Territory Council Proceedings, 1897, 97.

^{**}Projected



contract with Kansas for the incarceration of inmates. In his 1899 report the auditor indicated that the inmate population had reached a new high of 179 for the past quarter. This growth plus the new 35 cent rate per inmate made him suggest that the territory's prisoners be cared for within the territory and that transportation costs be paid by the county where the conviction occurred. But nothing happened to change the system until after Oklahoma achieved statehood.

Four months into his administration, the first Governor of the state of Oklahoma, Charles N. Haskell (1907-1911), recommended that the legislature appropriate funds to build a penitentiary and a reform school in the new state. He said that the "convict class will necessitate some provision at an early date in the way of a penitentiary and a reform school." But the legislature did not respond and three weeks before the first session recessed for the summer he sent another special message to both houses. He argued that the convicts were a large expense to the state without producing the slightest material benefit. Convicts could be used to work on the much needed public roads which "need not and should not compete with free labor." Again the legislature failed to act on the penitentiary bill. 8

By the end of the first session the legislature finally authorized the Board of Prison Control to purchase land at McAlester,

⁷For the biennial period ending June 30, 1898 the cost of maintenance had risen to \$22,748 and the transportation costs reached a new high of \$6,976.53 for a total of \$34,729.53. Oklahoma Territory Council Proceedings, 1899, 42, 60.

⁸Quote from <u>Governor's Message to the First Legislature of</u> the <u>State of Oklahoma</u>, <u>1907-1908</u>, 41, 48, hereafter cited as <u>Governor's Message</u>, <u>19--</u>.



Oklahoma and to begin construction of a penitentiary using prison labor. The first contingent of 100 inmates from Lansing arrived on October 14, 1908 and the state temporarily housed this group in the former federal jail at McAlester. Under the direction of the new warden, Robert W. Dick, these inmates built a temporary stockade to house themselves and a second group of inmates from Lansing who Dick planned to use in constructing the permanent penitentiary. The stockade cell house was a clapboard, two-story structure which measured 30 feet wide by 132 feet long. The building had 25 cages that held "18 men to the cage." Other smaller buildings constructed in the compound included the dining room, kitchen, and laundry. But the legislature stalled in appropriating funds for the construction of the permanent institution.

Governor Haskell reminded the legislature in January, 1909 that the contract with Kansas was due to expire at the end of the month. Since the legislature had not appropriated the construction funds, and had not yet renewed the contract, he wanted to know what action they would take regarding the 155 inmates at McAlester, over 562 at Lansing, and another 150 in county jails throughout the state who were waiting for "directions as to where they will be transported and confined." 10

⁹Report of meeting of State Board of Prison Control, March 3, 1910, State Archives, House Committee Records; Commissioner of Charities and Correction, <u>First Annual Report</u>, (1908)(Guthrie: Leader Printing Company, 1908), 16. Commissioner's report hereafter cited as C & C Report, 19--.

¹⁰ Governor's Message, 1909, 9-10.



The catalyst that changed the arrangement of sending convicted felons to the Kansas penitentiary was Kate Barnard, Oklahoma's first Commissioner of Charities and Correction. Miss Barnard was an indomitable and persistent reformer of the Progressive mold. Spurred by her humanitarian instincts and using her shrewd ability for political compromise she campaigned vigorously for the laboring poor. convicts, and the destitute. She believed strongly in political activism for social reform. Politics and social justice went hand in hand. Barnard had organized the coalition of organized labor and charitable reform groups and perfected the technique of canvassing politicians for their votes during the constitutional convention of 1907-1908. Barnard's political power emanated from her leadership of that coalition. As a result she controlled more convention votes than anyone in either party and all 24 planks of the labor and social justice groups passed making the Oklahoma Constitution the most radical in the nation. The planks included the recall, referendum, mine safety laws, child labor laws, compulsory school attendance, the prohibition of contracting convict labor, and other penal reforms. She carried that political activism into the Office of Commissioner of Charities and Correction and chastised her professional and humanitarian peers who wanted to remain aloof from the political arena:

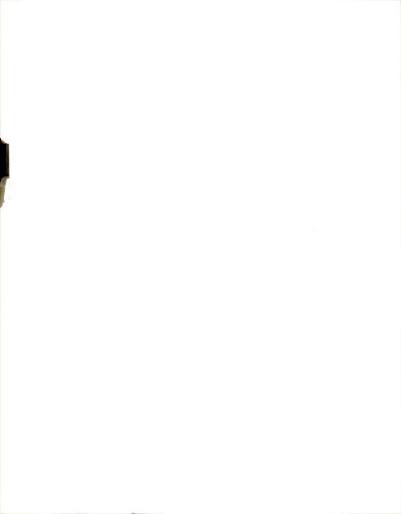
While most of the leaders in the charity movement deplore the fact that politics should enter our field, I cannot agree with them. I believe that if our people would get out and help elect friends of our measures and defeat our enemies we should accomplish a great deal more than we do by getting Women's Clubs, churches, etc., to pass resolution's and look wise, but in doing so, go right to the polls and see men elected who are not known to be in sympathy with anything that is humanitarian.



It was in this spirit that Barnard fought hard for penal reform in $\mathsf{Oklahoma.}^{11}$

Barnard was quite concerned that Oklahoma would repeat the errors of other states and build prisons solely for revenge rather than for rehabilitation. She described a bad prison as one that excessively used the lash and abused the prisoners and staff. A good prison, according to Barnard, was one that "turned out the largest percentage of prisoners who never return to a life of crime." Her models were the state prison at Stillwater, Minnesota and the United States Penitentiary at Leavenworth, Kansas. These institutions had firm discipline, but no signs of revenge and their goal was to make better men of their convicts. Accepting contemporary biological theories of crime causation as proposed by the European criminologists. she linked criminal behavior to disease or degeneracy. But she also added to those theories and claimed that criminality more often was due to a weak will "resulting from faulty training, lack of education, ignorance, neglect, poverty, and bad environment." Clearly Kate Barnard was not a proponent of a single-cause theory of criminality. Her solution was to give the inmate medical and psychological treatment which would strengthen the moral and physical attributes of the inmate. In this analysis of crime causation and its solution, Kate

¹¹ For an analysis of Barnard's role and effectiveness in achieving social reform in Oklahoma see Keith L. Bryant, Jr., "Kate Barnard, Organized Labor, and Social Justice in Oklahoma," Journal of Southern History (1969), 35:145-164, quote is from 159-160; for an interesting but uncritical biography of Kate Barnard see Julia Short, Kate Barnard: Liberated Women (University of Oklahoma, Masters Thesis. 1972).



Barnard was well in tune with her peers in the nation for the era of corrections had surfaced two decades earlier and was beginning to dominate the growing field of penal and correctional administration. But Kate Barnard the individual would have little impact on the treatment of deviants; she needed a public or private organizational linkage for a base of operation. 12

A department responsible for the oversight of the charitable and penal institutions within the state was a logical vehicle to implement the humanitarian reform spirit as public policy. Barnard worked diligently and aggresively during the first constitutional convention and managed to have inserted in the constitution a section creating an elected Office of Charities and Correction which was designed specifically for her as it was the only state elected office open to either sex. Subsequently she campaigned for that office and became the nation's first female elected to a statewide office. In fact she received more popular votes than the first Governor, Charles M. Haskell. The Commissioner had the authority to investigate complaints made against any of the public and private charitable and eleemosynary institutions which handled state supported patients and

¹² C & C Report, 1908, 2-4, 16-17. For the European biological theories see Cesare Lombroso, M.D., Crime: Its Causes and Remedies, Translated by Henry P. Horton (Boston: Little, Brown and Company, 1912) and Enrico Ferri, Criminal Sociology, Translated by Joseph I. Kelley and John Lisle (Agothan Press Reprint of 1917 ed., 1967). For a history of the corrections movement see David J. Rothman, The Discovery of the Asylum: Social Order and Disorder in the New Republic (Boston: Little, Brown and Company, 1971).



inmates. The powers of the office and the reform interests of Kate Barnard quickly focused on the penitentiary situation. 13

Barnard had received numerous complaints about the treatment of inmates and the general conditions at the Kansas penitentiary.

Soon after she assumed her official duties she visited the penitentiary at Lansing, Kansas in August of 1908. She arrived unannounced and, joining other sightseers, paid the normal admittance fee of 50 cents for a guided, group tour of the prison and was shown the "showplaces of the institution." After the tour she identified herself and requested that she be allowed to conduct a thorough inspection. The warden and Kansas Board of Prison Control challenged her authority to inspect their prison, but finally allowed her full access to the facility under the watchful eye of the warden. She completed her inspection and returned to Oklahoma to write her report. 14

After her visit to Lansing, Barnard received numerous letters from inmates, past and present, urging her to make public her findings

¹³ Oklahoma, Constitution, art. 6, secs. 27-30. The Commissioner had the power to "investigate the entire system of public charities and correction, to examine into the condition and management of all prisons, jails, alms-houses, reformatories, reform and industrial schools, hospitals, infirmaries, dispensaries, orphanages, and all public and private retreats and asylums" supported wholly or in part with state, county, or local funds, Sec. 28. It was also the only state office which had the same status as the Governor: "said officer shall have the qualifications which shall be required of the Governor," sec. 27. Only Oklahoma and New Jersey had elected Commissioners. In other states the Governor appointed a Board of Commissioners, see Keith L. Bryant, Jr., "The Juvenile Movement: Oklahoma as a Case Study," Soc. Sci. Q. (1968), 49:368-376; Daily Oklahoman, March 14, 1907; Bryant, "Kate Barnard," J. South. Hist. (1969), 35: 138; From an all-male voting constituency Barnard received 134,300 votes and beat her opponent by 36,000 votes. Governor Haskell received 134,162 votes, Short, Kate Barnard, 43.

¹⁴C & C Report, 1908, 5.



and clean up the conditions. One Oklahoma inmate at the prison said that her visit "was a bolt of thunder from a clear sky and you shook this rotten old institution with the first genuine scare they have had since the time of the populists." He cautioned her not to be deceived because "she only scared them temporarily." Ex-inmates who were now successful businessmen or doctors with "high reputations," but who had managed to keep secret their incarceration at Lansing during an earlier period of their lives, also urged her to continue her fight and many volunteered to come forward and testify about the conditions. Bolstered by these letters she made her report public in December, 1908 and demanded a full investigation. 16

She charged the Kansas authorities with corruption, brutality, and graft in their operation of the prison. Food conditions were terrible, she said, with the prisoners being fed only one meal a day and lower rations than the penitentiaries in Wisconsin and at Leavenworth. Kate documented in her report that Kansas contracted the men to private individuals for 50 cents a day and received an additional 40 cents a day from Oklahoma, but spent only 11 cents a day for food. 17

She found systematic torture of inmates by the use of the "crib" and the "waterhose." Inmates were placed in a coffin-like

¹⁵ Letter reprinted in Ibid., 11.

¹⁶Letter reprinted in C & C Report, 1910, 8.

¹⁷ She compared the 11 cents a day at Lansing with the 12 cents spent by Wisconsin for food and the 13 cents spent by Leavenworth. The mine workers at Lansing received one meal a day which consisted of three inch-long pieces of bologna sausage, one piece of plain bread, tomato or pea soup, and weak coffee, C & C Report, 1908, 7-9.



structure (the crib) with their feet and hands shackled and drawn together by a chain at their back. This resulted in a temporary paralysis after a short length of time due to the knotting of the muscles from the loss of blood circulation. The "waterhose" treatment involved the continuous spraying of water from a three-inch hose directed at the inmate's nostrils and mouth to the point of suffocation. An Oklahoma inmate had described this torture to Barnard and when she confronted the warden with the information, he admitted that these punishments occurred. ¹⁸

The physical brutalities were linked directly to the economics of production in the prison industries. Kansas furnished cheap prison labor to contractors who ran the coal mines, furniture factory, and a binder twine factory. These contractors would set production levels and punishments for the failure to meet those levels and Kansas guards would carry out those punishments. For example, the inmates working the mine had to produce three cars of coal a day or they were locked in a dungeon shackled to a sprocket in the wall and fed bread and water. The miners also had to work on their backs and sides because of the narrowness of the passages. The old and the young (Kate found a 17 year old slightly built youth in a dungeon), big or small worked in the mines and the young were generally victims of homosexual rapes and other sex crimes. ¹⁹

¹⁸ Ibid., 13, John N. Reynolds, <u>The Twin Hells: A Thrilling Narrative of Life in the Kansas and Missouri Penitentiaries</u> (Chicago: Bee Publishing Company, 1890), 94.

^{19&}lt;u>C & C Report, 1908</u>, 8-9. All inmates sent to the mine were required to dig three cars of coal a day or they received the punishment. The weaker inmates carried the bulk of this "treatment."



The furniture and twine factories contracted for prison labor and worked all inmates to their endurance with the contractor setting the amount of production. In Lansing, as in other contract systems, "inability or failure on the part of the prisoners results in the most hideous system of punishment." The "crib" and the "waterhose" were used on many of the slow producers. ²⁰ These findings contradicted the sugar-coated reports that Oklahoma had been receiving from the warden. The 1899 report was typical:

The Oklahoma prisoners as a whole have been tractable and obedient. They are treated in every particular as our own prisoners, receiving the same stipend for every day's labor performed as given to Kansas prisoners. Their general condition is excellent and they are, as nearly as can possibly be expected, contented and satisfied with their lot.21

Finally, Kate found that from 1905 to 1908 60 boys had been sent to the Lansing penitentiary and many of these were under 16 years of age. This was a clear violation of the contract which stated that "no convict shall be received under this contract into the Kansas penitentiary who shall be less than 16 years of age." This condition not only gave clear legal and moral grounds for terminating

The objective was to generate fear among the mine workers in order to keep production up. The recipients of the punishment served as examples to the rest of the inmates and allowed the supervisors to maintain control over a large and diffuse workforce. The work rooms were 28 inches high, 24 inches wide, and 50 feet long, 800 feet below the surface. Reynolds, Twin Hells, 54, 93.

Quote from <u>C & C Report</u>, 1908, 9-10; McKelvey, <u>American</u> Prisons, 94-107.

²¹ Oklahoma Territory Council Proceedings, 1899, 42. The quotation is from the 1898 report from the Kansas Penitentiary signed by warden, H.S. Landes included therein.

the contract, it also provided Kate with ammunition in her later attempt to establish state industrial schools for youngsters in trouble with the law.²²

Barnard recommended to the Governor and the legislature of Oklahoma that all inmates be transferred immediately from Lansing to the federal penitentiary at Leavenworth until Oklahoma could build its own penitentiary. ²³

Meanwhile, the Kansas press conducted a vicious attack on Barnard's integrity, motives, and the competence of her staff. The press claimed that her husband was an ex-inmate of Lansing and that she was getting even with Kansas. When they were informed that she was single, they claimed that she was the ex-inmate of the penitentiary. Later they accused her assistant commissioner of being an ex-con. ²⁴ But the personal attacks increased the growing support for Barnard and for an investigation.

Governor C.W. Hoch of Kansas asked for a joint investigation claiming that the prison was one of the best managed institutions in the country. He appointed five members to a committee and asked that

²²C & C Report, 1908, 15. Contract between Governor of Oklahoma Territory and the Warden of the Kansas State Penitentiary, 1905, State Archives, Department of Charities and Correction, Administrative files. The contract also included a requirement that any inmate who was adjudged insane be returned to Oklahoma. For Barnard's efforts in the juvenile reform area see Bryant, "The Juvenile Movement" Social Science Quarterly (1968), 49:368-376.

²³C & C Report, 1908, 19-20.

^{24&}lt;sub>C & C Report, 1910</sub>, 12; <u>Tulsa Democrat</u>, December 17, 1908; Tulsa Daily Democrat, December 14, 1908.

Oklahoma appoint an equal number. 25 Governor Haskell agreed and appointed a committee, after being assured by the Attorney General that the Commissioner of Charities and Correction had the authority to investigate and report on the "entire system of charities and correction" which included the Oklahoma inmates at the Lansing prison. Five names were selected from a list of 18 which Barnard had submitted to the Governor at his request. 26

Kansas officials were not entirely open to this investigation. They tried to thwart its effort every step of the way. Governor Hoch insisted that the report be completed by January 11, 1909 when his term expired. Since he had written the request on December 22, the Oklahoma Governor had to establish a delegation, get affidavits from the Commissioner of Charities and Correction, convene the delegation, coordinate the departure time for Lansing, conduct the investigation, and write the report within 19 days. Most of these tasks were performed in five days, but the Oklahoma delegation could not get to

²⁵The Kansas delegation included Professor F.W. Blackmar, Chairman of the Sociology Department at Kansas University, Honorable F.D. Coburn, Secretary of the State Board of Agriculture; Dr. S.J. Crumbine, Secretary of the State Board of Health; Dr. Charles M. Sheldon, author and preacher; and Honorable Frank Gilday, State Mine Inspector, C. & C Report, 1910, 8-9.

²⁶Barnard's political power is reflected in this request from the Governor. He could have easily selected the committee without requesting the names from Barnard, but her political strength and the general recognition of her expertise in these matters suggested that the Governor should work closely with her on this issue. The final Oklahoma delegation included, in addition to Barnard, E.D. Cameron, State Superintendent of Public Institutions; J.P. Connors, Chairman, State Board of Agriculture; Charles West, Attorney General; J.P. Goulding, State Senator; George F. Cullin, Mine Superintendent, C & C Report, 1910, 8-11.

Lansing until the morning of January 7, 1909. This allowed them three days to conduct the investigation, write the report, and submit it to the Governors.²⁷

The limited time allowed for the investigation was no problem for the Kansas delegation. They had conducted their own probe and were having their report typewritten on the day the Oklahoma people arrived in Lansing. To add further insult, the Kansas Committee urged the Oklahoma delegation to accept the report! 28 The Oklahoma group labeled the report a whitewash and insisted on conducting the investigation jointly. The Kansas people reluctantly agreed.

The Oklahoma committee was well armed with evidence. They brought with them five ex-inmates as witnesses. One of these, a doctor, volunteered to be the "victim" of the irons torture as a demonstration for the committee. Another witness, an ex-prison guard from Lansing who was serving a prison sentence in Oklahoma, administered the punishment which required handcuffing the person, attaching steel shackles to his ankles, running a chain through the handcuffs and shackles and tying it at the small of his back. The victim was prone on his stomach. The effect of this punishment was that the veins filled to the bursting point and the muscles in the arms and legs strained to the point of snapping. The committee was aghast at the sight and all but one of the Kansas officials was horrified. The chairman of the Kansas Board of Prison Control merely laughed. In

²⁷Ibid., 12-13.

²⁸Ibid., 12.

complete disgust Barnard said to him, "sir, you are a disgrace to civilization." 29

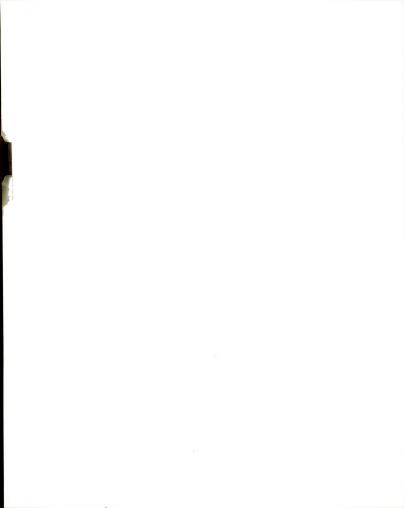
Kansas officials had burned the "cribs" prior to the Oklahoma delegation's arrival. The committee learned that the prison officials intended to keep the "cribs" to illustrate that the punishment was physically harmless, but because there were so many bloodstains on the "cribs" which proved impossible to boil and scrub away the Kansas officials order them burned. 30

The investigation clearly proved Barnard's earlier allegations and even went further than these in the report to Governor Haskell. At the time of the investigation, Oklahoma provided more than half of the total prison population of 1195 inmates at Lansing. This was very lucrative to Kansas officials who received a total of 90 cents a day per inmate. The committee charged that the Board of Prison Control politically manipulated the prison staff and abused the inmate labor for pecuniary gain for corrupt officals and contractors. They labeled the Kansas penitentiary a "political prison." They concluded

²⁹Ibid., 13.

 $^{^{30}}$ Ibid., 14, 122-123. The crib was a box-like structure $6\frac{1}{2}$ feet long, 30 inches wide and 3 feet deep made with slats of wood about 3 inches apart. Inmates were locked in the crib and tormented with water hoses, electrical prods, hot irons, and other instruments.

³¹ Ibid., 8, 17, 103. Barnard claimed that the 600 plus inmates cost the state well over \$100,000 annually in subsistence, transportation, and Sheriffs' fees. Her figures are probably on the conservative side because the 40 cents a day rate would total \$87,600 for a daily inmate population of 600. But the population on any given day is always less than the number received for the year. Thus the annual transportation costs incurred would be figured on a larger number of inmates than the 600 and this would add a considerable amount to the \$87,600.



that the "officers of the Kansas penitentiary, with full knowledge and understanding, willfully, illegally, and unlawfully inflicted painful and corporal punishment" on the inmates and the only excuse they provided was that their predecessors had done the same. The next Governor (Stubbs) of Kansas cleaned out the corrupt officials and abolished contract labor. The Lansing investigation brought national attention to prison problems and similar exposes which resulted in reform were conducted in Ohio, Missouri, and Texas. 33

Barnard practically exonerated Warden W.H. Haskell by claiming that he probably did not know about all the brutalities inflicted by the guards. She indicated that the well paid wardens are high class men but "the poorly paid guards are of lower quality." She also attributed the brutality to the corruption and graft prevalent in the penal system. These conclusions are accurate for the testimony taken by the committee verified the systematic forms of corruption. But this is to separate the behavior of individuals from the larger social

³²Ibid., 102-105.

³³ Ibid., 14; Letters, Kate Barnard to Lewis E. Palmer, March 5, 1909 and to William A. White, August 30, 1909, State Archives Department of Charities and Correction, Correspondence Files.

³⁴Quote from <u>C & C Report, 1908</u>, 14-15; <u>C & C Report, 1910</u>, 8. Warden Haskell was not related to Governor Haskell of Oklahoma. Warden Haskell had served one term in the Kansas State Senate prior to his appointment as warden.

³⁵The full text of the testimony of prison officials, exconvicts, and other witnesses is reprinted in <u>C & C Report, 1910</u>, 107-192. For Barnard's assessment of the causes of brutality see the various letters dated 1909 from her to W.A. White, a Kansas newspaper publisher, State Archives, Charities and Correction, Correspondence Files.



organism within which these behaviors occurred and persisted. The Testimony clearly showed that the prison was an economic entity operated for profit. The prison operated within an economic system which demanded cheap labor for huge profits. The prison had to maintain order to function efficiently and to share in the profits of the industries using convict labor. The punishment inflicted on the inmates was not due only to rule infractions, corruption, or for "rehabilitative" objectives punishment was inflicted to maintain a specified level of production for the industries.

The report on the conditions at Lansing brought about a public outcry to bring the prisoners back to Oklahoma. The official report of the investigation of the Lansing Prison was released only a few days after Governor Haskell informed the legislature that the contract with Kansas was to expire within three weeks. The report shocked the legislature into action and it authorized the movement of Oklahoma's prisoners from Lansing to McAlester. After years of infighting, lethargy, and purposeful delay in dealing with the question of convict needs, the legislature finally moved to rectify the situation at Lansing. But it required a monumental scandal to get their attention.

Kate Barnard had combined the authority of the Commissioner of Charities and Correction with her political power and with her own compassionate zeal for social reform and forced the state to recognize its responsibility to convicted criminals. The office lent itself to that form of social action because of its broad powers. When used by a political activist like Barnard, the office served as a vehicle to achieve social justice.



The Commissioner of Charities and Correction was a constitutional state office which received its statutory authority and its first appropriation on March 23, 1908. In addition to the elected Commissioner the law authorized five additional staff--two Assistant Commissioners, two Inspectors, and one stenographer--who received their appointment by the Commissioner. The early incumbents viewed the office as the humanitarian arm of state government that protected "the poor, the unfortunate, the unprotected, the insane, the prisoners and the helpless orphan children of the state." The effectiveness of the office, however, depended more on the political shrewdness, humanitarian spirit, and perseverance of the incumbents because the various legislatures and governors rarely supported it and attempted on many occasions to strip the office of its authority and capacity to carry out its responsibilities. ³⁶

After the prisoners returned to Oklahoma from the Kansas penitentiary, Kate Barnard turned her department's attention to the local jails and the private and public charitable institutions throughout the state. The department mailed printed forms to all the sheriffs, city marshalls, and county commissioners which requested that they fill in the appropriate information on inmate numbers, staffing, jail conditions, diets, and other related topics. This information was then collated and analysed by the department and published in the annual reports. The department's inspector regularly visited all the

³⁶Oklahoma was the only state that elected its Commissioner of Charities and Correction "in the same manner and at the same time as the Governor," <u>C & C Report, 1927</u>, 7-10, quote in text is from p. 10. For a copy of the original bill see <u>C & C Report, 1908</u>, 73-77; Revised Laws of Oklahoma, 1910 II, 2190.



institutions at least once a year and reported on the facilities, sanitary conditions, treatment of patients and inmates, and made recommendations for improvement. The Commissioner of Charities and Correction had the authority to investigate these institutions, subpoena witnesses, and condemn the facilities if necessary, but the office had no punitive authority to enforce its recommendations. As a result Barnard relied heavily on the conscience of the community and its elected officials. She issued her reports to these officials and to the press. On many occasions she called a "town meeting," presented her findings to the assembled group of officials and lay citizens, escorted them on a tour of the facility, and received a commitment from the group to improve the conditions. This activity placed the Commissioner in direct conflict with local officials and they let it be known through the legislature that they did not appreciate her incessant humanitarian demands even if what she recommended was only that they comply with state law. 37

Kate Barnard felt the legislature's wrath when she attempted to expand the department's activities in protecting the land claims of Indian orphans. Barnard submitted a bill to create the position of Public Defender in the Commissioner's office. The Public Defender would "institute, prosecute, or defend any suit or action in any court on behalf of minor orphans, defectives, dependents, and delinquents." The bill passed the Third Legislature because it was not politically wise to be against orphans, but the Governor quietly vetoed the law.

 $^{^{37}\}text{See}$ generally sections on county jails in <u>C & C Annual Reports</u>, 1908-1914.



Barnard was furious. Her office determined, however, that the Governor failed to take action on the bill within the five-day time limit specified by the Constitution, and thus she lobbied to either have the bill recognized as law or get a new bill passed. But her efforts were unsuccessful. 38

Meanwhile, one of the Assistant Commissioners, Dr. J.H. Stolper had been operating as a public defender regarding the land claims of orphaned Indian children. During the 1911-1912 fiscal year the Department of Charities and Correction handled \$948,000 worth of claims on land valued at "about three million dollars." These cases were filed and defended successfully by the Assistant Commissioner in 36 different county courts and represented 1,361 Indian orphans. Though this office brought great pressures at times on local officials to clean up their jails and most of these officials resented the intrusion and fought the Commissioner and her directives through the legislature, it was the department's activity in protecting the interests of Indian youths that caused the legislature to cripple the agency. This activity interfered with the business of many local attorneys and they let it be known through their political organizations that they wanted that business. Kate Barnard charged that these attorneys exploited the children by charging exorbitant legal fees and selling the land at one-tenth its value and that her office would continue to protect the children's interest. 39

 $^{^{38}}$ C & C Report, 1912, 6, 124-128. Quote is from Barnard's draft of the bill (1911) see State Archives, Charities and Correction, Administration Files.

³⁹ Short, <u>Kate Barnard</u>, 138; Statement of Kate Barnard n.d. (1912) State Archives, Charities and Correction, Administration Files.



As a result of the political power of the attorneys, the Fourth Legislature cut the department's funds by half in an attempt to cripple its effectiveness. Assistant Commissioner Stolper submitted his resignation in February, 1913 because "the persistent fight that is begin waged upon your department, of which the pretext is made that I am the cause, has made my work so hard and disagreeable." The legislature's victory was shortlived, however, because Barnard quickly won back the lost appropriation and filled the position again. The office continued under her leadership to serve as a protector of orphans' legal and financial interests until ill health forced her to retire in 1914. But the animosity shown by the legislature to the activities of the department clearly signaled future difficulties for the agency. 40

Upon the election of William D. Matthews as the second Commissioner of Charities and Correction in 1914 the legislature once again succeeded in cutting the department's budget from its \$15,800 level in 1912-1914 to only \$8,900 for the first two years of his administration. Matthews did not experience the same political battles as his predecessor primarily because he was ineffective as the

⁴⁰Letter, J.H. Stolper to Kate Barnard, February 11, 1913. State Archives, Charities and Correction, Administration Files. Kate sent out a form letter from her office to all candidates for office in the 1914 election requesting that they state their position regarding (1) restoring the Department's budget which had been cut by the 4th Legislature, (2) allowing the Department to serve as the state protector of orphan children, and (3) creating a non-partisan Board of Indian Commissioners. Many candidates indicated that this form of solicitation was improper, but an overwhelming majority supported all three issues. For the forms and letters of response see State Archives, Charities and Correction, Administration Files.



Commissioner of Charities and Correction. At the same time that he was elected to office the Governor appointed him to the Board of State Pensions and he was subsequently elected Chairman. As a result he devoted more than half his time to that Board and neglected his elected office. During his eight year reign the Department of Charities and Correction ceased to be the primary leader for penal reform and the humanitarian voice for the underprivileged and unfortunate was not heard. His biennial reports resorted to skeletal presentations of operating statistics of the various penal and charitable institutions under the authority of the Department. Gone were the well argued reform programs which characterized Barnard's departmental reports. 41

This humanitarian hiatus ceased with the election of Mabel Bassett in 1922. Filled with optimism about the potential for reform and with a clear commitment to upgrade the lives of the poor and unfortunate through treatment, rehabilitation, and the provision of governmental social services, she began her administration with sweeping recommendations for penal reform. The treatment approach was clear in her recommendations for legislative action: pass a

⁴¹ C & C Report, 1916, 4, 7; C & C Report, 1918, 4. Matthews did claim that Oklahoma was two years behind in penal reform after he had attended the National Conference of The American Prison Association in Florida in 1922. He had participated in a tour of the plantation farms of Florida's penal system which had no cells, worked 1500 inmates, and, according to Florida officials, produced an annual profit of one-quarter to one-half million dollars. See C & C Report, 1922, 2-4. For a budget comparison see C & C Report, 1908, 70-71; 1912, 56-57; 1916, 8-9. The cuts came from two line items: Legal services, \$2,500 decreased to \$0, this was Barnard's "Public Defender;" and supplies and expenses which included travel, \$7,200 decreased to \$2,800.

prisoner wage law and an indeterminate sentence law, authorize more probation services, outlaw brutal and inhumane prison practices, and build a women's reformatory at McAlester. She was so confident of the new reform potential that she indicated in her first biennial report that in the future the department's reports would be reorganized and would include a wider selection of material to emphasize the new plans and methods of "treatment instead of the routine work of the institutions." But these optimistic professions of penal reform quickly ran into the realities of Oklahoma politics embodied in the state legislature. No probation system, or indeterminate sentence law was approved by the legislature and the women's prison was a decade away. 42

Commissioner Basset served as an articulate proponent for the rehabilitation of convicted felons. She claimed that prisoners were the victims of diseased minds, unhappy surroundings, and evil influences. "When you look at a man behind the bars it is not necessarily at a man different from others, but more unfortunate than others." Mere incarceration of these individuals would not protect society; the offender required reformation. In a report to the legislature she appealed to the membership's utilitarian instinct, but she also argued that there was a place for humanitarian penology:

While we must recognize the fact that in a political sense the effort to reform the criminal does not rest upon a humane or paternal sentiment that seeks to reform the convict for his own good, and that the state is not a charitable or missionary agency,

⁴²C & C Report, 1923, 2-4; C & C Report, 1924, 16; C & C Report, 1926, 17; Quote is from C & C Report, 1925, 5.



a plan could be implemented that would lessen the harsh and ineffective policy of punishment and revenge. She believed that the old idea of inflicting suffering to deter the offender from future crime was used in too many prisons to justify harsh and inhumane practices in the penal institutions. 43

Commissioner Bassett had a pragmatic approach to rehabilitation and its probability for successful implementation. Reformation was not a guarantee against the commission of further crime because "no plan of reformation can guarantee that." But to aim for a reasonable probability that "the criminal will become a law-abiding and useful member of society is worth the effort." Oklahoma needed to move away from the mass handling of a prisoner class to that of treating individuals. 44

Well versed in the emerging clinical approach to rehabilitation, Commissioner Bassett attempted to convince the state that it was moving in the wrong direction in penology. Using the medical field as an analogy to prison discipline, she said that the concept of making the punishment fit the crime is analogous to "the fixing of the length of hospital stay according to the disease." The crime should be condemned, but "the prisoner should be cured." She also argued that Oklahoma did not have to "repeat the mistakes made during the trial and error of social work in older states." The solution to penal reform according to Bassett, lay in the key words of the new movement "science, charity, and thrift" because without all three

⁴³<u>C & C Report, 1923</u>, 6-7, quotes are from page 6.

⁴⁴ Ibid., 6.



elements the reforms would not succeed. She must have purposely excluded the fourth critical element of politics, because she certainly was aware of the politics of charity and correction. No incumbent in that office failed to feel the knife held to their budgetary throats by vested political interests. 45

Bassett felt the sting of the appropriations committee for doing her job well. During her early tenure she had successfully increased her department's budget and staff to the pre-1916 level of \$15,000 and a total of six employees, all female. But as a result of her concern for the recipients of social services and her commitment to upgrade the delivery of those services, she used the authority of her office to condemn local jails and publicly recommend the transfer of hospital, boarding school, and asylum superintendents. In response to this activity the legislature attempted to decrease the department's appropriation by \$5,000. Bassett wrote letters and telegrams to various women's organizations throughout the state urging them to protest the budget cuts through their legislature. The budget cuts were delayed, but the department constantly had to defend its activities and protect its budget. 46

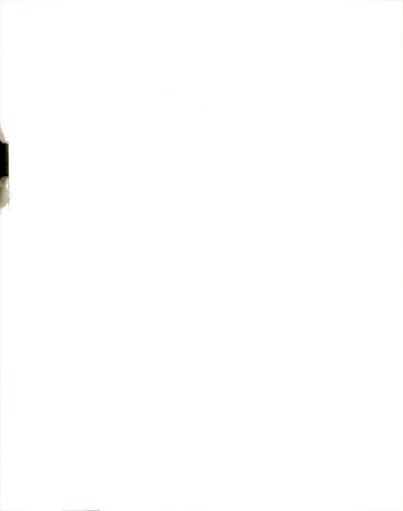
⁴⁵ Bassett, like her predecessor Kate Barnard, was well acquainted with the correction and social work movement in the United States. She and Barnard participated heavily in these national professional organizations and had many personal ties with some of the national leaders of this movement. See various letters from and quotes of prominent social reformers in State Archives, Charities and Correction, Administration Files; quotes in text are from C & C Report, 1923, 9; C & C Report, 1928, 14.

⁴⁶ For letters (1923) to the various women's groups throughout the state see generally State Archives, Charities and Correction, Administration Files. During this period the Department's inspectors

Because the Department of Charities and Correction was a constitutional office the legislature could not abolish it or directly limit its operations. Legislators who opposed the activities of the department continually chipped away at its budgetary appropriations. The department never had a full complement of staff and each biennial legislative session the legislature attempted to decrease the department's appropriation. The various Commissioners constantly complained about the lack of financial resources to carry out thier official responsibilities. Commissioner Bassett noted in her 1927 report to the legislature that the duties of her office had increased since 1907, but the appropriation was \$227 less than the original appropriation of 1907. She bitterly complained that her department had been appropriated \$10,000 for the 1927-1923 period, but a total of "\$80,000 had been appropriated for the eradication of ticks on animals" and, even though the tick problem was limited to four or five counties, "76 tick inspectors were appointed." She charged that the legislature did more for animals than it did for the unfortunate people housed in the various charitable institutions throughout the state.47

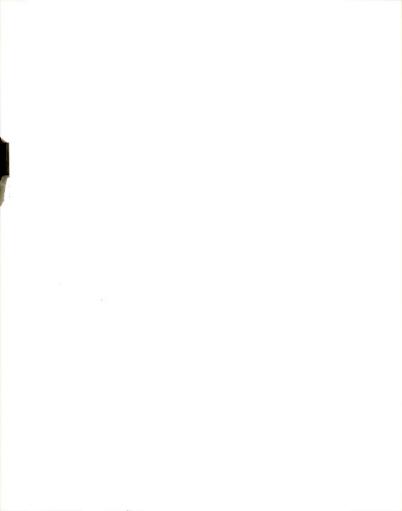
worked six days a week visiting jails, boarding homes, sanitariums and investigating complaints involving child welfare cases. See Monthly Reports of Ann D. McQueen and Jesse E. Moore, 1924, State Archives, Department of Charities and Correction, Administration Files; C & C Report, 1923, 2, and 1924, 1.

⁴⁷ The department was required by law to inspect at least once a year 616 institutions. Many institutions required follow-up visits to determine whether they complied with the Commissioner's instructions for improvements. The categories of institutions were: 20 state institutions, 77 county jails, 262 city jails, 154 hospitals, 40 county homes, 40 children's community boarding homes, and 23



Any aggressive activity of inspection of the various charitable institutions and local jails that interfered with the political appointment or fee schedules of the affected administrators resulted in severe reactions from the legislature. Bassett acknowledged that the political system did not serve the interests of the lower classes. Any recommendation to oust superintendents who were political appointees, but who were also incompetent or to compel a sheriff to feed his prisoners what the law required--three meals a day--but which lessened the income made from the fee system resulted in pressure on the department from the legislature. These affected officials worked with and among the legislature and they were heard. But, Bassett claimed, the thousands of people who were protected and aided by the department had no direct voice in the legislature; they could speak only through the ballot. She claimed that the department served as a "deterrent to cruelty, mistreatment, neglect, and in fact general mismanagement" through its inspections. Clearly the Commissioner of Charities and Correction did not feel that the legislature had the best interests of the poor, insane, and delinquent as a primary objective nor could these groups directly make their needs known. During her 24 year tenure (1922-1946) as the Commissioner of

private orphanages. <u>C & C Report, 1926</u>, 8; <u>C & C Report, 1928</u>, 5,8. The department's budget consistently decreased from 1923 through 1928 from \$15,315 to \$10,035, see <u>C & C Report, 1928</u>, 10. The legislature could "alter, amend, or add to the duties of, or grant additional authority to, such commissioner," but it could not limit the authority of the office, Constitution, art. 6, sec. 30.



Charities and Correction, Bassett attempted to provide that link between the elected state officials and the needy. 48

After her retirement from office in 1946 the department that had developed a reputation for humanitarian reform never again reached the peak of effectiveness exemplified by Kate Barnard and Mable Bassett. The incumbents who held the office after 1946 were light-weight politicians who had little motivation to continue the fight for the needy. The activities of the office were superficial and limited primarily to routine inspections of jails and other eleemosynary institutions. Very little use was made of the investigatory powers of the office. Even when a major scandal or riot occurred at one of the penal institutions the Commissioner of Charities and Correction served only as a fact finder, not a reform advocate. 49

This lackluster approach to the department's constitutional responsibilities is clearly evident in the annual reports of the past three decades. The reports did not have any narrative recommendations for reform or analysis of current problems by the Commissioner as was found in the earlier periods of the department's history. In fact the statistical reports from the various state penal and welfare agencies were deleted and only brief paragraphs describing the institution's basic activity remained. Many portions of these

⁴⁸Quote from C & C Report, 1927, 10; <u>C & C Report, 1928</u>, 11.

⁴⁹See the testimony taken by the department's inspector after the 1949 reformatory riot, State Archives, Department of Charities and Correction. For a detailed investigation of the riot see Transcript of Proceedings of the Investigation of the Oklahoma Reformatory, March 1949, Vols. I, II. State Archives, Governor Turner Records.



reports for the penitentiary and reformatory were identical in wording from year to year. The second most powerful office in the state had deteriorated within four decades to a mere secondary office of state government. The optimism, emotionalism, and compassionate concern of the humanitarian reformers became dormant and gave way to a political insignificance exemplified by the impotency of the office. The banner of humanitarianism would have to be picked up by other individuals and groups within the state.

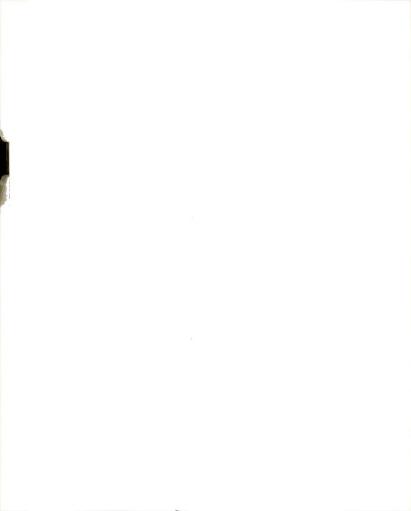
⁵⁰For examples see <u>C & C Report</u>, 1953, 23-27; <u>C & C Report</u>, 1955, 24-31; <u>C & C Report</u>, 1959, 25-28. The only time any recommendations from the Commissioner appeared between 1949-1962 was in the 1949, 1952 and 1954 reports. In 1954 the Commissioner recommended that (1) prisoners be taught a trade, (2) a public works program be developed to assure jobs for inmates if private industry did not hire them, and (3) the legislature pass an indeterminate sentence law, <u>C & C Report</u>, 1954, 41.



CHAPTER II

THE PENITENTIARY AS AN INDUSTRY: REHABILITATION OR PROFIT?

When it came time to develop its penal system Oklahoma, the 46th state to join the union, had the benefit of the experience of other states from all parts of the country. Penitentiary construction in the West had followed a similar pattern for most of the states. As each western territory became a state they absorbed the federal territorial prisons and the states either expanded or rebuilt these prisons depending on the conditions of the facilities. In either case the states immediately leased the institution and its inmates to private contractors for at least the first decade after statehood. The South, after experimenting with a post-civil war leasing system, began at the turn of the century to develop large penal plantations owned and operated by the state using inmate labor. The Northeast, by the early 1900s, saw its profitable industrial prisons succumb to the constant and increasing attacks from labor and private industry. During the period when Oklahoma began its penal system, the state-ofthe-art of penology was changing rapidly and many of the shifts were evident: the Northeast had moved away from the rigid Auburn system and had developed and successfully implemented in many areas a reformatory system in its stead; the South had rejected both the industrial



contract system and the reformatory and had invested heavily in massive state-owned farms; the West had embraced the reformatory approach for their prison administrations, but was having difficulty implementing the system because of political or economic problems. Oklahoma borrowed from many of these penal developments and then put its own unique stamp on the final product.

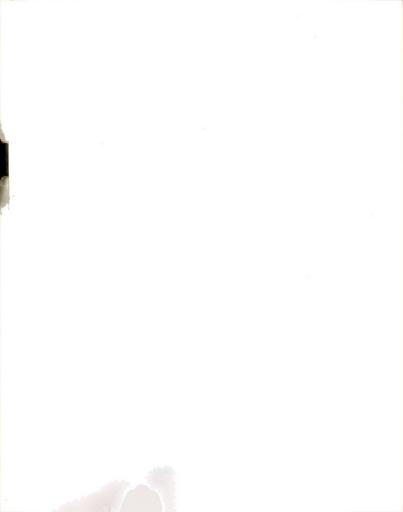
Construction of the penitentiary began in May of 1909.

Oklahoma, unlike other states which contracted with private firms for the construction of their prisons, performed the task itself with its own officials in charge of the construction. Warden Robert W.

Dick had full authority to arrange for the sub-contracting, subject to the approval of the State Board of Control, and supervised the overall project. The state did not lease its inmates to a third party to build and manage the penal institution. The penitentiary followed the Auburn (N.Y.) model with a massive wall 625 feet by 615 feet surrounding ten acres of land. The wall was 18 to 20 feet high, 18 inches thick, built of concrete and reinforced with three-eighths inch Bessemer steel and was sunk eight feet into the ground. On the top it had a 32 inch high, electrically charged wire fence and 11 guard towers, each three stories high.

Blake McElvey, American Prisons: A Study in American Social History Prior to 1915 (Chicago: University of Chicago Press, 1936), 29-35, 172-205 and "Penology in the Westward Movement," Pacific Historical Review (1933), 2:413-438 and "Penal Slavery and Southern Reconstruction," Journal of Negro History (1935), 20:153-179; W. David Lewis, From Newgate to Dannemora: The Rise of the Penitentiary in New York, 1796-1848 (Ithaca, N.Y.: Cornell University Press, 1965).

Robert Park, History of the Oklahoma State Penitentiary, Located at McAlester (McAlester, Oklahoma: McAlester Printing Company, 1914), 5; Percey R. Parnell, The Joint (San Antonio, Texas: The



Inside the walled area the two cell wings had a capacity of 640 inmates each and extended 200 feet, like spokes from a wheel, from a central rotunda. These cell houses rose four stories high and each floor had 80 cells divided into two rows. Within the walled area space was available for additional cell wings and for work buildings. The two-story administration building was flush with the south wall and had gun towers on the southeast and southwest corners. The building extended for 116 feet along the south wall and served as the main entrance to the penitentiary. Its concrete floors were seven inches thick and its walls were made of 17-inch reinforced concrete. All its windows, doors, and corridors had heavy steel gratings. 3

The new penitentiary was no ordinary construction project. Even accounting for the generally accepted characteristics of size and security, the Oklahoma penitentiary required additional effort not found in any other state institution except the state capitol. Not only did the state erect the massive compound, it also moved man and land to accomplish its objective. The original 120 acres of land for the penitentiary site had been donated by a group of people from McAlester. The state then bought additional acreage until it had about 2,000 acres upon which to build. This land was hilly and

Naylor Company, 1976), 4-6; <u>Harlow's Weekly</u> (Oklahoma City, Oklahoma), October 19, 1912, 14-15; Commissioner of Charities and Correction, <u>Second Annual Report, 1910</u> (Oklahoma City, 1910), 28. Commissioner's <u>Reports hereafter cited as C & C Report 19--</u>; for a description of <u>Auburn Prison see Lewis</u>, <u>From Newgate</u>, 116-118.

³C & C Report, 1910, 28; Park, History of the Oklahoma State Penitentiary, 6; Harlow's Weekly, October 19, 1912, 15-16.



had many sloping grades, gullies, and ravines. This contour required massive amounts of land fill and at some points along the wall the concrete piles go as deep as 35 feet below the grade to the foundation. More than 6,857 cubic yards of concrete were used and over two million cubic yards of dirt and rock were moved for the wall alone for a total cost of \$108,644. The state literally moved mountains to build its prison. 4

The land surrounding the initial 120 acres had many mining camps of all sizes. Many of the miners had leased the land and had built small homes. This did not stop the state, however, because, compared to the land-fill project, moving people was a simple task. The state moved "nearly 200 families with their improvements, including buildings, fencing, bag and baggage, and including three graveyards." 5

Clearly the state had made a major commitment to security in its construction of the state prison. This massive fortress on the north side of McAlester represented the best in design and construction of prison facilities. It also had the latest electrical equipment for opening and closing cell doors and corridor entryways. In short, the Oklahoma penitentiary represented security par excellence. One political observer of the period editorialized that the

The additional land which also had coal deposits was purchased from the Choctaw and Chickasaw Nations for about \$10 an acre. Because of an unclear title to the 120 acres the state was forced to pay an additional \$3,000 plus interest in 1915 to the original owners. First Message of the Governor to Extraordinary Session of the State Legislature, 1910, 13, hereafter cited as Governor's Message, 19--.; Harlow's Weekly, February 2, 1915, 130.

⁵Quote from <u>Harlow's Weekly</u>, October 19, 1912, 14; Oscar P. Fowler, <u>The Haskell Regime: The Intimate Life of Charles Nathanial</u> Haskell (Oklahoma City: Boles Printing Company, 1933), 168.



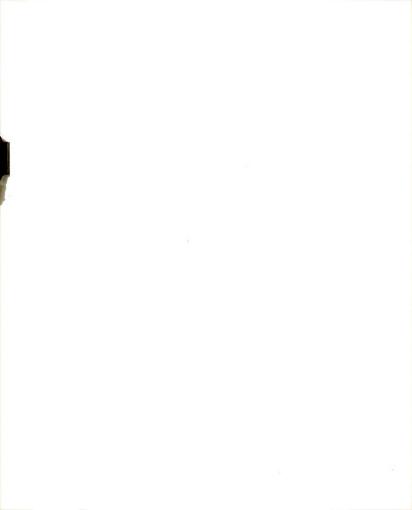
penitentiary will always be second to the state capitol building in its importance and its cost of maintenance, but it represented the state's "heaviest investment in permanent improvement."

Did all this gigantic movement of man and nature mean that Oklahoma had made a firm commitment to the rehabilitation of the convicted inmate? Was this institution designed to achieve the humanistic goals of training, moral reform, and social reintegration of the inmates so fervently articulated by Kate Barnard, the Oklahoma Commissioner of Charities and Correction? The answer is no. There was never any serious discussion of the rehabilitative objectives of the penal system during this early period of construction or later in its development. The penitentiary stood as a symbol for a new day in Oklahoma, but not necessarily as a symbol of modern corrections. Although the massive walls portrayed a sense of foreboding they in fact protected what was to be a model for a new economic order. Oklahoma in its optimistic opportunism generated by the land rush and pell mell pace of settlement was going to travel a different route than its rural sister states. 7

The consolidation of one state from two culturally distinct territories was unprecedented. Other states had been created through territorial organization with most of the improvements in existence,

⁶Harlow's Weekly, October 19, 1912, 121.

⁷For histories of the rapid settlement of the Oklahoma and Indian Territories see Luther B. Hill, <u>A History of the State of Oklahoma</u>, 2 vols. (Chicago: The Lewis Publishing Company, 1909), 205-267; Roy Gittinger, <u>The Formation of the State of Oklahoma</u>, 1803-1906, (Norman, Oklahoma: The University of Oklahoma Press, 1939), 184-235; Grant Foreman, <u>A History of Oklahoma</u> (Norman, Oklahoma: University of Oklahoma Press, 1942), 238-272.



but Oklahoma "was wholly unorganized--no county organization, no school districts, no townships, no bridges, no roads,"--and little experience in local government. From these disparate beginnings the new state's leaders believed that they could create a new economic climate and a government that not only would encourage that climate, but would actually reflect it through its daily activities.⁸

Oklahoma was to move away from its cattle ranching and farming past to a future of industrialization. Governor Charles N. Haskell (1907-1911) in his inaugural address summarized that ideal:

Our great state and the surrounding states are full of production of great value. We have some manufacturing interests and we want them increased many fold to the end that our raw materials may be made a source of profit and that we may furnish labor and create a demand for the commerce and products of the mill and the factory. We have great mining and oil interests and we want them expanded...We want those corporations in our midst not as monopolies, but as means to compete with trusts and monopolies.

This did not mean that the agricultural-based economy of Oklahoma was going to be replaced by factories and industry. Oklahoma saw the need to maintain a high level of food production, but on an efficient and profitable basis and not as a block to forestall industrial growth in the state. The bond envisioned as a link between these elements was to recognize that they were all businessmen. Governor Haskell made this clear to those who were listening to his inaugural speech:

The farmer is a business man. The laborer is a business man. Those engaged in financial, commerce, manufacturing,

⁸Governor's Message, 1910, 2.

⁹Inaugural address of Governor C.N. Haskell, November 16, 1907. University of Oklahoma Archives, Haskell Collection.



mining, or transportation, are business men, each and all; and in the aggregate they must, for stability and prosperity, depend on their government. Clearly, then we agree that government itself is a business proposition, requiring business experience, of (sic) business sense, or (sic) business judgment, as absolutely free of (sic) as possible from petty politics and political intrigue. 10

The message was clear; Oklahoma would encourage industrial growth within the state. The government of Oklahoma would operate itself along business lines with the best price getting state contracts and with the state operating its agencies, including the penitentiary, for a profit whenever possible. The new state government did not see its primary role as providing social services to the general community, but saw itself as a facilitator of economic growth. Humanitarian issues such as convict rehabilitation were secondary to the dominant concern for economics. It is within this climate of concern for economical government and the encouragement of entreprenurial growth that Oklahoma's prison system emerged in 1909.

Events occurred so rapidly during the first month in 1909 that Warden Dick, through no fault of his, was caught completely unprepared. He had not yet completed the construction of the stockade at McAlester when he was notified that the contract for the incarceration of Oklahoma's inmates in the Kansas penitentiary expired in five days, that the Oklahoma legislature had authorized the return of the inmates to McAlester because of the recent scandals at the Kansas penitentiary, and that he was responsible for bringing them back. Warden Dick immediately contracted with the railroad for "nine special coaches," hired extra men as guards and in the dead of winter brought

¹⁰Ibid.



more than 600 convicts from Lansing, Kansas to McAlester, Oklahoma.

This mass transportation of convicts from a maximum security prison to a makeshift structure was a unique experience; "never has there been such a shipment of prisoners made before in the United States."

This influx of prisoners strained the undeveloped penal facilities. The partially constructed stockade, a "frame house of 30 x 132 feet," was completed quickly and over 300 of the new prisoners were housed there. Another 150 men and 17 women were held in the federal jail at Vinita and over 250 were housed in the McAlester federal jail which was built originally to accommodate 150 prisoners. All these facilities were seriously overcrowded. 12

The stockade consisted of "several buildings of plain, rough boards, the principal buildings being the cell house, dining room, kitchen and laundry." The cell house had 25 "cages which hold 18 men to the cage." This building accommodated about half of the prisoners in the stockade. "The remainder slept on improvised beds in the hallways, dining room, and laundry." To prevent escape the warden built a high, barbed-wire fence around the facility and "arranged with the Electric Light Company to charge (it) with 400 volts of electricity." The McAlester jail was used as the administrative

The special railroad cars were beat-up, old pullman coaches which the warden modified by installing steel bars over the windows and attaching steel doors, Testimony taken by Joint Committee Investigating State Penitentiary, 1910, 8, 62, 343, State Archives Legislature, Joint Committee Records, hereafter cited as Testimony, Joint Committee, 1910; Parnell The Joint, 4.

¹²Letter, Attorney General Charles West to Governor Lee Cruce, April 18, 1913, State Archives Governor Cruce Records; <u>C & C Report</u>, 1910, 17, 28.



headquarters for the fledgling penitentiary system and, because of its stout construction, it quickly became the home of the prisoners who were "desperate and hard to control, and for that reason it (was) crowded almost to overflow." All facilities followed Jim Crow laws in that the prisoners were "segregated as to color where the same was possible, i.e., in sleeping apartments, the dining room and hospital." 13

Clearly the warden had his hands full. Although the plans for building a complete penitentiary were laid, construction had yet to begin because the legislature had not appropriated the funds. The makeshift stockade had to suffice for the emergency, and survival became the primary concern of the officials. Staff personnel had to be hired, provisions made for the care of this massive influx of inmates, and revised schedules developed for the construction of the new penitentiary. With all this confusion decisions had to be made and actions taken which could not wait for the slow and cumbersome administrative machinery of the newly formed state government; this responsibility fell upon the shoulders of the warden. His reward was a series of public charges of wrongdoing from a disgruntled employee.

The prison physician charged warden Dick with gross negligence in the management of the institution and with unlawfully spending state funds. Specifically the charges stated that he ignored the needs of

^{13&}lt;u>C & C Report, 1910</u>, 17, 20-21, 28; Report, Meeting of State Board of Prison Control, March 3, 1910, State Archives Legislature, House Committee Records, Report, Joint Committee Investigating State Penitentiary, 1910, 3-6. State Archives Legislature, Joint Committee Records, hereafter cited as Report, Joint Committee, 1910.



the inmates, used state funds for personal travel, showed favoritism to certain employees, used state labor to construct part of the McAlester street railway, failed to enforce prison rules, and permitted gambling inside the prison for money and property. Smelling a political scandal, a state newspaper investigated the situation and added still another charge; a small green house located on state property and run by state employees was furnishing liquor and prostitution services for the inmates and the penitentiary staff. Dick denied the accusations, but a joint committee of the legislature was created to investigate the penitentiary operations. 14

After a two-day investigation the committee exonerated the warden of all charges. Its findings, however, are instructive regarding the conditions at the stockade and the rationale given by the warden for his decisions. The joint committee likened the conditions and the management of the prison to the railroad camps of the period. Sanitary conditions, they said, were as good as the physical conditions would permit, in fact, "they were better than railroad camps." The food and its preparation "was not as good as we would expect to find in a well regulated penitentiary, but it was equal to or better than such camps." Similar comments were made about the hospital and the general welfare of the inmates. 15

The committee commended warden Dick for his management and control of the penitentiary. He had used state labor and equipment

¹⁴ Report, Joint Committee, 1910, 8, 16, State Archives Legislature, Joint Committee Records.

¹⁵Ibid., 7-14, 16, 31-33, quotes from 3-4.

in violation of Oklahoma law on the street railway in order to extend the road 3/4 mile beyond the city limit to reach the penitentiary "so that he could efficiently transport personnel, employees, and supplies" from the city. The committee overlooked the law violation and concluded that the end justified the means. The gambling was used, according to the warden, as a measure of control. He felt it was better to allow the prisoners to "play innocent games such as pitching horseshoes, playing cards, dominoes, checkers, etc." than to have them idle and spend their time worrying about their problems. He claimed that no money was allowed inside the institution and that he enforced that rule. The facts indicated otherwise, but the committee chose to ignore them because of the warden's obvious problems in maintaining order. ¹⁶

The committee said they found no evidence to indicate warden Dick was negligent in his care of the inmates. Only one inmate was killed when he was accidentally electrocuted "owing to his own carelessness he run (sic) an (iron) wheelbarrow against the fence and the fatal result followed." Finally after inspecting the administrative and financial records the committee concluded that "the prison is and has been conducted on an economical and business-like basis." 17

The committee saw some administrative problems, however, reflected in the chaotic atmosphere at the prison. It recommended that a Board of Control of three persons be appointed by the Governor

¹⁶Ibid., 11-13.

¹⁷ Ibid., 3, quotes from 9 and 15; Fowler, Haskell Regime, 115.



"whose sole duty it would be to look after the construction and control of the penitentiary." The present Board "can not and did not give the penitentiary the attention that it absolutely requires." They concluded that because the construction responsibilities were left to the warden, he had little time to devote his attention to the care of the inmates. ¹⁸

After the state had completed the construction of the penitentiary and reformatory in 1910 state officials had high hopes that
these institutions would be self-supporting. They firmly believed
that the inmates could and would work for the benefit of the state.
Inmates helped build the institutions and now they would work on
various projects to earn their keep. In this way inmates would help
pay for the cost of their incarceration, learn a trade, and upon discharge automatically become law-abiding, tax-paying members of the
community. The vehicle to achieve this was industrialization. If
the state could operate income-producing industrial prisons, the manufacturing potential of the general community was without limits.

The warden's primary function as head of the state penitentiary was to earn a profit for the state treasury. Governor Robert L. Williams (1915-1919), discussing the type of person he would select for the position and the importance of that position, said that the warden was as "big as the Governor" in state government. The person he selected as warden would be able to handle men, but he would also be a businessman who would efficiently use "these convicts to

¹⁸ Report, Joint Committee, 1910, 16, State Archives Legislature, Joint Committee Records.



build roads to bring in an income for the state." Governor James B. Robertson (1919-1923), said in 1923 that the warden's responsibility was "to extend and enlarge the industries by reinvesting the profits so that we may run the institution without an appropriation." This economy of state government perspective dominated the thinking of state officials throughout Oklahoma's history.

The state's leaders believed that the prisons could be operated on the same basis as factories or small businesses. If properly administered these institutions would reap sizeable profits which would eliminate the need for tax support. With all the optimism of a new state that appeared to have an abundance of raw materials, the first attempts at industrialization in Oklahoma occurred in its prisons. These industries would eliminate prisoner idleness and help maintain order because "the greatest aid to discipline is regular employment." The results of the inmate's labor would serve two goals, the profits generated by prison industries would ease the tax-payer's burden and the public sale of prison-made goods at low prices would contribute to the general welfare of the citizenry. ²¹

If the industrial penitentiary was to serve as a model for the business community then it had to function as a business. Like any cautious bussinessman the state did not invest all its funds in a

¹⁹ Letter, Governor Robert L. Williams to Ben F. Johnson, November 16, 1914, State Archives Governor Williams Records, Appointments; Governor's Message, 1923, 123.

Oklahoma State Penitentiary, <u>Annual Report</u>, 1925, 24-25, hereafter cited as <u>O.S.P. Annual Report</u>, 19--.

²¹Letter, Governor Martin E. Trapp to William M. Franklin, October 3, 1925, State Archives Governor Trapp Records; Governor's Message, 1927, 45.



a combination of the contract, state account, and state-use systems of prison production and sales. ²² During the 1920s Oklahoma had a heavy and profitable association with the contract system. In response to an inquiry from the Governor of North Carolina, Warden W.S. Key noted that three contract industries—overall, shirts, and brooms—used more than 600 men during peak production and earned a handsome profit for the state. The contractor provided the materials, supervision, and instruction and paid the state a specified amount

²²The prison industries of most states used four open-market systems during this period and one closed-market system after 1940. Under the lease system the state relinquished all responsibility for the care of inmates and received a stipulated sum for their labor. This was the most abused system and reform groups effectively forced the states to abandon it by the end of the 1920s. Oklahoma never used this form of production. The contract system allowed the state to retain control over the prisoners, but sold their labor to private firms or individuals for a specified daily fee per inmate. This system resulted in much graft and corruption and prisoners were still abused by the contractors. The piece-price method of production was a variation of the contract system where the contractor supplied the materials and paid the state a stipulated price for each unit of production. Under the state account system the state went completely into the manufacturing business, buying all raw materials, setting up factories, marketing the product, and assuming all financial risks. The closed-market system relied on the state-use method which limited the sale of prison goods to state and local government agencies and non-profit organizations. For abuses related to the use of prison labor see Thomas L. Baxley, "Prison Reforms During the Donaghy Administration," <u>Arkansas History Quarterly</u> (1963), 22:76-84; Jane Zimmerman, "The Convict Lease System in Arkansas and the Fight for Abolition," <u>Arkansas History Quarterly</u> (1949), 8:171-188; A.C. Hutson, Jr., "The Overthrow of the Convict Lease System in Tennessee," <u>East Tennessee Historical Society</u> (1936), 8:82-103; Blake McKelvey, "A Half Century of Southern Penal Exploitation, "Social Forces (1934), 13:112-123; Harry Elmer Barnes and Negley K. Teeters, New Horizons in Criminology (New York: Prentice-Hall, Inc., 1943, with revisions, 1945), 685-716.



for each completed unit of production. The state in turn rented the contractor's equipment. But the state also made large commitments by constructing factory buildings and warehouses with inmate labor inside the prison walls for the use of the contractors at no cost. ²³ The state's desire to build an industrial climate was a contractor's dream come true.

Problems of graft and corruption pervaded the contract system. For the 15,000 dozen shirts manufactured monthly by the inmates, the contractor paid the state 60 cents per dozen. The shirts sold for ten times that amount on the open market! Kickbacks to prison administrators were covered by crediting the state's account with an amount less than actually produced. No wages were paid to the inmates and the Commissioner of Charities and Correction complained that the contractor's exorbitant profits were not helping the inmate or benefiting the state. But the state's administrators continued the contracts until litigation in 1924 successfully challenged the state's authority to enter into sales contracts for prison-made goods. 24

²³Letter, Warden W.S. Key to Governor A.W. McLean (North Carolina), June 3, 1925, State Archives Governor Trapp Records, Subject File; O.S.P. Annual Report, 1921, 1-3.

²⁴ Governor's Message, 1925, 17 and 1926 n.p.; C & C Report, 1923, 12. For corruption examples see Testimony, Committee on Impeachment of Governor James C. Walton, (1923) Vol. IV, 1802-1803, State Archives Legislature Records. Also see Minutes, Board of Control of State Penal Institutions, August 27, 1912 for discussion of contract to mine coal on state-owned land, State Archives, Governor Cruce Records; see Minutes, April 23, 1912 for evidence of wardens selling state-produced goods, but not depositing the proceeds with the state treasurer. The court case was Choctaw Pressed Brick Company v. Townsend, 108 Okl. 235, 236 P. 46 (1925).



The industries closer to the industrial ideal set by the early chief executives were the twine and brick factories. They were also the real money makers for the penitentiary because the state controlled all aspects of production and sold the products on the open market on a cash basis. Twine production was first mentioned as a possible industry as early as 1912 when warden Dick proposed that the state purchase a used loom for \$85,000 and authorize him to build a factory. But the legislature was not interested in appropriating the funds or in authorizing the use of convict labor in the industry. Governor Lee Cruce (1911-1915) collected data from other states and urged the legislature to support the industry because 1500 inmates were idle most of the time when a good number of them could be producing a product needed by the farmer. He claimed that Oklahoma farmers were forced to pay "tribute to the twine trusts in the form of exorbitant prices for twine used in harvesting their crops." Though his arguments were sound the legislature did not respond. 25

The legislature considered the twine industry a high risk venture because the state had to deposit about \$200,000 in a New York bank for the purchase of the raw material (sisal) needed to make the rope. A South American family had a monopoly on this material and sold it only through a New York broker on a cash basis. Governor Robert L. Williams (1915-1919) continued the push for this industry and cited letters he had received from wardens in Kansas, Indiana, Wisconsin, Michigan, Minnesota, and North and South Dakota which

Minutes, Board of Control of State Penal Institutions, November 11, 1912; O.S.P. Annual Report, 1919, 2; Governor's Message, 1913; 89-90.



detailed their success in making a profit from twine production.

The Governor did not mention that only one prison employed as many as 225 inmates or that the average prison twine operation used only 70 to 90 inmates for production. Nevertheless with strong support from the Farmer's Union he was successful and the legislature funded the twine plant and deposited \$165,000 for the purchase of raw material in a New York bank. 26

Meanwhile, in order to build the twine factory the penitentiary arranged with the financially crippled Choctaw Brick Company in McAlester to use convict labor to manufacture the brick necessary for the construction of the factory. In return the brick company received ½ of all the brick produced for that project, had their factory completely rebuilt with convict labor, and had their plant "turned back to them in first class condition." Shortly after this the state bought machinery for manufacturing bricks in the penitentiary and sold them to various supply companies and construction firms throughout the state. 27

The twine business grew quickly and within three years the state had sold directly to Oklahoma farmers more than three million pounds, about one-third of the total amount of twine sold in the state.

Governor Williams' policy to expand the industrial capability was a

²⁶Letter, Board of Public Affairs to Governor Robert L. Williams, March 23, 1918, State Archives Governor Williams Records; Governor's Message, 1915, 23-30 and 1917, 273.

²⁷ Governor's Message, 1923, 123. Prior to this time the state had contracted with the brick plant to manufacture bricks necessary to build the various prison buildings. See <u>Harlow's Weekly</u>, July 12, 1914, 393.



success if the warden's reports are to be believed. In the 1918 penitentiary report the warden indicated that the industries earned \$202,161 for the year which represented two-thirds of the cost of maintaining the institution. The warden credited the twine factory's net earnings of \$85,600 as contributing the largest share of the profits. During the 1919-1920 fiscal year the price of twine sold in the state from outside private firms dropped from two to six cents per pound depending on the grade. Governor James B. Robertson claimed that the penitentiary twine factory had brought the "trust twine down in price" with a saving of at least \$500,000 to Oklahoma's farmers. ²⁸

Because of the state's commitment to make the penitentiary profitable, wardens submitted extensively detailed financial reports showing profits most of the time. Warden Fred C. Switzer compared the cost of maintaining the institution during his tenure with his predecessor's figures to show that he kept the costs stable even though the inmate population increased. He attributed these savings to increased production and profits. In 1926, after a particularly good sales year, Governor Martin E. Trapp (1923-1927) reported that because of an aggressive expansion of industrial activities "the prison has become a giant industrial plant" with earnings "over one million dollars annually." The prison had a clear profit of \$83,000 after all expenses which included an increase in the general revolving fund account from \$320,000 to \$355,728 and an increase in

²⁸Quote from Governor's Message, 1923, 122. Also see 0.S.P. Annual Report, 1921, 2, and Harlow's Weekly, November 13, 1918, 6-7.



the twine revolving fund to \$500,031 giving the prison a balance on deposit of \$855,760 "which is sufficient to maintain the prison for the next two years without any appropriation."²⁹

Whether the prison made such profits during these early years is open to question. The pressure to show a profit was severe and that may explain why so many annual reports indicated a profit, yet the institutions constantly applied for emergency deficiency funding by the middle of the next year. Wardens conveniently used shoddy accounting practices to show a profit. Warden Switzer noted that "in previous reports it has not been customary to show the cost of labor employed." When that expense was added to the cost of production many industries shifted from the profit to the loss columns. Also sales were recorded at higher prices than actually sold in order to show larger profits on the books. Another problem was that the prison used the revolving funds as working checkbooks to purchase raw materials, construct buildings, buy and repair equipment, and to record sales of the prison products. Sales credited to these accounts included sales from one prison department to another and covered such items as mattresses, vegetables, and clothes. The funds did not receive cash for these goods, however, because these sales were merely paper transactions between departments. As a result the revolving funds were inflated by the amount of business conducted within the institution. In showing these profits and high balances in the revolving fund the administrators hurt their own budgetary requests

²⁹ Governor's Message, 1923, 127, quotes from Governor's Message, 1926, n.p. 0.S.P. Annual Report, 1926, n.p.



because the legislature viewed them as assets and adjusted the appropriation accordingly. 30

The evidence indicates that the state never achieved its goal "to employ profitably all the inmates...for their benefit as well as for discipline, and to make the institution self-sustaining."31 The inmates did not receive training, the institution was not selfsustaining and every inmate was not profitably employed. The various industries did make brooms, mattresses and other assorted items used by the institution, but the glaring inefficiencies of production and management probably resulted in higher costs to the state. On the positive side the brick factory did supply the bricks needed to build the numerous dormitories, warehouses, factories, and storage sheds built during the first 30 years of the prison's existence. But these industries did not absorb the inmate population. Warden Switzer probably was correct when he claimed that 200 men worked on the general maintenance of the prison, 250 were trusties and another 250 worked on the farms, but he hedged when he said the 750 remaining members of the population worked in the factories. Many of these

³⁰Warden Switzer's figures showed most of the 11 industries including the farms, the brick, broom, canning, dairy, and tag factories in the loss column with the highest profit of \$3,000 shown by the license tag plant, <u>O.S.P. Annual Report, 1919</u>, 1; also see financial reports in <u>O.S.P. Annual Report, 1922</u> and <u>1925</u> and Testimony, Joint Committee, 1910, 74-75, State Archives Legislature, Joint Committee Records. Interdepartmental sales were a necessary part of the prison's operations and continued for many years to inflate the institutions assets, see Testimony, Investigation of State Penitentiary, February 4, 1957, 41, hereafter cited as Testimony, 1957, State Archives Legislature, House Committee Records.

^{31&}lt;sub>0.S.P. Annual Report, 1922, 2.</sub>

industries were seasonal and the average work force was from 10 to 20 inmates. Under the best of conditions no more than 600 inmates worked in the prison factories. If prison discipline was maintained it was not because the inmates were profitably employed. 32

Though the prison industries operated inefficiently, they did produce various goods in various quantities and as a result private firms saw the prison output as a threat to their share of the market. Even while Oklahoma officials were constructing their prison and planning their factories the debate about prison goods competing with free labor and the free market had begun to have a practical effect through federal and state regulatory laws. In 1924 the United States Department of Commerce, pressured by the furniture, boot and shoe, garment, textile and cordage industries, held a national conference to discuss the practice of prison industries selling their goods on the open market at lower prices. As a result of these meetings the House considered legislation which would ban the interstate shipment of prison-made goods and require that the goods be labeled, "made in prison." The protest from the states, including Oklahoma, delayed their passage, but the coalition of labor and commercial interests was too strong and the Hawes-Cooper bill became law in 1929.33

^{320.}S.P. Annual Report, 1922, 2; Letter, Warden Fred C. Switzer to Senator G. Williams (Texas), March 21, 1921, State Archives Governor Robertson Records; Governor's Message, 1923, 127-128.

³³ Copies of the federal bills and the Commerce Department's news release dated December 3, 1924 announcing the meeting are in State Archives Governor Trapp Records, Subject File; Warden W.S. Key testified before a Congressional Committee in opposition to the proposed legislation, see Letter, Warden W.S. Key to Carl L. Rice,

While the battle between the state prisons and the coalition of manufacturers and labor was fought at the federal level, Oklahoma's prison industries came under sharp attack from similar quarters.

Labor unions had been disturbed for a long time by the state's attempt to employ convicts on a large scale in industrial enterprises. In January 1918 the United Mine Workers of Oklahoma, Arkansas, and Texas called a regional meeting and passed a resolution condemning Oklahoma for its plan to purchase the mineral rights to the McAlester coal mines on the penitentiary grounds for development by convict labor. When Warden W.S. Key journeyed to Washington in 1926 to protest the pending labeling legislation, the Oklahoma State Federation of Labor wrote a blistering letter to Governor Trapp demanding to know who authorized a state employee to protest a federal law similar to one already on the books in Oklahoma that was not obeyed! 34

The 1910 Oklahoma law required the labeling of all prison-made goods and later was amended to limit their sales only to state

Board of Public Affairs, April 6, 1926, State Archives Governor Trapp Records, Subject File. The Hawes-Cooper law divested "prison-made goods of their interstate character" which made them subject to the receiving state's laws, see 49 <u>U.S.C.A.</u> sec. 60. In 1935 Congress passed the Ashurst-Summers law which required that all prison-made goods be labeled "made in prison," see 49 U.S.C.A. sec. 61-64. This law was repealed and replaced in 1948 by 18 U.S.C.A. sec. 1761 and 1762 which tightened the language of the original sections and incorporated them into the federal criminal code.

³⁴ Harlow's Weekly, January 16, 1918, 1: Letter, Joe C. Campbell, President Oklahoma Federation of Labor to Governor M.E. Trapp, April 9, 1926, and Letter, Warden W.S. Key to E.B. Howard, December 30, 1924, State Archives Governor Trapp Records, Subject File. The union official was referring to the 1910 law that required all prison-made goods be labeled "convict-made goods," see Session Laws of Oklahoma, 1910, 6.

agencies. The state's manufacturers had supported the labeling law and with the help of the labor union were successful in getting it passed. The Oklahoma Employer's Association took an active stand in support of the bill and lobbied for its passage. But not all private businesses favored the legislation. The Oklahoma Grocer's Association, whose members were also members of the employer's group. chastised the Employer's Association Secretary for not polling its membership on this issue. The Grocers opposed the labeling bill because they bought canned goods from the prison for retail at a sizeable profit. Because of conflict and confusion surrounding the issue, Governor Trapp was successful in getting the labeling sections of the law repealed in 1925, but Governor-elect Henry S. Johnston (1927-1929) indicated his support for the labeling of prison goods and the law was amended again. This on-again-off-again situation illustrated the confusion surrounding the issue, but it also indicated the relative political weakness of the manufacturers in Oklahoma. It was not until the labor unions joined forces with the employers that legislation designed to limit the amount of prison industrial production became permanent law. 35 Labor, manufacturers, and state

³⁵Letters, John M. Hammond to H.V. Kahle, May 23, 1925, to J.T. Griffith, May 25, 1925, to Governor M.E. Trapp May 25, 1925, State Archives Governor Trapp Records, Subject File; Governor's Message, 1927, 45; Platform, Henry S. Johnston Democratic Candidate for Governor, n.d. (1926), State Archives, Governor Johnston Records; the issue of prison-made goods being sold on the open-market surfaced again and again over the next four decades and organized labor never changed its position, see for example, Testimony, 1957, 33, State Archives Legislature, House Committee Records; Oklahoma Compiled Statutes 1921, sec. 11015, 11016; Oklahoma Session Laws 1925, 304 and 1937, 114-115.

officials were not concerned about convict rehabilitation or training.

These long-range social issues gave way to the immediate concerns

of economic self-interest.

Oklahoma's business community was not willing to rely solely on the legal system to achieve their objective, so they also used political power to limit competition from prison production. Industry after industry in the private sector made known their desires through informal but powerful political channels. In response to political pressure from newspaper publishers Governor Robertson abolished the prison printing plant and divided public printing among the newspapers throughout the state. The Board of Public Affairs, with obvious delight, notified the Governor that "within the past 12 months the Board has revised the method of handling public printing, and has distributed among the county editors a greater patronage than ever before in the history of the state." Governor Trapp tried to reinstitute the printing plant two years later to help employ inmates. Even though he planned to limit production to state printing needs, the county publishers made their protest known to the Governor through a letter signed by the President of the Oklahoma Press Association. The local publishers had received the state's printing business during the previous four years and did not want to lose it. The plan to reopen the prison printing plant was dropped. 36

³⁶Letter, State Board of Affairs to Governor J.B. Robertson, n.d., State Archives Governor Robertson Records, Correspondence; Letters, Clyde E. Muchmore to Carl Rice, Board of Affairs, September 10, 1925 and Vice Versa, September 12, 1925, State Archives Governor Trapp Records, Subject File.

During the 1940s the Brick and Tile Association protested the sale of 250,000 bricks by the prison to a private contractor and the Board of Public Affairs ordered that the prison superintendent be fired even though he was an efficient officer in order to "satisfy the Brick industry." To further limit the prison's interference the brick interests had developed the idea that the state should build more brick roads which would keep the plant busy all year and also keep prison brick out of the construction industry. Times do change. Less than 20 years earlier (1925) the brick companies around the state sided with the penitentiary and opposed the Oklahoma labeling bill being considered by the legislature; they did not have a manufacturing capacity then and bought all their bricks from the prison. ³⁷

The skepticism of the private sector toward the state's willingness to abide by the law was not without a basis in reality.

Though the prison was limited by state law to sell its goods only to
state institutions, city or county governments, or school districts,
it sold to private companies both within and outside the state. This
activity was in clear violation of Oklahoma's state-use law, yet these
sales were supported by the executive office of the state. A venetian
blind company complained that the prison was selling to private individuals. The Board assured the company that it had "issued strict

³⁷Letter, Board of Public Affairs to Warden C.P. Burford, January 1, 1948; State Archives Governor Turner Records, Penitentiary File; Letters, Brick and Tile Association to E.W. Smart, Chairman Board of Public Affairs, July 2, August 1, and September 5, 1940, State Archives Board of Public Affairs Records, Correspondence State Institution; 10, 1940, State Archives Board of Public Affairs Records, Correspondence Penitentiary. Letters, H.C. Rice, to Harry V. Kahle, May 5, 1925 and J.G. Puterbaugh to Governor M.E. Trapp, May 1, 1925, State Archives Governor Trapp Records, Subject File.



orders to the warden of the penitentiary. . . to make no sales to private individuals of items" manufactured in the institution. What the Board did not admit was that just a few months prior to the complaint it had ordered the prison to install venetian blinds in the home of Mr. E.C. Hopper, a political friend of Governor Leon Phillips (1939-1943). Public policy and state law were administered according to one's political influence. The resistance to the sale of prison goods began to have a negative effect on the state's ability to maintain the industries and to achieve the goal of having a self-sustaining prison. But state officials clung to both concepts and tried to work around the problems as they arose.

The concept of economy of government was used by state officials for political gain regardless of the financial cost. The best example of this discrepancy between the concept and its real cost was the use of the road gang. Oklahoma needed to build roads throughout the state if it was to take advantage of its natural resources and develop markets for the sale of its goods. Other states followed the lead set by Colorado and developed road gangs as an alternative use of inmate labor given the political climate of

³⁸For quotes see Letters, Klos Manufacturing Co., to Board of Public Affairs, September 3, 1940 and Vice Versa, September 12, 1940; also see Letters, Board of Public Affairs to J.C. Reddin, Superintendent of Prison Industries, November 11, 1939, to E.C. Hopper, November 17, 1939 and Letter, George Goldford, State Industrial Agent to J.C. Reddin, February 13, 1940, all in State Archives Board of Public Affairs, Correspondence Prison Industries; Testimony, 1957, 19-21, State Archives Legislature, House Committee Records; 74 OK. STAT. ANN., sec. 123f, and 123 g; Oklahoma Session Laws, 1937, 115.

declining prison industries.³⁹ Oklahoma, however, used the gangs as a complement to its developing prison industries as a practical extension of the idea that Oklahoma needed a statewide road system if it was to become an industrialized state. The inmate road gangs provided the labor for that task and the counties and the state shared the responsibility for developing the highway network.

The counties contracted with the state for convict labor and had to agree to pay the transportation costs and "the difference in keep of said prisoners. . . over what it is costing per capita" at the penal institution. This cost included food, medical attention, guards, and any cost in recapturing escapees. The operating theory was well stated by Governor Henry S. Johnston (1927-1929) when he said that "Oklahoma needs the roads and must maintain her penal institutions. It is a matter of economy to bring these two great necessities together and cause one to supplement and relieve the other."

In practice, however, the use of convict road gangs produced a false economy in that the system benefited the counties and the state at the expense of the prison and the inmates. Counties paid, when they paid, \$5,000 to \$7,000 for a road gang for an 18 to 24 month period. Each gang had from 20 to 100 convicts, two to six guards, a steward, and a foreman. At one time the penitentiary had

³⁹McKelvey, <u>American Prisons</u>, 222-223.

⁴⁰ Quotes from <u>Governor's Message</u>, 1929, 15, and from Minutes, Board of Control of State Penal Institutions, February 9, 1911 and May 23, 1912, State Archives Governor Cruce Records. See also Letter, Board of Public Affairs to Chairman, Mayes County Board of Commissioners, May 24, 1918, State Archives Governor Williams Records, Administration Files.



over 300 men working in nine counties with additional requests unfilled because of the lack of physically able men. The inmates worked without wages from dawn to dusk clearing roadways with mule teams. They slept in collapsible houses or tents and were transferred from county to county. The nature of the work required two inmate characteristics that were mutually exclusive. They had to be physically able to perform hard labor and had to be eligible for trusty status in order to hold down the cost of guards. But most of the physically able convicts were young and they were the most difficult to control. The requirement of trusty status was usually ignored to meet the demands of the powerful county politicians. 41

As a result of these pressures the annual cost of maintaining these camps rose to \$45,000 or more. The escape rate was high and the extra guards needed to prevent escapes drove the cost up. This expense drained the penitentiary budget because the counties delayed payment and in most instances ignored their financial responsibility to the penal institution. In an annual report a warden bitterly complained that the road camps were "a drain on our appropriation" because the cost of gun guards was too expensive and that the prison had collected only \$7,000 from the counties toward the incurred expense

⁴¹ Statement for Greer County Road Camp No. 9, n.d., Letter, Board of Public Affairs to Chairman, Pottawatomie County Commissioners May 16, 1918; Letter, State Board of Public Affairs to Warden Sam L. Morely May 16, 1918; Letter Governor R.L. Williams to Board of Public Affairs May 14, 1918; State Archives Governor Williams Records, Administration Files; Governor's Message, 1917, 196; Harlow's Weekly, September 19, 1917, 15. The Commissioner of Charities and Correction noted that California paid its road-gang convicts \$2.10 per day and unsuccessfully tried to get Oklahoma to pay some wage to the inmates, C & C Report, 1923, 11.



of \$45,000 for that year. This inability to collect from the counties increased the deficit appropriation requests of the penitentiary. But the use of these road gangs persisted because of the political and economic value of their construction efforts to county and state officials. The gangs ceased to function only after road building became a big business after World War II. 42

Idleness became an outstanding feature of state prisons during the 1930s because of the depression, the increase in prison population and more important, the impact of the federal regulatory legislation which outlawed the sale of prison goods in interstate commerce and required the labeling of all prison-made products. Because of its massive though sporadic investment in prison industries, Oklahoma was hard hit by these economic and political forces, as well as the natural forces of long droughts which played havoc with the state's agricultural economy. The penitentiary was overcrowded and the bulk of the inmates were idle or employed at make-work tasks. In the late 1920s a warden had recommended doubling the penitentiary's cell space from 640 to 1700 two-man units because of the press of increasing population. In 1937 Oklahoma officials requested a study of the prison by federal penal experts. The impact of the restrictive legislation was clear. The study noted that 70 percent of the total value

⁴² In 1924 and 1925 the state highway department committed 175 convicts to a four year project in Carter and Pushmataha counties. Working under a highway department supervisor and two foremen the road gang carved two state highways out of the Arbuckle and Kiamchi mountains. The total value of the convict work was \$193,584 in Carter County and \$120,263 in Pushmataha County, see Governor's Message, 1927, n.p. See also Governor's Message, 1917, 8-9, 0.S.P. Annual Report, 1919, 3 and Harlow's Weekly, November 2, 1912, 8.

of goods produced by the penitentiary in 1923 was through the contract system. By 1935 this method of production represented less than 38 percent of the goods produced and was declining rapidly. More than 40 percent of the prisoners performed menial maintenance functions with less than 40 percent working in short-run production projects with high rates of idleness and the balance was either sick or completely unemployed. The study team recommended that the prison expand its small scale industries, increase the use of road camps, and initiate public work projects such as conservation and forestry programs to "keep the prisoners busy." These suggestions did not evoke a sense of innovation or a commitment to training or rehabilitation; they were designed to reduce idleness. Overpopulation was critical and the main concern of officials was how to get the prisoners busy to alleviate boredom and mischief in order to ease the control problems of prison administrators. The state took no action and the penal system limped along without a direction. 43

With the outbreak of World War II conditions at the penitentiary changed dramatically. Initially the war's impact was negative because the War Production Board placed restrictions on all penal industries regarding the purchase of raw materials and the sale of

⁴³ Governor's Message, 1926, n.p.; Frank T. Flynn, "The Federal Government and the Prison Labor Problem in the States," Social Service Review (1950) 24:21-22. Quotes from U.S. Prison Industries Reorganization Administration, The Prison Labor Problem in Oklahoma: A Survey (Washington, D.C., 1937), 4, 10-11, 20-26. Except for the pathbreaking article by Flynn there has been no study of the New Deal's impact on state penal systems or criminal justice generally. This obtains in spite of the fact that President Roosevelt had renowned experts on the subject as his key advisors.

prison goods. This further decreased the industry operations and added to the problem of inmate idleness. Oklahoma attempted unsuccessfully to locate a new market by mailing sales inquiries to institutions in other states that did not have a large industrial capacity. But war-related contracts from the federal government began to trickle into the prison and quickly became the foundation for shoring up the weakened prison industries. A War Production representative had visited the penitentiary in the fall of 1942 after many requests from state officials and finally at the urging of the Oklahoma congressional delegation. The representative said later that he had hesitated in visiting Oklahoma because the Board did not expect to find any large industrial capacity in penitentiaries this far west. He was surprised at the production capacity of the McAlester institution, however, and he "not only wired...Washington, but he wrote them" a detailed letter informing the board "that (Oklahoma) had one of the best industrial set-ups of any prison in the country." The representative probably overstated the case, but the military contracts began to flow to the penitentiary. In October, 1942 the penitentiary accepted a quarter of a million dollars in contracts for Navy clothing, furniture, rope and bricks. In January and February of 1943 the prison received an additional \$107,000 worth of contracts and by the end of 1943 the Board of Public Affairs reported to the Governor that it had accepted well over a half million dollars worth of military contracts for the year. The prison industries had received a new lease on life and were working on a full-time basis.44

⁴⁴Letter, Warden Fred Hunt to Board of Public Affairs October 23, 1942, Monthly Report of Contracts Accepted for War Production,

These military contracts helped sustain the prison industries, but they also delayed any serious and concentrated look at the problem of the Oklahoma penal system. During this period more than 1,000 inmates worked full-time in the prison factories with slightly less than 600 working at non-productive or maintenance tasks. This activity provided a false sense of security for prison administrators and state officials. As a result they ignored the lingering problems of overcrowding, the inefficient and disorganized factories, and the larger question of penal reform in general. The question of what role the penitentiary should play in Oklahoma's criminal justice process never surfaced.

The post World War II era brought a retightening of the restrictions on the sale of prison-made goods, rising inmate populations, and further economic troubles for state penitentiaries particularly those that relied heavily on the industrial model. The only outlet remaining for prison-made goods was the state-use system which limited sales to state and local government agencies. The Oklahoma penitentiary had sold its products to other state institutions from the beginning, but these industries were small and seasonal. Few of

December, 1942 and January and February, 1943, State Archives Board of Public Affairs, Correspondence Penitentiary. For Oklahoma's attempt to develop a market with other states and for a list of the type and amount of military contracts, see generally Letters, Board of Public Affairs to various state penal institutions for 1942-44 and Memo, Virgil Brown, Chairman, Board of Public Affairs to Governor's Office, November 15, 1943, State Archives, Board of Public Affairs, Correspondence Prison Industries.

⁴⁵Letter, Warden Fred Hunt to Board of Public Affairs, March 3, 1943, State Archives, Board of Public Affairs, Correspondence Penitentiary.

the early Governors believed in the state-use system because they felt that production orders would not employ all the prisoners and forced idleness would result. Another argument against the stateuse system was that it was not economically feasible. Too many state institutions did not order enough products and when they did place orders the products were too varied to sustain large-scale prison industries. In order to supply these institutions the penitentiary would have to operate many small factories and still have most convicts unemployed. The competitive factor added to this situation because 15 state penitentiaries "shipped convict-made goods into this state to be sold on the open market" including cigars, shoes, wearing apparel, machinery, and furniture. Though the restrictive federal legislation eliminated this last problem, the other arguments held. But the problem of inmate idleness and its threat to security caused the state to try anything that would keep the inmates working. State officials were encouraged by a federal study that showed the prison could increase its annual sales by one million dollars if all state institutions bought their supplies from the prison and it could add another million in sales if city and county governments followed suit. Unwilling to face the reality that the industrial prison was a failure, Oklahoma officials attempted to save it by embracing the state-use system of production. 46

⁴⁶ Governor's Message, 1915, 23, 1923, 125, 1927, 45; Letter, Warden Fred C. Switzer to American Prison Association, August 20, 1919, State Archives Governor Robertson Records, General Correspondence; PIRA, Prison Labor Problem, 15, 18; James J. Waters (Warden) Additional Information for the Committee Studying Rehabilitation Programs at State Institutions, 1954, 12, State Archives Penitentiary Records, hereafter cited as Waters, Additional Information, 1954.



Other state institutions did not cooperate, however, and the policy had little beneficial impact on the prison. Opposition from state institutions and local officials convinced the legislature not to pass a law that forced these agencies and officials to buy prison goods. Without such a law these agencies merely tolerated and by-passed, whenever possible, the state-use system. State institutions delayed their requisitions until after the state purchasing agent had issued his quarterly orders to the suppliers. They would then submit their orders on an emergency basis and force the purchasing agent to buy from private suppliers, sometimes at a higher cost, and thus by-pass the normal state production schedule. Some institutions purposely ordered goods with specifications not available from the penal industries. For example, the penitentiary listed canned dried beets and the State Hospital at Taft or the Central State Hospital would order sliced beets. One institution administrator flatly said that he preferred to buy from a Vermont firm rather than the penitentiary. State institutions obviously went to great lengths to avoid buying their supplies from the penal industries. 47

These institutions complained that the products of the penal industries were of poor quality and that their production schedules were inefficient and unreliable. These complaints had a strong basis

⁴⁷Report, General Investigating Committee of Oklahoma State Penitentiary, February 4, 1957, 8, hereafter cited as Report, 1957 and Testimony taken by same, 43, 54-55, State Archives Legislature, House Committee Records; Transcript of Proceedings of Investigation at Oklahoma Reformatory, March 1949, Vol. II, 22, State Archives Governor Turner Records, Reformatory File, hereafter cited as Transcript, 1949.



in fact. The Griffin Memorial Hospital in Norman complained that the canned fancy yellow corn had "white corn in with the yellow... and a large portion of the hull is still on the kernels" and that the vegetables had a very starchy taste. 48 Forty gallons of syrup shipped to the Whitaker State Home soured immediately after opening. the early 1940s at least one-third of all brick delivered was useless. In addition to the quality of the product customers complained about the poor delivery and the high cost of prison goods. Central Oklahoma Hospital had ordered 100 dozen ladies shoes and six months later they had received only two dozen. The state purchasing agent constantly lowered the bids from the prison in order to meet the bids of private companies. Even the chairman of the Board of Public Affairs suffered at the hands of the penitentiary industries. He had ordered a pair of leather boots, but they were two sizes too small. He said he didn't think his feet had grown because he had "passed the growing stage some 40 years ago." In a serious observation he also noted that "the failure to properly manufacture goods has been our greatest drawback in the sale of products from that institution."49 The issue

⁴⁸Letter, Central State Memorial Hospital to Mrs. N.M. Bedingfield, Superintendent of Industries, <u>O.S.P.</u>, November 23, 1956, State Archives Legislature, House Committee Records.

⁴⁹ Quote from Letter, E.W. Smart, Chairman Board of Public Affairs to J.C. Reddin, Plant Superintendent O.S.P., October 19, 1939 also see Letter, Board of Public Affairs to Warden Jess F. Dunn. January 1, 1940, Letters to various machinery manufacturers, January, 1940, Letters, Board of Public Affairs to J.C. Reddin, Plant Superintendent O.S.P., January 2, 1940 and to Warden Jess F. Dunn, December 13, 1939, State Archives Board of Public Affairs, Correspondence Penitentiary; Internal Memo, Board of Public Affairs, November, 1965 in Testimony, 1957, 45, State Archives Legislature, House Committee Records.



of quality was only a symptom of a larger, more pervasive problem of prison industries. Prison administrators and state officials attempted to apply a free-market perspective to prison industries that had a captive employee force without incentive, outmoded and inefficient equipment, and a limited and closed market.

Finally, the prison had weak pricing practices throughout its history. Penitentiary goods from socks to rope to bricks were priced higher than private industry. At one point prison shirts sold for \$2.40 a dozen and private industry sold the same item for \$2.00. Steel buckets sold for \$4.00 each on the open market yet the prison listed them at \$7.00. Prices on prison goods were educated guesses. Prison administrators summed the cost of materials and salaries, but did not add overhead or inmate labor; they added a rough 20 percent to their estimated cost. The prison industries had no cost accounting system and as a result about half their bids had slightly higher prices than private companies. When prison officials were asked by a legislative investigating committee how private firms underbid the prison price when the latter had no labor or depreciation costs, no one knew the answer! ⁵⁰

These concerns over product quality, production schedules, delivery problems, and accounting procedures did not deal with the substantive problems inherent in the prison. For all the political

⁵⁰Testimony, 1957, 40-50, State Archives Legislature, House Committee Records; Letters, Board of Public Affairs to Warden Jess F. Dunn, January 4, 1940; J.C. Reddin, Superintendent of Prison Industries to Board of Public Affairs, January 23, 1940, State Archives Board of Public Affairs, Correspondence Prison Industries.



rhetoric about the self-sustaining institution, the industrial prison, and the savings to the taxpayer the prison was the most expensive, inefficient, and unsupported institution in the state which probably cost the taxpayer far more in the long run than if it had been fully funded by tax dollars and administered by professional staff. The legislature never sufficiently funded any new industry so that it would have qualified foremen or adequate equipment. Most of the machinery was purchased second hand during the 1920s. As late as 1958 the second hand equipment of the tag plant, the cannery, the soap and paint factory, and the brick factory was still being used even though it was falling apart. A legislative committee investigating the penitentiary in 1957 concluded that the "quality of work cannot be improved until new and better equipment is provided." The Chairman of the Board of Public Affairs echoed this sentiment when he testified that the prison had "time and labor," what it needed was machinery. Oklahoma would not let go of the industrial model. 51

Even the physical plant of the institution and the layout of its factories worked against any possible success for industrialization. A study conducted in 1966 said that "the penitentiary is in worse shape than many institutions built 50 years earlier; evidence of neglect of plant and equipment is seen at every hand." Added to this neglect by prison administrators was the disorganized layout of the factory buildings. Additions to the physical structure of the

⁵¹Transcript, 1949 Vol. II, 9, 19, State Archives Governor Turner Records, Reformatory File; Oklahoma Citizens Committee on Delinquency and Crime, <u>Apathy or Action: A Survey</u> (1958), 7.5; Quotes from Testimony, 1957, 5, 35, and Report, 1957, 10, State Archives Legislature, House Committee Records.



institution over the years were placed because of space convenience, not for ease of operation. The result was a hodgepodge of buildings that exacerbated custody and order maintenance problems and worked against efficient production. One Board member, possibly foretelling the future, urged the movement of the prison factories to a location outside the walls "in case of a riot or anything like that." ⁵²

Finally, the uncontrolled and uncontrollable numbers of the inmate population frustrated any serious attempt to become fully industrialized. The constant turnover of the inmate population created havoc in the factories. In 1953, 66 percent of the inmates had sentences of three years or less. Foremen didn't know from one week to the next how many inmates they would have available in the factories or how long they would be assigned to any particular plant. Obviously very little quality and consistency in production could be expected under these conditions. In addition men received assignments to industries whether there was work or not; the objective was to get them out of the cells. Good training or good work habits could not be learned when tasks were given to twice the number of men necessary to accomplish them or when half the work force was kept idle. For example, the book bindery shop which repaired school books for the state employed from 300 to 700 inmates during the summer months, but, except for the dozen or so men who worked the bindery machinery, the

⁵²Testimony Investigation of Oklahoma State Penitentiary, February 4-5, 1955, 77-78, hereafter cited as Testimony, 1955, and Testimony, 1957, 5 (Board Member's quote), State Archives Legislature, House Committee Records; National Council on Crime and Delinquency, Correction in Oklahoma: A Survey (Washington, D.C.: NCCD, 1966), 13, for quote and condition of prison.

only task performed by the inmates was to erase pencil marks from the pages of the school books! 53

With the deplorable state of the industries, constantly rising populations, and massive idleness of inmates Oklahoma officials attempted to develop more prison farms because they absorbed large numbers of personnel. Unlike its southern sister states, Oklahoma had not placed much emphasis on penal farms during its early years of development. The penitentiary had over 1,920 acres of rolling land under its control, but only 1200 acres were cultivated and this land was of poor quality. The Stringtown facility, a sub-prison opened in the 1930s, had 7,897 acres, but only 300 were cultivated and the balance was timber and grazing land. Although the farms were listed as an industry in the annual reports, prison administrators were content if farm production relieved some of the huge financial burden generated by the annual grocery bill of the institution. Some wardens cautioned the state about relying too heavily on farm production for profit. Warden Fred P. Switzer said in 1923 that "contrary to popular belief, farming is not profitable to a prison." He said that the production rate and market prices cannot compensate for the high cost of farm gangs requiring guards and the only reason farms looked profitable was because excess grain was fed to livestock which was then sold on the open market. He also noted the condition of the Texas prison system "which at this time show(ed) a

⁵³Waters, Additional Information, 1954, 2, 17-18, State Archives Penitentiary Records; Testimony, 1955, 84-85, and Testimony, 1957, 96, State Archives Legislature, House Committee Records; NCCD, Correction in Oklahoma, 29.

deficit of two million dollars" because they relied solely on the farm to the exclusion of industry. Clearly the rural state of Oklahoma saw itself as different from its southern sister states. That difference was a firm, if miscalculated, commitment to see industrial development as the key to a self-sustaining penal system. ⁵⁴

system from an emphasis on industry to a half-hearted attempt to follow the farm plantation model of the south. The impact of the regulatory acts limiting the sale and shipment of prison goods brought the penal industries to a state of collapse. Out of pure frustration one warden argued for the expansion of the agricultural industry to employ inmates and help cut expenses and cited Texas, Mississippi, and Georgia as examples of success. A House Investigating Committee, after visiting penal farms in Tennessee and Texas in 1957 and uncritically accepting their hosts' portrayal of economic success and the lack of sexual perversion and gambling, recommended that Oklahoma begin a long-range plan to expand their farm operations. ⁵⁵

The state looked at these suggestions, but it never developed them into a major policy. In the early 1950s the legislature authorized the purchase of a farm near McAlester, but never funded the

⁵⁴ Governor's Message, 1923, 124-125 and 1926, n.p. PIRA, The Prison Labor Problem, 4; For a discussion of southern penal farms see Blake McKelvey, "A Half Century of Southern Penal Exploitation," Social Forces (1934), 13:112-123 and "Penal Slavery and Southern Reconstruction," Journal of Negro History (1935), 20:153-179 and American Prisons, 172-139.

^{550.}S.P. Annual Report, 1954, 6, State Archives, Penitentiary Records; Report, House Committee Visiting Prison Farms in Tennessee and Texas 1957, State Archives Legislature, House Committee Records.

project. A consultant had been hired by the penitentiary to evaluate land purchases for their farming potential. He worked about ten days a month for a monthly salary of \$400, but a Legislative Committee found that he did very little work and terminated the arrangement. These half-hearted attempts to develop more penal farms resulted from the pressures generated by the increasing inmate population. In 1955 the prison warden claimed that he could place 700 more men on trusty status if he had the place to send them. ⁵⁶

The major problem of the institution was that it had too many men for the available jobs. Wardens complained that even with new farm land they would have to work two men on one-man jobs simply to get the inmates out of their cells. They also cautioned the state officials about the limited benefit to be derived from an expanded farm program. Warden C.P. Burford, an ex-administrator of a federal prison farm, warned that most of the inmates came from towns and cities and that less than 10 percent were interested in agriculture. He said, "You cannot take a fellow who has lived in town all his life and interest him and teach him anything by milking cows or doing other farm work." A citizens group said that instead of purchasing more farm land the state should "extend the vocational program." The legislature took no action on either program, yet Governor Raymond D. Garey (1955-1959) told the legislature at the end of his four-year term that expanded farm operations at the penal institutions had "kept the per capita appropriations down to a minimum." The facts

⁵⁶Testimony, 1955, 321-322 and Report, 1955, 2, and Report, 1957, 12, State Archives Legislature, House Committee Records.

indicated there was no substance to that claim, yet no one rose to the challenge. In Oklahoma when public policy decisions are delayed and critical problems ignored, a reference to the economical operation of government provided a soothing effect that seemed to make the problem disappear. ⁵⁷

From its very beginning Oklahoma's prison system was cast as the model for industrialization. The prison would operate efficiently and on a business-like basis in order to limit the taxpaver's burden. The prison's various functions would be evaluated on their potential for profit and their ability to decrease operating costs. When the evidence clearly indicated that the industrial prison was not a viable policy, the state was frozen by its refusal to reject it and by its failure to move away from the concept of a self-sustaining prison. With economic indicators no longer a valid means of measuring the effectiveness of the prison and with no commitment to rehabilitation or any other alternative model, the state had no philosophical base upon which to evaluate the prison. With the collapse of the industrial prison after World War II, Oklahoma's penitentiary simply existed without any direction. As a result the penitentiary provided a custody service to the courts and its primary objective was to maintain order within its walls.

Burford's quote in Transcript, 1949, Vol. II, 10, 25, State Archives Governor Turner Records, Reformatory File; Testimony, 1955, 311-313, State Archives Legislature, House Committee Records; Citizens Group Recommendation in Oklahoma Citizens Committee on Delinquency and Crime, Apathy or Action: A Survey (Oklahoma City, 1958), 76-77; Quote of Governor Garey in Governor's Message, 1959, 15.

CHAPTER III

REHABILITATION: THE REFORMATORY AS A LOST CAUSE

Within a year after the beginning of construction on the penitentiary, reformers began to lobby for a state reformatory. Kate Barnard, Commissioner of Charities and Correction, led the fight and articulated the need for such an institution in her annual reports to the Governor and legislature. Relying heavily on her knowledge of the main trends in correction from her association with other state and national leaders she presented the case for reform. "The time for providing for a strictly modern and scientific penal system has come....Why not provide an entirely new system, one that will place Oklahoma at the head of the procession of states." In order to achieve that leadership, Barnard said that Oklahoma needed to build a reformatory for youths between the ages of 14 and 25, who were convicted of their first criminal offense but whose sentences were less than ten years. Barnard projected that when the state population reached two million, the prison population would reach a total of 1600 inmates. With the state penitentiary with a capacity of 1280 already under construction, Oklahoma needed a reformatory for about 800 younger criminals. "By providing for a total prison population of 2,000 our penal institutions would not need enlargement for ten

years to come." Little did she realize that after this reformatory was built the prison population would reach levels two and one-half times her estimate and it would be 66 years before Oklahoma made a substantial expenditure of funds in any area of penal reform.

Kate supported the argument for the reformatory by pointing out its features which differentiated it from the penitentiary model. Based on the Elmira, New York model which was gaining popularity and momentum as an alternative to the penitentiary throughout the northeast and the middle states, the proposed reformatory for Oklahoma would be designed to reclaim individuals by training them in moral standards and job skills necessary to survive in the general society. Citing the successful programs in Ohio and New York and quoting the recommendation of the International Prison Congress to bolster her arguments, Barnard claimed that the passage of an indeterminate sentence law and the development of a state parole system were critical to the success of the reformatory. Flat time sentencing was too rigid because some people took longer to train than others and release under supervision was necessary to help the ex-convict adjust to his new freedom. Barnard failed in her effort to get an indeterminate sentence and a state parole system and later compromised for a merit system which allowed an inmate to decrease his sentence by earning a maximum of three merits (four hours per merit) each day for good behavior and diligent work. Barnard had accepted the compromise because the legislature was not going to pass the indeterminate law

¹Commissioner of Charities and Correction, Second Annual Report, 1910, 32, 92 (Oklahoma City, 1910), hereafter cited as \underline{C} & \underline{C} Report, 19--.

and the merit bill made the merit system a matter of right for all inmates rather than a favor for a few.²

With these recommendations of a reformatory for youthful offenders, an indeterminate sentence law, and a statewide parole system, Oklahoma had before its deliberative bodies the core requirements of the progressive correctional model in vogue at the time. But the legislature, in its collective wisdom, felt that the model did not satisfy the more basic need of vested interests.

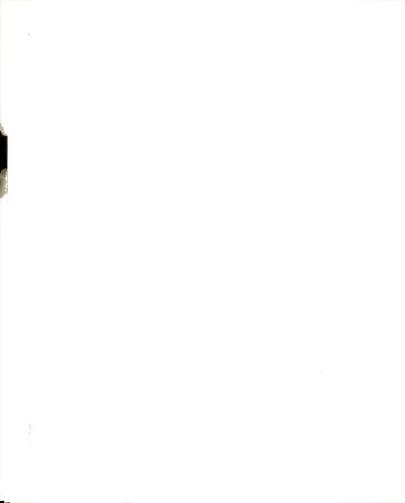
The original reformatory bill had included all three reform measures, but it was amended in committee and the indeterminate sentence and parole sections disappeared. The battle quickly lost its philosophical reform impulse and reverted to a conflict between the eastern and western parts of the state. Representative G.L. Wilson of Mangum, Oklahoma, a supporter of the reformatory, submitted a second bill without the indeterminate sentence requirement, but the opposition amended the title to read "Branch Penitentiary" instead of reformatory. If another institution was to be built the penitentiary people wanted to control it by having it designated as an extension of the McAlester prison. Wilson threatened to oppose the construction of the penitentiary at McAlester "until we have had our just desserts in the western part of the state" and until the title was changed back to "Reformatory." Because Wilson served as Chairman of the House Committee on Public Buildings which authorized the location and construction of state public buildings, his threat carried much weight. The opposition softened and the amended bill passed with an initial

²Ibid., 31-32; C & C Report, 1912, 14.

appropriation of \$500,000 to begin construction. The issue was not the location of the penitentiary or the difference between it and the reformatory. The real issue was that the politicians from the eastern part of the state and the penitentiary administration viewed the reformatory bill as a direct threat to their construction plans. If they had to share funds with the reformatory they feared that they would have to limit the scope of their institution. 3

Even before the reformatory became a physical reality it ran into trouble. Work had been completed on the temporary building by the end of 1911, but the next administration had its own thoughts on the issue. Governor Lee Cruce (1911-1915) was lukewarm to the reformatory idea and in his message to the legislature he suggested that the reformatory building program be discontinued "until the number of young prisoners increases." The Governor based part of his resistance on economic reasons and part on philosophical differences on what a reformatory structure should be like. He said that there was no need for a second prison because these additional inmates could be maintained cheaper at the penitentiary. He also argued that the state treasury could not withstand the \$850,000 appropriation for the penitentiary and also the initial \$500,000 for the reformatory. He realized that the initial appropriation would not be sufficient to complete the project, or operate the institution, and he was genuinely

³Quotes from Report and Transcript of evidence of investigation of Oklahoma State Reformatory, 1913, 226, 743-746, State Archives Department of Charities and Correction Records, hereafter cited as Transcript of Evidence, 1913. Letter J.W. Ryder to Governor J.B. Robertson, August 12, 1920, State Archives Governor Robertson Records, Administration Files.



concerned about where the state would get the additional funds. He learned that Kansas expended \$112,000 a year and Pennsylvania and Massachusetts disbursed over \$200,000 annually on their reformatories. The newly appointed Warden, Clyde A. Reed, also had suggested that the \$500,000 was only a minimum investment because the reformatory needed a school and vocational training equipment and he pointed out that the capital expenditures for nine other states that recently built reformatories ranged from \$500,000 to two million dollars for the plant and equipment. Reformation of convicts was not an inexpensive undertaking.⁴

The construction of permanent buildings at the reformatory also bogged down because the governor had his own ideas about what a reformatory should be. He noted that the reformatory did not need individual cells. They were simply too costly. The argument of the reformers that the younger inmates needed to be separated from the older ones did not convince him of the necessity of the extra expense because he countered that age had little to do with the degree of criminality. To stop the cell construction the governor approved only \$125,000 for the reformatory which automatically eliminated the \$80,000 cells and halted construction because no additional buildings could be constructed with the remaining funds if the cells were purchased. The issues were resolved and the money was found to build

⁴Quote from Regular Biennial Message of Governor Lee Cruce to the Legislature, 1913, 87, all Governor's Messages hereafter cited as Governor's Message, 19--; Letter Warden Sam L. Flournoy to Governor Charles N. Haskell, n.d. (1911), State Archives Governor Haskell Records, Administration Files; Typescript of Comparative Operational Costs, no title, n.d., State Archives Governor Cruce Records, Administration Files; Harlow's Weekly, November 16, 1912, 1.

both institutions. By the end of 1914 most of the permanent structure had been completed and 150 inmates were transferred from McAlester to the reformatory at Granite.⁴

Governor Cruce's opinions were honest differences and were not designed to block the reformatory. Unfortunately for the proponents of the reformatory the Governor's actions played into the hands of the opponents because the constant delays decreased the momentum which had been generated by Barnard and the social reformers. There can be no question, however, that all parties involved in the reformatory issue saw the new penal facility as a center for the rehabilitation of young offenders and not a second prison. Like its sister institution at McAlester it would be evaluated on its ability to pay its way and on the efficiency of its industries, but unlike the penitentiary this evaluation would occur within the context of rehabilitation. The primary focus was on the reformatory's function of rehabilitating the convicted criminal. This does not suggest, however, that it was an easy task because rehabilitation never really achieved a strong foothold in Oklahoma. As a result the penitentiary used its power to neutralize the reformatory and thus maintain dominance over the penal system.

⁴Transcript of Evidence, 1913, 588, 590, 592, 599-601, 1596, State Archives Department of Charities and Correction Records; Governor's Message, 1913, 83-86, State Archives Governor Cruce Records, Administration Files. The Governor resisted the cell arrangement even though the architects had letters from wardens of 25 different state institutions supporting the single-cell system as the best means of security. Some of the states mentioned were Kansas, Iowa, Illinois, North and South Dakota. See Transcript of Evidence, 588, 590, 592 cited herein.

The State Reformatory at Granite had great difficulty achieving the status its name implied even though many governors and wardens had the best intentions and some even tried to implement the reformatory function. But other chief executives saw the institution as merely another source of income for the state or as an instrument for political gain. Governor Robert L. Williams, (1915-1919) in his message to the Legislature in 1917 was concerned about the economic well-being of the facility not its rehabilitative role when he said that "the reformatory at Granite is a penitentiary just as much so as the prison at McAlester" and that judges located nearby each institution had no excuse for sending prisoners to the farthest institution regardless of age or criminal history. He successfully urged the legislature to pass a law requiring all judges "to sentence the prisoner to the nearest penitentiary" to avoid unnecessary costs. This did not serve the rehabilitative objectives of the reformatory, but it did decrease the transportation costs paid by the state to the counties. Sheriffs supplemented their income from these prisoner escort duties.⁶

Governor Williams applied the same business criteria to the reformatory as he had in pushing the massive industrialization of the penitentiary. He combined the unique aspects of the reformatory, its state-owned mountain of granite and its captive labor pool, with the needs of the business community to negotiate a contract with the Rock Island Railroad Company. The railroad exchanged a small rock crusher

⁶Governor's Message, 1917, 40. State Archives Governor Williams Records, Administrative Files; Oklahoma Session Laws, 1917, 381.

(capacity of 80 yards a day) for "over 1200 carloads of rough rock" for its track beds. Before the inmates could begin this operation the machine had to be completely rebuilt by the state. The Governor recognized that crushing granite was extremely difficult, and that it required special machinery, extra powder and labor, and extra care in processing and as a result the price was slightly higher than other grades. He informed the legislature, however, that the product was superior to standard rock for railroad beds and that production was only feasible because of convict labor. He further justified the operation by claiming that the reformatory was "now self-sustaining."

Other administrations were just as concerned about the economic issues, but they also maintained support for the objectives of the reformatory. This contract, for example, received severe criticism from the next warden. In 1920 the Chicago, Rock Island, and Pacific Railroad Company approached warden George A. Waters and requested 50 cars of rough rock for a spur being built in Granite. The company referred to their 1917 contract with the state. Waters refused to comply because the railroad insisted on receiving 3,000 pounds per yard when the market measurement was 2,250 pounds per yard and paying only 38 cents per yard when it cost 43 cents per yard to quarry the granite and when the market price was \$1.25 to \$2.50 per yard. Waters claimed that the contract "was a great mistake on the part of the state, and (it) appears to have been drawn entirely in favor of the Railroad Company." Governor James B. Robertson (1919-1923) agreed and ordered the quarry closed and Waters intended to keep it

⁷Governor's Message, 1917, 73-75.

closed.⁸ Clearly the captive labor force of convicts benefited a large corporation by supplying cheap labor in a labor intensive operation that would not have survived on the open market.

Governor James B. Robertson made a consistent and honest attempt to run the institution as a reformatory. Soon after taking office in 1919 he appointed as warden Dr. George A. Waters who was a highly respected and successful farmer and physician. Waters immediately made plans to travel east to "study modern methods of organizing and conducting reformatory work." But before he took the trip east he had made recommendations to the Governor which indicated his grasp of the rehabilitation model. He suggested that the Governor's office maintain a file of the parolees to keep track of their performance and to help "provide employment for them and see that they are kept in the proper evnironment." Waters also suggested that a library be established at the institution and he received authorization to send a requisition to the Board of Public Affairs for 100 to 500 books for "a nucleus for the general library" and to initiate a public call for book donations from charitable organizations. The Governor agreed with these recommendations and offered help from his office.9

⁸Letters, Warden George A. Waters to Board of Public Affairs, July 26, 1920, and (for quote) to Governor J.B. Robertson, September 27, 1920, State Archives Governor Robertson Records, Administration Files.

⁹Letters, Warden George A. Waters to State Board of Public Affairs, July 26, 1920; Governor James B. Robertson to Waters, August 4, 1920; Waters to Governor James B. Robertson, August 5, 1920, State Archives Governor Robertson Records, Administration Files.



The new administration also made overtures to the need to run the institution efficiently. The previous administrators obviously had not paid much attention to this because Waters found surplus items around the institution such as 300 one-hundred pound kegs of nails in a storeroom when the institution used only two or three kegs a year, a building full of empty, large wooden barrels worth about \$150 each on the open market, and 251 parlor brooms. He suggested that these items be sold by the Board of Public Affairs. The Governor indicated that the institution should maintain itself as much as possible particularly through the use of vegetable gardens because there was "no need to purchase canned vegetables at exorbitant prices."

Another indication of Governor Robertson's commitment to making the facility at Granite a true reformatory was his Executive Order transforming the "institution...into a Reformatory in fact as well as in name" to carry out the original intent of its creation. He then mailed a letter to all judges of the District Courts in the state explaining the change and the purpose:

Hereafter no prisoner will be confined at Granite who is over the age of 23 years, or who has heretofore been committed for two or three offenses or who is sentenced for more than ten years. All such prisoners must be sent to McAlester. (Emphasis was in the letter.)

¹⁰Letters, Warden George A. Waters to Board of Public Affairs, July 26, 1920, Governor James B. Robertson to Waters, August 4, 1920, State Archives Governor Robertson Records, Administration Files.

Governor's Message, 1921, 21; Letters, Governor James B. Robertson to District Judges, August 2, 1920, State Archives Governor Robertson Records, Administration Files.

The Governor received many letters from judges who praised him for taking the action and agreed to cooperate. Robertson, however, attempted to insure that the change became permanent by announcing to the general public that under his executive order the reformatory at Granite would provide the inmates with a school and education equipment for study, interesting employment for job training, and organized recreation for amusement. He also echoed the warden's plea to all civic and women organizations to donate books to the library. 12 But the whole process of using the executive order and appealing to the public illustrated the frustration of dealing with a legislature that did not endorse the reformatory model and refused to pass sentencing legislation to distinguish that institution from the penitentiary.

The impact of the Governor's order was felt immediately by both the Granite and McAlester institutions. The reformatory shipped 250 long-term and hardened criminals to the penitentiary and a lesser number of "first-term convicts and men under 23 years of age" were sent from the penitentiary to the reformatory. But the momentum died quickly. Within five months of issuing the executive order Governor Robertson had to remind the judges that the Granite institution was a reformatory and that the institution had been instructed not to receive inmates who did not qualify. He warned that "the unnecessary expense on account of these mistakes will not be a charge against any state fund." Accepted patterns of county judges were not changed

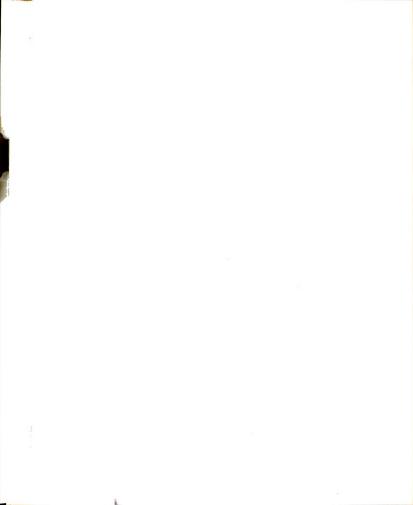
¹² Governor James B. Robertson, Message to the People, August 2, 1920, State Archives Governor Robertson Records, Administration Files.

easily, particularly when county sheriffs supplemented their income from the travel vouchers paid by the state. The reform programs of the Robertson administration had little chance of becoming permanent policies of the reformatory without sentencing laws that differentiated the penitentiary from the reformatory. 13

The unique contribution of the Robertson/Waters administration was its interest in developing inmate training programs in scientific agriculture. Governor Robertson hoped that the reformatory would "bring back to good citizenship" the inmates confined there by devoting a "greater part of the convict's time to agricultural pursuits." He planned to establish experimental seed farms, and specialized husbandry for cattle, sheep, and hogs. These "demonstration farms" would aid the farmers of the state and train the inmates in the new field of scientific agriculture. These plans competed directly with the new Agricultural and Mechanical College at Stillwater, Oklahoma, however, and funds initially were not provided by the legislature for the Granite operation. By 1927 the two institutions had worked out a cooperative arrangement and the grain and cattle experiments were conducted under the supervision of college researchers who then transmitted the results to farmers throughout the state. ¹⁴

¹³Quotes from Letter, Governor J.B. Robertson to District Judge Charles W. Mason, January 15, 1921, State Archives Governor Robertson Records, General Correspondence; Governor's Message, 1923, 135. The law passed by the legislature in 1909 authorized the judges to commit persons convicted of any felony to either the penitentiary or the reformatory, Oklahoma Session Laws, 1909, 475.

¹⁴ Governor's Message, 1923, 83, 85, 135-136; Message to the People, August 2, 1920, State Archives Governor Robertson Records, Administration Files; Robertson's commitment to scientific agriculture



The Robertson administration's interest in the reformatory was not typical of the chief executives of the state. Administration after administration either abused their authority in managing penal affairs or entirely neglected their responsibility. The legislature, led by penitentiary interests, refused to give the reformatory the statutory and financial support it needed to become the rehabilitation center for young offenders. The reformatory had never achieved stability, and very quickly became a secondary institution to the state penitentiary. There were no sustained attempts to halt the downward spiral of the reformatory or to change its direction. Various minor reform programs were tried, but they did not have the same commitment as Governor Robertson and these attempts failed at a faster rate than his. Just how quickly reforms at the reformatory could be neutralized is best illustrated by looking at what happened within one year after the Robertson administration left office.

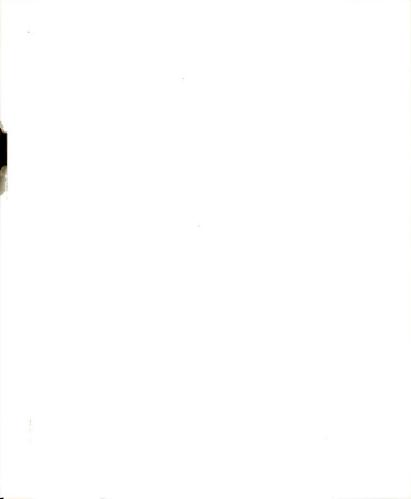
After the disastrous one year administration of Governor James C. Walton (1923) which resulted in his impeachment for massive corruption at all levels of his administration, Dr. George Waters was reappointed as warden. He assumed office in 1924 and found chaos at

and the A & M College can be seen in his description of the college when he encouraged the legislature in 1923 to continue its financial support: "The A & M College differs materially in its operations and activities from the ordinary theoretical or book school, in that it is is a great industrial plant and much of its floor space is occupied by machinery, manufacturing activities, livestock, dairing, and poultry industries." In addition to fees and tuition the college had earned \$50,000 annually for the past two years from its commercial business. See Governor's Message, 1923, 83-34. Also see Governor's Message, 1925, 24 and 1927, 48 for evidence that knowledge gained from the reformatory's demonstration farms was furnished to farmers in the state.

the reformatory and all the programs he had instituted earlier had been disbanded. The specially bred dairy herd had been ruined from the sale of the best cows to a private individual; the cotton seed had been stored improperly and was worthless; the carpenter, blacksmith, plumbing, and electrical shops had so many missing tools that the inmates and employees could not work, and the buildings were rundown and showed the signs of lack of maintenance. Waters, testifying before a House investigating committee, listed the bakery, kitchen, farm, tannery, and shoe shop as vocational training programs he had developed, but complained that on returning to the reformatory he had only "fairly competent instructors." The fact was that these instructors were foremen not teachers. Every time the penal system took a step forward it would be allowed to slip back two steps and the next reform administration spent most of its time playing catch-up.

The rehabilitation programs developed by one administration soon took different forms under new administrations or were simply disbanded. The Commissioner of Charities and Correction, in one of its rare criticisms of a state penal facility, reported that the institution at Granite was not used as a reformatory and its "programs" had little resemblance to the vocational-educational models of other states. The report said that more than 100 of the 700 inmates were over the maximum allowed age of 23 and the only training the inmates

¹⁵Letter, A.O. Thompson to Board of Public Affairs, April 27, 1925; State Archives Governor Trapp Records, Administration Files, Governor's Message, 1925, 23-24; Quote is from transcript of testimony taken by House Committee Investigating State Reformatory, June 23, 1929, State Archives Legislature, House Committee Records.



received was crushing rock with crude tools. The rock crushing industry, the Commissioner said, had never been "a financial success to the state and has really been a 'white elephant' on our hands." By 1935 the training school was inefficient and ineffective. The facilities had survived, but the programs had not. Many inmates attended classes to avoid manual labor and some inmates with a high school education studied second grade material. The experimental farms also suffered from neglect and abuse compounded by the dust-bowl characteristics of south western Oklahoma. The farms cultivated 1,400 acres, but the land was poor and they could not "sustain the prison population in productive employment." 17

Federal assistance from the New Deal administration of Franklin D. Roosevelt helped sustain some programs. The Oklahoma Emergency Relief Administrator took charge of the idle tannery plant at Granite, repaired the machinery, hired outside help, and kept it in operation for a year. During 1936 the Federal Surplus Commodities Corporation helped keep the mattress shop in operation when it purchased 200 mattresses a day from the reformatory for "distribution to the Welfare Board's relief client" who had been severely hurt by the long drought. But these federal contracts were short-lived and only delayed the inevitable. A federal prison expert who visited the reformatory

¹⁶C & C Report, 1926, 18.

¹⁷Report from Board of Public Affairs, February 18, 1935 and Letter, Warden Fred Hunt to Board of Public Affairs, November 13, 1936, State Archives Board of Public Affairs, General Correspondence; Quote from U.S. Prison Industries Reorganization Administration, The Prison Labor Problem in Oklahoma: A Survey (Washington, D.C., 1937), 6.

summarized the conditions when he said that the reformatory had "gradually lost the distinguished characteristics of an adult reformatory and (had) become merely another penitentiary serving Western Oklahoma."

By 1943 the transformation must have been almost complete because Oklahoma officials attempted to lease the facility to the Navy for the incarceration of its general court-martial prisoners. After inspecting the institution the Navy estimated that the reformatory would need ½ to ½ of a million dollars worth of repairs before it met their needs and thus informed the state the Navy wanted "to use rehabilitation centers in preference to penal institutions" for their confinement needs. 19 All during this period of the late 1930s and early 1940s nothing was heard from the reformatory/rehabilitation proponents. The symbol of progressive correctional treatment had deteriorated to a mere secondary prison because of public and official apathy to the treatment goals of modern corrections. Nothing illustrates this point more clearly than the state's attempt to lease the reformatory to the Navy when the state penitentiary was constantly

¹⁸ Letters, Warden Mrs. G.A. Waters to Board of Public Affairs, dated generally for 1934-1935, Letter, Board of Public Affairs to Oklahoma Emergency Relief Administration, February 14, 1936, to Warden Fred Hunt, March 3, 1936, Letter, Federal Surplus Commodities Corporation to Warden Fred Hunt, September 8, 1936, State Archives Board of Public Affairs, General Correspondence; Quote from PIRA, The Prison Labor Problem in Oklahoma: A Survey, 4.

¹⁹Letters, Board of Public Affairs to Eighth Naval District, New Orleans, La., November 16, 1943, John T. Courtney, Navy Dept. to Board of Public Affairs December 7, 1943, Rear Admiral A.C. Bennett to Governor Robert S. Kerr, December 15, 1943, State Archives Board of Public Affairs, State Institutions.



suffering from overcrowding and had no rehabilitative training programs to offer the inmates.

In a bizarre twist Governor Robert S. Kerr (1943-1947) and his administration decided to go all the way and make the reformatory a maximum security institution. Only hardened criminals would be incarcerated at Granite and all young offenders and first-termers would be sent to the penitentiary. Powerful political groups in the Granite area, including the Chamber of Commerce, the Farmers Union, and an ad hoc citizens committee, opposed the change because of the expense of repairing the institution and developing industry and also because they feared for the security of their community. They informed the Governor that they did not want a "little Alcatraz" in their back yard. State officials ignored the opposition and made plans to transfer from the reformatory those inmates who "would benefit from the jobs and rehabilitation at the new McAlester." They claimed that McAlester could better implement a vocational training and rehabilitation program because there was no such program at Granite and the reformatory lent itself "to the care of other types (hard-core) of inmates we now have there."20

²⁰Letters, Granite Chamber of Commerce to Governor Robert S. Kerr, September 18, 1946, Farmers Union to Governor Robert S. Kerr, September 21, 1946, Citizens' Resolution to Governor Robert S. Kerr, November 11, 1946; Letter, Board of Public Affairs to Warden Claude E. Moore December 13, 1946; Quote from Letter, Board of Public Affairs to Senator Harry Worthington, December 30, 1946, State Archives Board of Public Affairs, State Institutions. This transformation of the institutions may have been an attempt by the penitentiary interests to save their crippled industries by calling them training programs. But no evidence could be found to either support or nullify this interpretation.

Senator Henry Worthington of Greer County where the reformatory was located opposed the change and in order to protect the integrity of the reformatory submitted the most progressive correctional reform bill ever witnessed in Oklahoma. He called for the incarceration at Granite of only those first-offenders between the ages of 16-25 whose sentence was under ten years. These elements were the same reforms proposed by Kate Barnard as part of the original reformatory bill in 1910. But Senator Worthington's bill also authorized the courts to sentence directly to the reformatory, the development of a complete elementary school with teachers possessing the same "qualifications of like instructors in the common schools of the state," and the creation of vocational schools with attendance on a voluntary basis.²¹ The bill was not passed but Governor Kerr's plan to make the institution the maximum security facility for the state was also not officially sanctioned and the reformatory continued to operate without a mission.

The fundamental weakness in the various attempts since 1910 to make the reformatory a reality was that the legislature refused to change the state's criminal code to mandate that youthful offenders be sent to the reformatory. All the attempts to make the institution a reformatory failed because the state was still operating under a 1909 law that authorized judges to commit persons convicted of crimes

In addition to the use of the farms and the tannery as training programs, Worthington wanted to see vocational schools developed for carpenters, electricians, and machinists. Letter and Draft of Bill, Senator Henry Worthington to Governor Robert S. Kerr, December 30, 1946; for a sample of the letters supporting the change see Letter, Lacey Warlick to Board of Public Affairs, September 28, 1946 State Archives Board of Public Affairs, State Institutions.

to either the penitentiary or the reformatory. The reformatory proponents wanted the courts to sentence younger offenders directly to Granite, but the penitentiary supporters amended the law to allow for the choice. This condition gave too much discretion to the judge and, in practice, made the reformatory a branch penitentiary. As late as 1949 only 100 of it 700 inmates had been sentenced directly to the reformatory during that fiscal year. The reformatory relied on transfers from the penitentiary for its inmate population and that transfer system was abused. As a result the penitentiary dominated the penal system of Oklahoma and impeded the various attempts to make the reformatory a reformatory. ²²

Ideally under the transfer system the penitentiary screened and classified the inmates according to their individual characteristics, the crime for which they were convicted, and their potential for rehabilitation. But transferring inmates became less of a classification scheme and more of a cleansing process to rid the penitentiary of troublesome inmates. During the early period of statehood the Board of Control of Penal Institutions authorized these transfers,

²²PIRA, The Prison Labor Problem in Oklahoma: A Survey, 5; Report Special Committee Appointed by the Senate to Investigate the Riot at the Reformatory, March 1949, 3 and Transcript of proceedings of Investigation of Oklahoma Reformatory, March, 1949, Vol. II, 5, State Archives Governor Turner Records, Reformatory File, hereafter cited as Report, 1949 and Transcript, 1949. The 1909 law said "It shall be the duty of the courts of Oklahoma to sentence all persons ...who shall be convicted of crime, and whose punishment is imprisonment, to the penitentiary at McAlester, or to the Oklahoma State Reformatory, at Granite," (emphasis added), Oklahoma Session Laws, 1909, 475. The law was amended in 1917 to read "...shall be by the trial judge sentenced to . . .the nearest state penitentiary," Oklahoma Session Laws, 1917, 391 and remained in effect until the Department of Corrections was established in 1967. Also see 57 Oklahoma Statutes, 1961, sec. 133.

later this function was adsorbed into the general administrative authority of the Board of Public Affairs, and finally the authority was delegated to the wardens with the approval of the Board. In practice the warden of the penitentiary transferred anybody he wished, but the reformatory had to get prior approval from the penitentiary. Abuse of this arbitrary and unilateral system culminated in a riot at the reformatory in 1949.

The riot occurred at the noon meal in the dining hall of the reformatory in January of 1949, when the inmates refused to return to their work stations. Some guards were beaten when they tried to get the inmates to leave and three guards were taken hostage. Other guards fired tear gas into the dining area and the riot ended as quickly as it had started. Three guards were injured and 38 inmates were placed in solitary confinement. ²⁴

The investigation of the riot found wide abuse of the transfer system. The penitentiary sent inmates to the reformatory in bunches of 50 or 60 at a time every three or four months with occasional increased numbers; at times as many as 200 inmates were shipped to Granite in one group. The reformatory claimed it did not know how the

²³Minutes, Board of Control of State Institutions, March 3, 1911, May 6 and May 21, 1913, State Archives Governor Cruce Records; Typescript, Order of Transfer, August 8, 1941, State Archives Board of Affairs, Correspondence.

Transcript, 1949, Vol. I, 22-23, 26, 28 and Vol. II, State Archives Governor Turner Records, Reformatory File Memorandum Rex Hawks, Investigator to Buck Cook, Commissioner of Charities and Correction, n.d. (1949), State Archives Department of Charities and Correction. The riot lasted less than two hours and the two most serious injuries included an inmate who was shot in the arm and a guard who lost a portion of one ear, Transcript, 1949, Vol. I, 2-3.

inmates were selected and that the records accompanying them were sketchy and included only the crime, the release date, and whether the inmate had been on parole. The penitentiary warden testified that the complete record followed the inmate, but this was later challenged by the state's parole officer who said that the Parole Board could not determine the background of the prisoners without getting the record from the originating institution. Each of the institutions started a new record for a transferred inmate. ²⁵

According to the penitentiary warden the criteria used for selection were age, home address, and prisoner requests, only one of those items (age) satisfied the reformatory's requirements. But he also admitted that the penitentiary transferred inmates to split up friendships, cliques, or troublemaking teams and that the number of previous prison terms was not considered. Another rationale given by the warden for the transfer system was that Granite had a capacity of 500 and that he attempted to keep the reformatory "population up to 500 as long as ours was overflowing." The investigators concluded that the penitentiary used the reformatory as a dumping ground for those inmates it did not want and that a recent rash of these transfers created tensions which erupted into the riot. 26

But the transfer system was only a contributing factor to the riot. The investigation found deplorable conditions, incompetent

Transcript, 1949, Vol. I, 5,9,11, Vol. II, 2,27, Report, 1949, 1,3,4, State Archives Governor Turner Records, Reformatory File.

²⁶Quote from Transcript, 1949 Vol. II, 3,8-9, Report, 1949, 3, State Archives Governor Turner Records, Reformatory File; Report, Rex Hawks, assistant commissioner to Buck Cook, Commissioner of Charities and Correction, March 3, 1949, State Archives Reformatory Records.

staff, brutality, and an inmate population that had nothing to lose by turning on their keeper and against each other. Tensions in the institution had been building for a long time. During the winter of 1945 the prisoners had "reared up" because they had not received any long underwear, heavy coats, or rain slickers, yet they were worked in the fields during the rain and snowstorms. After being promised underwear and no outside work during bad weather, the inmates returned to their work assignments. The catalyst for the 1949 riot was the food. The steward liked to experiment with the meals by cooking a large number of various food items together in one pot; the result was slop not fit to eat. Testimony taken by the investigators documented that for six-month stretches of time the inmates were fed only black-eyed peas morning, noon and night. In addition the number and severity of disciplinary actions had increased and this heightened the already strained relationship between the guards and the inmates.²⁷

The investigation heard testimony about the control problems created by the transfer system. Friction developed, witnesses said, between the new transfers and the regular prisoners because the new inmates tried to be "tough bigshots." But the real reason for the friction was that the new arrivals interferred with the on-going prisoner community which did not appreciate intruders who by their presence upset the social system. The penitentiary prisoners, on the

²⁷Report, Harvey Hawkins, assistant commissioner to Buck Cook, Commissioner of Charities and Correction, August 8, 1949, State Archives Department of Charities and Correction.

²⁸Report, 1949, 1, State Archives Governor Turner Records, Reformatory File.

other hand, did not wish to exchange their stable inmate culture in which they had learned to survive for an unknown social system which would require them to learn its requirements for survival and accommodation. The fact that the reformatory was smaller, had firmer discipline, and provided less options for work and amusement than the penitentiary added to their anxiety about transferring. Granite had no school program because the earlier attempt to make the facility "the Alcatraz of Oklahoma" defeated the purpose of the school and it closed. Granite also had no canteens, no inmate wages or bonuses, and the jobs were limited to maintenance, the leather factory, the farm, and "making small rocks out of big ones on the rock pile."
Neither institution was a pleasant place to spend a few years of a person's life, but the reformatory was clearly the worst of the two.²⁹

The Committee was extremely disturbed by the sorry state of affairs in the penal system and knew they had played a part in contributing to the situation. When asked by a Committee member where the blame lay for these conditions, Moss Peterson, the Vice President of the Board of Public Affairs said, "It starts and ends with you gentlemen of the Legislature" because they had "not paid enough attention to this prison problem." In 1947 the Legislature had received a list of recommendations from the Board of Public Affairs

Transcript, 1949, Vol. I, 8-9, 22, Vol. II, 11, Quote is at 22, State Archives Governor Turner Records, Reformatory File. Less than 150 inmates at the reformatory were working in the leather shop, dairy, and farm. The balance of the 300 to 400 inmates worked on maintenance, the rock pile, or were idle except at harvest time when 300 worked the fields, Report of Joint Committee to Investigate the Penitentiary, 1949, 1, State Archives Legislative Council Records, hereafter cited as Report Joint Committee, 1949.

to upgrade the facilities and implement educational programs. The Board had investigated the two institutions and the problems found there generated recommendations to make Granite a medium security facility with properly funded vocational training programs and to make the penitentiary the maximum institution with a new building for the incorrigibles. The legislature had not taken any action and one witness said that if these recommendations "had been carried out, there possibly would have been no trouble at the Oklahoma State Reformatory."

If it can ever be said that a prison riot was fortuitous, then the reformatory riot was certainly that. The timing was right for change. Governor Roy J. Turner (1947-1951), had been attempting to find solutions to the prison problems, but no one paid much attention to his Board's report in 1947. Now the committee reports urged the legislature to "rewrite most of the prison laws" and give the reformatory the facilities and support it needed to rehabilitate the first-term offenders. Specifically, the reports recommended sentencing laws which would require judges to send young offenders to the reformatory, the establishment of funded industries for state-use purposes, the creation of a state supported training school with qualified teachers, and finally, that the legislature study these reports in detail. The legislature did not rewrite the laws, but it did increase the funding. Governor Turner seized the opportunity for change and appointed the state's parole officer, Joe Harp, who had

³⁰ Transcript, 1949 Vol. II, 24 and Exhibit A, quote is from Report, 1949, 2, State Archives Governor Turner Records, Reformatory File.

testified before the investigating committee about the transfer abuses and inefficient records, as warden of the reformatory. This combination of planned and spontaneous actions began a new era for the reformatory. ³¹

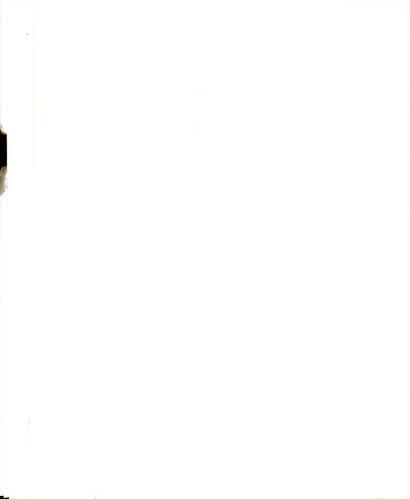
Harp had been granted complete authority to clean up the institution. He immediately set about this task by firing incompetent staff and hiring professional classification officers and qualified clerks. His main interest was to set up a viable educational program. He established an elementary school for grades one through eight, hired ten state certified teachers, and tried to associate the reformatory school with the Granite school district in order to receive state aid. The school district wanted no part of the plan, but because the warden already had contracted with the teachers, the Governor had to pay their salaries out of his contingency fund. Later, Harp was able to convince the state Board of Education that his school should be designated a special school district and receive state support and he succeeded in getting the legislature to appropriate \$125,000 for a school building and educational equipment. The school's success grew rapidly and in 1952 he reported that 40 illiterate boys had learned to read and write, 90 had completed high school, and 100 had learned carpentry. By 1954 the school had expanded to 12 grades with 12 instructors, eight of whom had master's degrees and by 1960 the instructional staff numbered 17. The Oklahoma reformatory had achieved a first in the field of correction when in 1954 its high

³¹Report, 1949, 5, State Archives Governor Turner Records, Reformatory File; quote from Report of Joint Committee, 1949, 2-3, State Archives Legislative Council Records.

school received state accreditation; many other states modeled their prison schools on Oklahoma's. 32

Even with the strong support of Governor Turner and the continued, though less intense, support of Governor Raymond D. Gary (1955-1959) the reforms were slow to develop and were not comprehensive because of the difficulty of changing individual perspectives and institutional functions. The old guards were accustomed to working in a punitive, maximum institution and with a high turnover and limited education the training of new methods was almost lost on the employees. Administrative problems were exacerbated by the daily routines which did not wait for training, e.g., new prisoners arriving, cotton to be picked, and plumbing to be fixed. Yet warden Harp ran a school from grades one through 12, hired a classification officer, and staffed a vocational rehabilitation unit with a psychologist and a full-time counselor. Though he recognized Oklahoma had a long way to go, in 1964 he said that "we started 15 years ago with an institution which was void of any rehabilitative, educational, or spiritual program." Now the reformatory claimed three firsts--two national and one state. The reformatory had the first fully accredited high school behind prison walls in the nation, the first racially integrated school in the state starting in 1949, and the first penal institution

³²Warden Harp also had a dormitory constructed inside the walls which housed the better students and served as an incentive to perform well in their studies. Oklahoma State Reformatory, <u>Biennial Report, 1950-1952</u>, 13-14; <u>O.S.R. Biennial Report, 1952-1954</u>, <u>3, 21; State Board of Public Affairs, <u>Biennial Report, 1951-1952</u>, Exhibit at 29; Letters, Governor Roy J. Turner to Mac Q. Williamson, Attorney General, September 23, 1949, State Archives Governor Turner Records, Reformatory File.</u>



in the U.S. to receive a federal grant to support a state rehabilitation program. Indeed the reformatory had traveled a long road from its meager and distorted beginning in 1910.³³

But the reformatory had a long way to go before its operation reached a level of balanced consistency expected from a state correctional institution. The academic program was its finest hour and was duly noted in 1958 by a citizens' committee that studied the penal system when it said that the academic program contributed to the "much healthier and relaxed climate among the inmates and personnel" than the committee found at the state penitentiary. But its report also said that the "shops were the dirtiest, dilapidated, most rundown buildings ever seen by the (penal) consultant" who had been hired to assist the committee. The years of neglect by the state had taken its toll. The committee concluded that the reformatory was a "junior prison and will remain such until there is some support from above to return it to its original purpose, a re-training center for the youthful offender." 34

^{330.}S.R. Biennial Report, 1950-1952, 5-6; quote from O.S.R. Biennial Report 1962-1964, 2-3; NCCD, Correction in Oklahoma: A Survey (1966), 36-37; Letter, Governor Raymond D. Gary to Warden Joe Harp, June 13, 1957, Oklahoma University Archives, Governor Raymond D. Gary Papers, Correspondence. Through the Office of Vocational Rehabilitation of the Department of Health, Education and Welare, the reformatory secured a three-year grant of \$51,000 per year to "conduct an experiment and research program to determine to what extent inmates... could profit from the services of the Vocational Rehabilitation Department." After the three-year period H.E.W. was to conduct a survey to evaluate the program at the reformatory. An attempt by me to locate a copy of the proposal and the evaluation report proved unsuccessful. See O.S.R. Biennial Report, 1962-1964, 36 for the discussion of the grant.

³⁴⁰klahoma Citizens Committee on Delinquency and Crime, Apathy or Action: A Survey (1958), 7.1-7.3.

A subsequent study of the penal system by a similar group in 1966 echoed these earlier findings about the impact of neglect on the physical plant and the positive change in the reformatory's environment. They also noted that the institution's written policies and rule books did not overemphasize security matters and made it clear that the institution's essential mission was rehabilitation and reformation rather than simply "locking, counting, and security." The reforms implemented by warden Harp were attributed correctly to his pragmatic perspective, his humane philosophy, and the administrative stability provided by his long tenure of 17 years. But the study group failed to recognize that that was the inherent problem of the Oklahoma penal system. They correctly concluded that warden Harp remained in office because of his administrative abilities, but his iob security was also a result of his political shrewdness because he had an uncanny ability for supporting the "right" candidate for governor who subsequently won election to that office. Harp's activity was a vital prerequisite to getting a job or maintaining one in the nemal system because the state had no tenure or merit system to protect penal employees from the political winds. More important was that the humane atmosphere and rehabilitative climate at the reformatory was not protected or supported by state law. The reforms implemented by warden Harp were unique to the individual. They were not part of the official policy of the state and because of this statutory void they could disappear as quickly as the incumbent warden. By 1966 the reformatory had moved significantly away from functioning as a prison and had moved closer to the rehabilitative model, but



Oklahoma had not yet institutionalized a role for its reformatory in the state's criminal justice process. 35

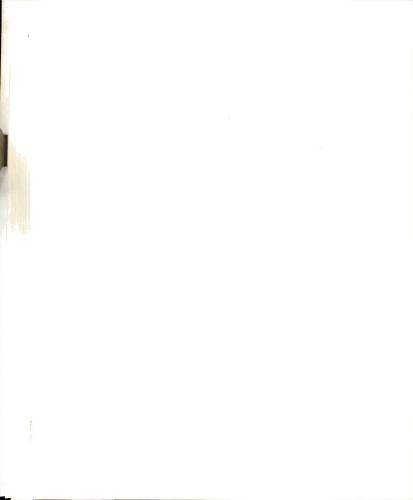
³⁵N.C.C.D., <u>Correction in Oklahoma</u>, 30-31, quote from 30. The officers handbook which was developed by warden Harp contained a chapter that discussed dignity, fairness, humility, and humaneness, see <u>Correction in Oklahoma</u>, 30. The political diplomacy of warden Harp was evident when he informed a gubernatorial candidate for 1955 that political tempers had cooled in the Granite area and noted three important local individuals who should be thanked for their support. See Letter, Warden Joe Harp to Senator Raymond Gary, July 30, 1954, Oklahoma University, Archives Governor Gary Papers, Correspondence.

CHAPTER IV

FROM CUSTODY TO CORRECTION: THE POLITICS OF PENAL REFORM

The construction of Oklahoma's penitentiary and reformatory in 1909 was the result of a combination of practical necessity and social reform. The new state recognized that it had to provide for the custody of convicted offenders and the social reformers helped move the state to action. The two institutions were prime examples of reform. But the problems associated with constructing two major penal institutions and developing a penal system in a new state taxed the ingenuity of state officials. They made mistakes, missed some opportunities but took advantage of others, and made their own rules as they went along because they lacked experience in this phase of state government. As a result the officials and the institutions were exposed to criticism from various political interests and social reform groups. The products of a reform movement thus became objects for reform.

The first assault came from the legislature in 1913 when it conducted a general review of all state departments. The legislature organized a general investigating committee of both houses and selected various sub-committees to study all the state's agencies, boards, and elected officials. The Senate began its investigation of the State Penitentiary because of charges of mismanagement and



corruption made by a disgruntled employee. The Senate resolution authorized the committee to investigate the misuse of state convicts, and materials in private construction projects, abuses of the parole and trusty systems, misappropriation of funds in building the prison, and any other irregularities. Their findings documented that the business man model was working well and that entrepreneurial state officials were making large personal profits from their official positions. 1

The most flagrant violation of public trust involved a profitable housing development near the penitentiary. Warden Robert W.

Dick had joined a group of private influential citizens from

McAlester for the purpose of land speculation. The group purchased

40 acres of land for a housing development north of the penitentiary

and just across the road from it. Warden then moved 32 abandoned

miners' houses from the state-owned coal mines to the new housing

project called Talawanda Heights. Using state convicts the warden

removed these homes, repaired, rebuilt, and erected them on new

foundations constructed with state materials. The total cost of the

land, 32 miners' houses, and eight additional homes moved from the

city of McAlester to the site was \$10,100. These 40 houses were

"disposed of, practically all of them to guards and employees at the

state penitentiary for the sum of \$28,520," a profit of \$18,420 for

the investment group. The unused half of the land was then sold to

Harlow's Weekly, February 15, 1913, 15-16; Report Senate Committee Investigation of the State Reformatory, 1913, 1-2, hereafter cited as Report Senate Committee, 1913, State Archives Legislature, Senate Committee Records.

a McAlester real estate firm for \$10,000. This firm's second major stockholder was warden Dick's son-in-law, H.L. Berry.²

In explaining his actions Dick testified that he needed more dirt for landfill at the penitentiary and that it was cheaper to get it from the Talawanda site, that he could not guarantee order and prevent outbreaks unless the guards were close by at all times, and finally, that he had no intention of requiring guards to live there when he purchased an interest in the Talawanda land as an investment. Later testimony by one of the co-buyers of the land, however, disputed Dick's pure motives. The investment group was not interested in the project until they learned that warden Dick was one of the interested parties. In fact, after learning of his interest, the co-buyers loaned the warden the money to purchase his share.³

Additional investigation by the committee disclosed that Dick inflated all contracts for the construction of the penitentiary and received financial kickbacks from the contractors. The contracts would include a commission for the "sales agent" of the prison. This

²Report Senate Committee, 1913, 3, 5-6; quote from 10-13, State Archives Legislature, Senate Committee Records. The other members of the investment group included A.U. Thomas, Cashier of American National Bank of McAlester, John E. Labosquet, coal operator, E.C. Million, Trusty; Dick "used his official position to coerce guards into purchasing property on Talawanda Heights at sums largely in excess of their (sic) true value" by refusing to employ new guards and discharging old guards who did not buy property. See Report Senate Committee, 1913, 6-7, 14, cited herein and Letter, C.W. Witcher, Guard, to Board of Prison Control, July 17, 1913, State Archives Board of Prison Control Records.

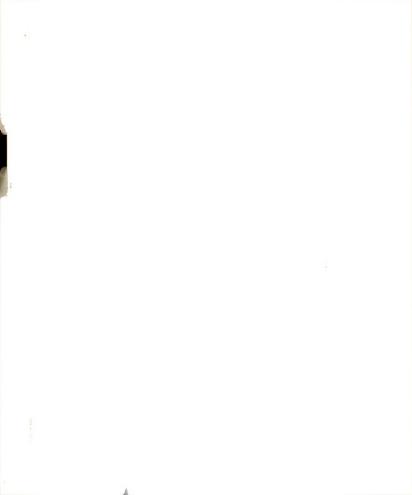
³Report Senate Committee, 1913, 4, 7, State Archives Legislature, Senate Committee Records. State convicts and state-owned machinery were used to level the housing sites and to excavate the streets and alleys in Talawanda.

agent was a close friend of Dick and he had to finalize all negotiations for construction with the warden. After figuring the amount of kickbacks the Senate committee concluded that the contractor owed the state \$12,815 from contract overcharges.⁴

The committee investigated the trusty system used by the penitentiary and found that at least one-third of the inmate population had total freedom outside the prison walls. Of the 1350 inmates at the institution, over 400 from all sentence categories had trusty status and were "permitted to go home and visit their families without being paroled or pardoned" and they were "allowed to run at large in civilian clothing" around McAlester. The committee estimated that over the past five years 116 inmates escaped and 57 were recaptured. Figuring the cost of recapturing the escaped prisoners at \$60 per man, the committee concluded that "an outlay of \$3,420 by reason of this system" had been an unnecessary burden on the taxpayers. Warden Dick defended his management of the trusty system and claimed that he saved the state over \$21,000 a year by not using 15 guards who would normally be needed if his trusty system was not operating. ⁵

Harlow's Weekly, February 8, 1913, 22; Report Senate Committee, 1913, 18-28, State Archives Legislature, Senate Committee Records. Warden Dick received a \$2,000 kickback from the Pauly Jail Company on a contract of \$11,357 for inmate cells. He also spent \$620 for "construction related expenses" within a ten-day period and was reimbursed by the state without providing receipts.

⁵Quotes from Report Senate Committee, 1913, 27, State Archives Legislature, Senate Committee Records; Dick claimed that without the trusty system he would have needed 15 additional guards at \$75 a month for the 300 current trusties for a yearly cost of \$22,500. He subtracted the \$1,250 cost for recapturing the 30 escapees during the previous year and figured that he saved the state taxpayer \$21,250. See Letter, Warden Robert Dick to Governor Lee Cruce, December 29, 1913, State Archives Governor Cruce Records, Administration File.



The evidence indicated that warden Dick was an unscrupulous man who violated the public trust, but he was not unique in the manipulation of his position for personal gain. The conditions under which he was forced to work and the political climate within which his corrupt activity occurred encouraged such behavior. He had received over 600 inmates within a 30-day period two years earlier and had to build the penitentiary from the ground up. Unlike his counterparts in other states he did not have the luxury of adapting to a slowly rising inmate population. His prison population was instant. Warden Dick was an entrepreneur in the strongest sense of the term. He cajoled, manipulated, begged, and borrowed to get the penitentiary in working order on a limited budget and during a time when not many state officials, including Dick, knew much about penology or prisons. 6

In addition, his superiors, including the Governor, supported his ethically and legally questionable endeavors. The State Board of Control had been informed by one of its members as early as August, 1911 that the warden was using convict labor and state materials on a private homesite development for personal gain, but no action was

⁶Wardens were appointed because of their political ties not because they were penologists. Dick was formerly the mayor of Ardmore, Oklahoma, Report of Joint Committee Investigating State Penitentiary, 1910, 10, State Archives Legislature, Joint Committee Records. For discussions of other states responding to slowly rising inmate populations see, Herman Lee Crow, A Political History of the Texas Penal System, 1829-1964 (Ph.D. Dissertation, University of Texas, 1964), particularly 26, 84-85 and George Thomson, The History of Penal Institutions in the Rocky Mountain West, 1846-1900 (Ph.D. Dissertation, University of Colorado, 1965) and Blake McKelvey, American Prisons: A Study in American Social History Prior to 1915 (Chicago: University of Chicago Press, 1936), 172-205.

taken. Even after the Senate committee's report was submitted to the legislature and it became public, the Board unanimously resolved that Dick "did not willfully violate any directions of the Board in reference to the working of prisoners on Talawanda Heights" and the Governor refused to follow the committe's recommendation that Dick be fired and that the Governor's responsibility for appointing the warden be vested in the Board of Prison Control. The committee, incensed that they would not be able to influence the appointment of a new warden, retaliated by having the Senate Appropriations Committee recommend that the Board of Public Affairs refuse all warrants and claims issued for or by warden Dick. The Board, whose members were also appointed by the Governor, ignored the suggestion. 7

The Governor, the legislature, and the Board of Public Affairs confirmed an attitude that was gaining momentum and soon became institutionalized in Oklahoma political circles. The penal system was a political plum to be cultivated because of the personal and political gain to be derived from its administration. The grandiose plans and philosophies for standards of penal administration proposed by the social reformers lost their applicability to the pragmatic politics of the new state of Oklahoma. The issues raised by the investigation, for example, did not revolve around penal philosophy; they were solely political and the nature of the corruption nurtured the political

⁷Harlow's Weekly, March 15, 1913, 1, and April 19, 1913, 10; quote from Minutes Board of Prison Control, August 30, 1911 and January 15, 1913 and May 6, 1913, Letter, Governor Lee Cruce to Capt. Everet G. Fry, December 3, 1913, State Archives Governor Cruce Records, Administration Files.

scandal. As a result of this experience Dick recognized the vulnerability of the warden's position which relied solely on the Governor for support and shortly after the investigation he submitted a bill to be placed on the statewide primary ballot. The bill provided for the election of the warden on a non-partisan ticket, authorization of an indeterminate sentence law, classification and segregation of prisoners, and the employment of convicts. The bill never reached the people, but Dick's assessment of the political vulnerability of the emerging penal system was accurate. 8

Meanwhile the 1913 House investigation of the reformatory at Granite concentrated on charges made by the ex-chaplain. He claimed that Warden Clyde A. Reed was a drunkard and that the deputy warden was a profane, unchristian man. But the real issue was that, because of a declining prisoner population, the warden had to use every available inmate including those enrolled in the chaplain's school in order to complete the construction of the reformatory buildings. The chaplain resented the interference and made his charges to the House committee. 9

In this inquiry the political overtones were less subtle and more typical of the struggle during this period for political control of state operations. The House conducted a cursory investigation and

⁸Harlow's Weekly, January 31, 1914, 4-5; The Governor had received many letters from ex-inmates praising the warden for his humanitarianism and efficient management. See generally letters dated late 1913 in State Archives Governor Cruce Records, Correspondence.

⁹Transcript of Evidence in the Matter of the Investigation of the Oklahoma State Reformatory, 1913, 33-34, 354, 414, State Archives Department of Charities and Correction, hereafter cited as C & C Transcript of Evidence, 1913.

heard testimony from less than a dozen people in Oklahoma City. The committee found that "instead of utilizing this institution as a reformatory within the meaning and purview of the statute creating it. . . the institution has been and is being used as a penitentiary," sodomy and other sexual abuses occurred regularly, and that the Board of Prison Control, chaired by the Governor, had neglected its responsibility as overseer of the penal system and that none of its members had ever visited the reformatory even though they had received information about the deplorable conditions. The committee blamed these conditions on the incompetency, neglect of duty, and the unaccountable indifference on the part of the Board of Prison Control," the warden and deputy warden, and the Department of Charities and Correction. The legislature was conspicuous by its absence from the list! The committee ended its report with a dramatic projection about the longrange impact of this neglect:

In the opinion of this committee, the historian of a hundred years hence, delving into the archives of the infancy of the brightest star in the banner of our civilized nation, when he reads the Journal of the House of Representatives containing this report will wonder in astonishment that instead of an institution called a reformatory at Granite, there was in its place an American Dead Sea. 10

¹⁰ Journal of the House of Representatives, Extraordinary Session of the Fourth Legislature, 1913, 367-373, hereafter cited as House Journal, 19--, quotes from 367 and 372-373 in House Journal. Rep. G.L. Wilson of Mangum in Greer County (where the reformatory was located) and a member of the House Committee refused to sign the report because he thought it unfairly blamed the warden and the Governor when the fault clearly rested with the second legislature's failure to pass the reformatory bill which he had written with Kate Barnard. Maxey and the penitentiary group had emasculated it through amendments. See House Journal, 378, Report Re: Investigation of Oklahoma State Reformatory, 1913, n.p., hereafter cited as C & C Investigation Report, 1913, n.p. and see C & C Transcript of Evidence, 1913, 226, 743-746.

Rhetoric aside the House report was a direct attack on the Governor and the Commissioner of Charities and Correction. The chairman of the committee, J.H. Maxey, who was also the Speaker of the House, was not a strong supporter of Governor Lee Cruce (1913-1917) and was still smarting from the Governor's refusal to completely abandon the reformatory idea. Maxey, a strong supporter of the penitentiary, feared that the reformatory would siphon funds from the penitentiary building project. Maxey also had an intense dislike for Kate Barnard, the Commissioner of Charities and Correction, because of her strong advocacy of the reformatory and because of her department's efforts to protect the land claims of orphaned Indian children. This latter activity directly affected the income of many private attorneys throughout the state who had made a lucrative business out of the kickbacks they received for selling the land below value and the excessive fees charged to the young Indians. Maxey was responding to the pressure of these attorneys in his desire to see the department crippled. 11

The attack on the Department of Charities and Correction was direct. According to the report, the failure of the department to call attention to the conditions "provided an unanswerable argument against the necessity of such a department." But Maxey knew that an alleged failure to perform would not be sufficient to convince his colleagues to cut the budget of the popular department. The

Harlow's Weekly, February 15, 1913, 15-16 and February 22, 1913, 6; Julia A. Short, <u>Kate Barnard: Liberated Woman</u> (Norman: Masters Thesis, University of Oklahoma, 1972), 146-148, 194-208, 210-214; <u>C & C Report, 1912</u>, 6, 124-128, Statement of Kate Barnard, n.d., State Archives Charities and Correction, Administration Files.

department's own budgetary records, however, provided him with that additional ammunition. The average travel expense for departments requiring statewide travel was \$75 a month, but the Charities and Correction Department spent \$225 a month. The committee documented that the disproportionate expense resulted from out-of-state travel to conventions and extended visits to prisons and charitable institutions in other states. It also found that Commissioner Barnard spent a total of 14 months during 1911 and 1912 convalescing outside the state because of her increasingly poor health, but remained on the payrol1. 12

The political nature of the committee's attacks was reflected further through its recommendations. The report did not discuss the various philosophies of penology then in vogue or the administration of the reformatory with regard to improving conditions. It criticized the Governor by suggesting legislation that would require a personal visit to the institution every 90 days by at least one member of the Board of Prison Control. But the Department of Charities and Correction received the full weight of the report. The committee recommended that the department's appropriation be cut to eliminate all staff except that of the Commissioner and one secretary, to curtail all travel except that which was necessary within the state, and to transfer most of its functions to the local level. In other words, the office should be stripped of its responsibilities by limiting its appropriation. The committee's objective was to control a state agency

¹² Harlow's Weekly, March 8, 1913, 24; House Journal, 1913, 1081-1084.

that accepted literally its constitutional mandate and in the process interfered with the economic interests of local attorneys. 13

But such a critical attack on the integrity of the Governor and Commissioner did not go unchallenged. The Governor requested a second investigation of the reformatory and asked the Department of Charities and Correction to conduct the inquiry because it had the power "to compel the attendance of witnesses." The department responded with gusto. The Acting Commissioner, 19 year old Estell Blair, began the investigation by responding to the House reports. 14 She said she "ignored the verdict of an ignorant, unprincipled, and biased committee made up of political upstarts and pettyfogging attorneys." She called them "brazen-faced muckrakers" who believed "garbled and one-sided evidence" and who were shocked at their findings because of their naivete about prisons. 15 The counter-attack had begun.

¹³ House Journal, 1913, 373, 1077-1079, 1082; Maxey's committee made laudatory statements about the penitentiary after a brief visit even though it was generally known that the Senate investigation was discovering widespread corruption. See House Journal, 1913, 1077-1079. Maxey had tried to get Commissioner Barnard to hire one of his friends as the department's attorney after J.H. Stolper had resigned. In return, Maxey promised her that the legislature would cease its opposition to the department and would grant it a liberal appropriation. Barnard refused. See Harlow's Weekly, June 10, 1913, 9.

¹⁴ Quote from Letter, Governor Lee Cruce to Kate Barnard, April 18, 1913, reprinted in C & C Investigation Report, 1913, frontpiece, State Archives Department of Charities and Correction Records. The Commissioner, Kate Barnard, was absent from the state, but the investigation had been approved by her and was later submitted to the Governor under her signature. Some legislators and the press indicated concern that the young Acting Commissioner should not hear the "ugly Testimony" and feared that her presence would inhibit the inmates' willingness to divulge information about reformatory life. But with the aid of the C & C attorney she conducted a balanced and complete hearing. See Harlow's Weekly, May 5, 1913, 8-9.

¹⁵C & C Investigation Report, 1913, n.p., State Archives Department of Charities and Correction Records.



The Commissioner ordered that open hearings be held in Oklahoma City and at the reformatory at Granite; prisoners were to be interviewed at the "institution out of the hearing of persons in authority" of the reformatory. This latter procedure was not followed, however, because warden Clyde A. Reed and his attorney were present at all times and took an active part in the questioning of witnesses.

Nevertheless, the final report was far from a whitewash of the conditions at the reformatory. 16

The Commissioner's report to the Governor substantiated most of the findings of the House, but in more detail. The investigation confirmed the penitentiary atmosphere of the Granite institution, the overcrowding, the sexual perversion, and the lack of education and training programs for the inmates. In regard to industrial training the Commissioner noted that prisoners worked for "what it produces or effects, not with the view of giving thorough instruction" to make the prisoners proficient in some line of work. 17

The Commissioner treated some of the House charges in a less critical light even though her investigation substantiated the earlier findings. The inmates engaged in acts of sodomy but it was "not

¹⁶ The Governor had requested that the hearing be open. The hearing was conducted by Estell Blair as Acting Commissioner with the C & C attorney, Ross E. Lockridge, serving as the primary questioner. The investigation ran from April 23-29, 1913 in Oklahoma City and May 1-3 in Granite. The Commissioner interviewed 116 witnesses including 100 inmates and produced over 1800 typed pages of testimony. The full testimony is in the State Archives Department of Charities and Correction Records. Quote is from Introduction to the Report.

¹⁷C & C Investigation Report, 1913, n.p., State Archives Department of Charities and Correction Records.

greater than found in institutions of this kind." The charges of drunkenness and incompetency against the warden "were not sustained." But he was chastised for contracting "prisoners out to the farmers in Greer County to pick cotton" in violation of the Oklahoma Constitution which prohibited the contracting of convict labor. The report claimed that the general health of the inmates was good and that the food was of sufficient quantity and quality. ¹⁸

The recommendations of the Commissioner did not focus on the specific problems found in her investigation. They were broad prescriptions for a better reformatory that included the construction of a modern institution with one-man cells, development of seven trade schools with each one headed by an instructor not a foreman, the passage of an indeterminate sentence law, and the creation of a merit system for good behavior. All these recommendations had been presented to the legislature the year before, but most of them failed to survive the amendment process. Governor Cruce had also rejected the idea of single cells and this decision had brought the construction of the permanent buildings to a halt. Though the Commissioner soft-pedaled these difficulties, she did use the report as an opportunity to present these reform ideas once again to the state's elected officials. 19

The penal system at this time had no central administrative control as each institution was an independent entity. The Commissioner's report criticized the Board of Prison Control for not taking

¹⁸ Ibid., and C & C Transcript of Evidence, 1913, 14, 58-83, 262-265, 565, 341, 1267, State Archives Department of Charities and Correction Record; Oklahoma Constitution, Art. 23, sec. 2.

¹⁹C & C Investigation Report, 1913, n.p., State Archives Department of Charities and Correction Records.

an active interest in the reformatory. The Governor had admitted during his testimony that it did not meet regularly or pay much attention to the daily operation of the penal institutions. But Attorney General West testified that the Board was created in 1908 for the single purpose of legally transferring prisoners from the Kansas penitentiary to McAlester and not for the purpose of supervising the penal institutions. Oklahoma did not want to have political interference in the operation of the prisons like they found in Kansas and which they attributed to the politics of the Kansas Prison Board. In Oklahoma the Governor appointed the warden and the warden appointed his staff, made and enforced the rules and regulations, and otherwise ran the prison. The Board of Prison Control had little responsibility in this area. In 1915 the legislature gave the responsibility of supervising the management of the prisons to the Board of Public Affairs and abolished the Board of Prison Control. These changes did not provide a centralized administration of the penal system, however, nor did it minimize political interference in the prisons' daily operations. Each warden continued to operate independently and respond positively to the political pressures of the Governor, the Board of Public Affairs, and the legislators. 20

The problems of penal administration in Oklahoma were not due simply to a poorly designed organizational structure, but to the nature of the political system which excluded certain classes of citizens from having equal access to political decision makers. The

Harlow's Weekly, April 17, 1923, 8; C & C Transcript of Evidence, 1913, 23, 42-44, and C & C Investigation Report, 1913, n.p., State Archives Department of Charities and Correction Records.

inmates were from the lower classes of Oklahoma society and had no political power to protect their interests. The Commissioner attributed this political impotence to the disparities in the social structure:

If the sons of the rich and well-to-do citizens are not found in large numbers within the reformatory walls it is because they are. . .shielded from the consequences of their petty crimes by family influence.²¹

The relationship between political power and social structure was illustrated by the Governor's testimony concerning the allocation of his time and his prioritization of public policy issues. He testified that even though he was Chairman of the Board of Prison Control he had "never been at the Granite reformatory" nor had he "visited the penitentiary" because he was too busy. As Governor he sat on numerous boards including the School Land Board, the Board of Public Affairs, the Banking Board, and the Board of Equalization. In a dramatic series of questions during the hearing warden Reed's attorney, Warren K. Snyder, illustrated the impact of political power on decision making. After establishing that the Governor chaired the Equalization Board which assessed public utilities and equalized taxes among counties, the following interaction occurred:

Snyder: Were you not in session (as the Board of Equalization in 1912). . .for about three months practically every day?

Gov. Cruce: Pretty near.

Snyder: Isn't it a fact that practically every public service corporation in the state, the oil companies, pipe line companies, gas companies, railroads and electric

²¹C & C Investigation Report, 1913, n.p., State Archives Department of Charities and Correction Records.

railway companies, etc., were being heard fully by the Board.

Gov. Cruce: Yes sir.

The questioning was stopped at this point by the Charities and Correction attorney. Snyder had showed that the problems of the corporations were heard consistently, but the problems of the state's prisoners were not. 22

Given the atmosphere of political confrontation it was unlikely that any significant reforms would result from the two investigations. Senator W.A. Briggs, a criminal attorney who had an interest in criminology, was asked by the Senate to balance the Charities and Correction and House reports. He authored a bill strengthening the Board of Prison Control in an attempt to provide the penal system with coordinated direction. The bill became law, but it was declared unconstitutional because it gave the Board pardon authority which the Constitution reserved to the Governor. ²³

Legislative investigations of the penal system were not always self-initiated nor did they always result in political attacks on the current administration. After numerous reports circulated in the press about constant fighting among inmates, free availability of weapons, and a possible murder at the reformatory, the House appointed a committee in 1929 to investigate the situation. The report echoed the findings of a decade earlier. Sex perversion was commonplace. Knives were readily available and used "with sometimes serious, and

²²C & C Investigation Report, 1913, n.p., and quotes from C & C Transcript of Evidence, 1913, 20, 27-28, State Archives Department of Charities and Correction Records.

²³Harlow's Weekly, July 19, 1913, 10-11.

even fatal wounds resulting therefrom." The report claimed that the papers had exaggerated the incidents and "the number of instances in which these matters occur is not unusual to such an institution." The committee admitted that the reformatory was "at this time, in fact, a junior penitentiary instead of a reformatory." It had 62 second-term inmates, eight third-termers, and 25 inmates classifed as vicious who "have no place in a reformatory." There were no quality education programs because the state did not provide teachers, though 175 inmates studied academic work up to the eighth grade under the direction of other inmates. Vocational education was limited to crushing rock or working the farm. ²⁴

This committee recognized the distinct role and function of a reformatory and was more sympathetic to its needs as can be seen in its recommendation. The first suggestion was to remove all second and third-termers and the hardened first-termers. This was followed by recommendations to expand the educational program, hire outside teachers, and require school attendance through the eighth grade; develop a library equivalent to that found in an eighth grade school; provide better facilities and more equipment for the vocational training unit; segregate those inmates under 17; establish a parole system to make the institution a "reformatory in fact as well as in name." This was the first legislative report that focused attention on the needs

Report House Committee Investigation of the State Reformatory, 1929 in House Journal First Extraordinary Session, 1929, 1512-1513, 1579-1580, quotes from 1931-1933. Hereafter cited as Report in House Journal, 1929.

²⁵Report in House Journal, 1929, 1933-1935.

of the inmate. Very little resulted from the report, however, and the reformatory continued to function as an inefficient and ineffective penitentiary.

One interesting and significant outcome of this investigation was that it shed light on how another portion of the criminal justice system interacted with the reformatory. The county prosecutor did not enter the institution on official business unless requested by the warden. Many violent assaults occurred behind the walls, but regardless of the number of complaints the prosecutor may have received he did not violate the domain of the warden. Under these conditions the inmates involved in assaults either as perpetrators or victims were at the mercy of the prison administration. The only time the warden requested his help was if the incident was serious and only if the prison physician indicated it was serious. Serious was defined as a homicide or an injury "which might result in death." One other exception that resulted in a call to the prosecutor was if a prison employee was a victim of a serious assault. ²⁶

Generally Oklahoma Governors did not devote much of their time to studying crime related issues, but Governor William "Alfalfa Bill" Murray (1931-1935) was an exception. Murray read widely covering such topics as social and political philsophy, economics, and criminology. His views on crime and criminal rehabilitation were paradoxical; he was at once progressive and sophisticated in his

²⁶Transcript of testimony taken by House Committee Investigating State Reformatory at Granite, June 23, 1929, 143-148, State Archives Legislature, House Committee Records, Hereafter cited as Transcript House Committee, 1929.



analysis of crime related problems as well as reactionary and crude. He believed that the criminal suffered from a genetic defect: "The criminal is made in childhood, indeed begins before birth" (original emphasis), and thus he supported sterilization laws. But he also attributed a large portion of the crime problem to the environment. particularly the urban environment. He championed corporal punishment arguing that improperly trained youths could not be reached except through "fear or dread of pain." But he also supported programs to retrain the criminals, issued quick paroles to lessen the inmate's opportunity to adjust to prison life, and encouraged resettlement of ex-inmates in new communities to avoid the negative impact of labeling and social isolation which forced them to associate with their former partners-in-crime. Murray's approach to crime problems reflected a grasp of the biological theories of European criminologists and a familiarity with the works of the turn-of-the-century American criminologists. 27

Governor Murray's major contribution to Oklahoma's penology was the construction of a sub-penitentiary near Atoka, Oklahoma about 50 miles south of the penitentiary. The objective was to lessen the

²⁷ Governor's Message on the Subject of Crime, 1933, 5-9, quotes from 5-6; Governor's Message, 1935, 4; Keith Bryant, Jr., Alfalfa Bill Murray (Norman, Oklahoma: University of Oklahoma Press, 1968), 246; Governor's Message on the Subject of Crime, 1933, 8-9. For examples of European Criminological theorists of the time see Cesare Lombroso, Crime: Its Causes and Remedies, Trans. by Henry P. Horton (Boston: Little, Brown, and Co., 1912), Enrico Ferri, Criminal Sociology, Trans. by Joseph I. Kelley and John Lisle (New York: Agathon Press Reprint of 1917 edition, 1967). For American theorists during early 1900s see John L. Gillin, Criminology and Penology (New York: Century Publishers, 1926) and Clifford Shaw, et al., Delinquency Area (Chicago: University of Chicago Press, 1929).

overcrowding at the penitentiary by separating the first-termers and the tubercular inmates from the rest of the inmate population. The new prison was also cheaper than building an addition to the penitentiary. Opposition to the sub-penitentiary arose "from every imaginable quarter." The city of McAlester opposed it because the city would lose the benefits of an increased payroll if the new building was not added to the penitentiary and it would also lose the increased revenue from the sale of additional water to the institution. The packing plants and supply houses also raised their opposition through the legislature. Their motive was clear; the penitentiary purchased on the open market over \$65,000 worth of meat a year, but the 8,000 acres at the new prison could handle enough livestock to supply all the prisons. A compromise was reached and the state purchased a smaller parcel of land near Atoka and Stringtown for the new prison. Murray publicly blamed the meat packers and supply houses for the inability of the state's penal institutions to be self-sustaining.²⁸

Meanwhile, the broader problems of Oklahoma's penal system continued unabated. A study made in 1937 by the federal government at the request of Governor Ernest W. Marland (1935-1939) issued the same recommendations that Kate Barnard had urged two decades earlier. A reception and classification system was desperately needed and medical, educational, and vocational programs were non-existent, the report said. A system of probation and parole was absolutely necessary if

²⁸ Governor's Message on the Subject of Crime, 1933, 12, 19-20; Governor's Message, 1935, 41-42; James Ralph Scales, Political History of Oklahoma, 1907-1949 (University of Oklahoma, Ph.D. Dissertation, 1949), 354; Oklahoma Session Laws, 1933, 189-190.

Oklahoma was to reach a modern level of correctional service and decrease its inmate population. But nothing happened and the state continued to ignore its responsibility to the convicts and the public.²⁹

Around this time the initiative for studying the state's penal problems shifted from the legislature to the executive. From the late 1930s executive departments began to take an increasingly aggressive role in the administration of the penal system and in developing long-range reform programs. Not only did the Governors rely more heavily on these executive departments for advice, but they in turn looked to national penal experts for help in improving Oklahoma's penal system.

In 1939 the State Planning Board issued a detailed report outlining a ten-year plan for the improvement of the penal system. This report ended their five-year effort to document the actual operation of the penal system and make recommended changes. The report was detailed in its analysis and its recommendations were sweeping. Oklahoma needed to completely restructure the penal system by creating a five-member board appointed by the Governor on staggered terms with the authority to develop broad policies for the penal system. The day-to-day operations would be vested in an executive director who would appoint division heads and the institutional administrators. The purpose of this change was to eliminate the complete turnover of administrative personnel every four years which played havoc with any substantive penal policy. Though the Planning Board stopped short of

United States Prison Industries Reorganization Administration, The Prison Labor Problem in Oklahoma: A Survey (Washington, D.C., 1937), I-III, 3.

recommending a state department of corrections the combined appointed Board and the executive director were to function as a centralized administrative unit. 30

The Planning Board recommended that the reformatory at Granite be changed to a maximum institution for "470 of the worst criminals" and that its name be changed to the "Western Oklahoma State Penitentiary." The Planners correctly surmised that:

This institution has never functioned as a real reformatory even though it has borne that name since its establishment in 1909. This plan seeks to change its name to fit its function.31

The planners must have been familiar with the political struggle to get the reformatory built in 1909. They now saw it necessary to acquiesce to the two-penitentiary concept as a compromise to achieve their objective or restructuring and streamlining the penal system. This decision was influenced by the availability of the Stringtown facility for use as a minimum security institution for the first-termers and non-violent offenders. The McAlester prison, the largest of the three facilities, could then be used to fulfill the vocational training needs of the penal system. This plan was a cautious and honest attempt to restructure the penal system, but by placing the McAlester penitentiary at the hub of the new structure it would still dominate.

³⁰ Oklahoma State Planning Board, A Ten-Year Plan for the State Penal and Correctional System in Oklahoma (Oklahoma City, 1939), 3-6, 21. The Planning Board had used consultants from other states and the Federal Bureau of Prisons to assist in developing the plan.

³¹ Oklahoma Planning Board, <u>Ten-Year Plan</u>, 21.



Though the plan was rational and included the adaptation of progressive correctional methods and procedures to the Oklahoma situation, there were too many unresolved political questions in the plan for it to have immediate results. The Governors would lose the power of direct appointment of the wardens and the reclassification of the reformatory to a maximum institution raised old wounds between the eastern and western legislators. The emphasis on individualized treatment of offenders and the creation of a classification process clashed with the tradition of confinement for production so ingrained in Oklahoma's prisons. Public apathy and political stalemate on these issues won out again.

The plan called for administrative restructuring, but its primary value to penal reformers was its focus on individualized treatment. The plan urged the state to develop a reception and classification system to study each offender and recommend institutional assignments and treatment. This reform effort aimed directly at upgrading Oklahoma's penal system to one that individualized its treatment program. The planner's said that:

The heart of the entire plan lies in this proposal. Classification and proper segregation are the first and vital steps in establishing a system of personal rehabilitation. 32

The classification issue was inexorably tied with that most sensitive issue in government, political corruption. An efficient classification system would place constraints on the trusty system in use at the prisons. Between 1931-1933 over 9,500 inmates were processed

³²⁰klahoma Planning Board, Ten-Year Plan, 17.

by the state penitentiary and over 40 percent (4,030) "of all the population served their time outside the walls" in trusty status. Most of these inmates worked on road gangs, the farms, or various maintenance functions on the prison grounds. But the selection of inmates worthy of the grade of trusty was arbitrary and systematically abused by inmates, prison administrators, and state officials. Trusties were sent to other state institutions such as the boys homes, orphanages, and state hospitals to work as clerks, kitchen help, and manual laborers. Others served as domestic servants for prison administrators and various other state officials around the state. These assignments were prized heavily by inmates and the competition was severe. Political influence, graft, and favors determined whether you remained idle behind the walls or worked in a more pleasing environment. 33

Other benefits were derived from the lack of criteria for trusty selection. A woman who was a friend of a member of the Board of Public Affairs was granted her request to have Thanksgiving dinner at a McAlester restaurant with her inmate husband. In a letter to the warden, the Chairman of the Board wrote, "I think it well to grant him this privilege, making him a trusty for a few hours in order that he might be with his wife and children and enjoy a Thanksgiving meal with them." 34

Quote from <u>O.S.P. Triennial Report</u>, <u>1931-1933</u>, 28-29; Letters, Warden R.B. Conner to Board of Public Affairs, July 6, 1944, Board to Conner, July 7, 1944, Conner to Board, August 14, 1944, Conner to Board, February 4, 1946, Board to Conner, September 23, 1944, State Archives Board of Public Affairs, Correspondence O.S.P.

³⁴Letter, Board of Public Affairs to Warden Jess Dunn, November 26, 1940. State Archives Board of Public Affairs, Correspondence O.S.P.

A factor that influenced considerably whether an inmate became a trusty was his value to the operation of the prison and its industries. A prisoner received a recommendation from the warden because he was needed to fire the brick factory at night as "he was the only man. . .that (could) handle this particular job." Another prisoner who was serving a 50 year sentence along with a consecutive life sentence for armed robbery received trusty status because he was "a competent and dependable clerk. . .in the industries department" and the farm foreman wanted him to reorganize the farm records. The trusty system was not used as a reward for good behavior; it was critical to the operation of the prisons. When inmate populations decreased, trusties would be recalled from their assignments around the state in order to keep the daily routine of the prison running smoothly. 35

The classification recommendation did not result in any new legislation for the hiring of full-time psychiatrists and care workers, but concerned penal administrators used the report to support their recommendations in this area. In 1942 the penitentiary warden recommended that a classification system be implemented to segregate the various classes of prisoners and to aid in designing individualized treatment plans. He said that the classification system would promote better morale among inmates and staff by decreasing the arbitrariness of job assignments and increasing the operational stability of the institution. As a result escapes would decrease and production

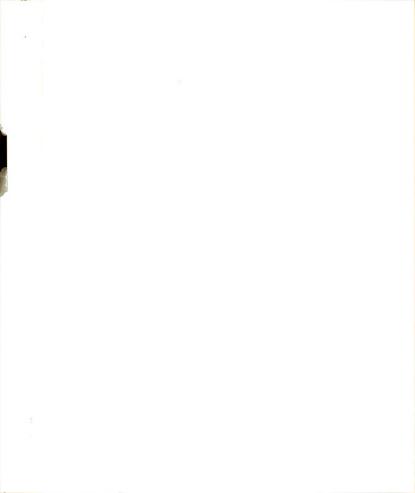
³⁵Letters, R.B. Conner, Deputy Warden to Board of Public Affairs, (competent clerk quote), September 6, 1943, Board to Conner, September 23, 1944, Board to Conner, July 8, 1944, and July 12, 1945, Conner to Board, (brick job quote), September 28, 1945, State Archives Board of Public Affairs, Correspondence O.S.P.



efficiency would increase. But no full-time classification staff was authorized and the institutions worked with make-shift systems that were ineffective. Indiscriminate movement of inmates from industry to industry destroyed the effectiveness of the classification procedure and the staffing of this function with inmate personnel subjected it to inmate abuse for preferential assignments. Without support from the legislature for full-time trained staff and new facilities for reception and diagnostic activities, classification of prisoners simply was not a reality in Oklahoma. ³⁶

During the administration of Governor Robert S. Kerr (1943-1947), the first native-born governor, the momentum for reform continued as the penal system came under intense scrutiny from the executive branch. In 1943 the Board of Public Affairs looked to the federal government for help and requested a study of the penitentiary by the United States Prison Industries Board. Lewis E. Lawes, a seasoned warden who was serving as the business consultant for the Prison Industries Board, made the inspection and with his trained eye for prison detail submitted a blunt report to Oklahoma officials. The prison was confinement and work oriented, he said, when it should focus on work and rehabilitation. He found the administrative process non-existent with blurred lines of authority, multiple department heads, and no system of staff meetings. The buildings had been neglected to

³⁶O.S.P. Annual Report, 1942, 32; and 1952, 9; for later conditions see Testimony Investigation of the Oklahoma State Penitentiary, Feburary 4-5, 1955, 80-81, State Archives Legislature, House Committee Records, hereafter cited as Testimony, 1955; Letter Charles R. Rayburn to Warden R.E. Conners, February 6, 1946, State Archives Board of Public Affairs, Correspondence O.S.P.



"show low maintenance costs" and the guards were incompetent and politically motivated because of the patronage systems. "In one respect the inmates have a higher code than many of the employed personnel in that they don't 'snitch' or carry tales intended to injure the status of their fellow workers." He recommended the same litany of changes heard since the beginning of statehood but was more direct: eliminate patronage and train and uniform the guards; reorganize the administration, eliminate the use of inmates as office clerks, and clean the buildings; provide a full-time physician, a qualified steward and a cafeteria for hot meals, and daily recreation other than gambling; place the canteen under a bonded civilian and have it audited regularly; improve the classification system and segregate sexual perverts and tuberculosis patients. 37

The Commissioner of Charities and Correction, Mabel Bassett, agreed fully with these recommendations and indicated in a letter to the Governor that these problems had been well known for years and had been reported by her office many times. She also informed the Governor that the state consistently violated its own laws by not segregating inmates with infectious diseases, allowing untrained inmate hospital

Typescript "Laws Study," and Letter Lewis E. Lawes to Board of Public Affairs, November 15, 1943, State Archives Board of Public Affairs, Correspondence O.S.P.; one year later the Board of Public Affairs contracted the management consulting firm of George S. May Company (Chicago) for a management study of the penitentiary. The report substantiated Lawes' findings, but concentrated on broad administrative changes. Letter, M.B. Sand, G.S. May Company to Board of Public Affairs, January 12, 1944, State Archives Board of Public Affairs, Correspondence O.S.P. Lewis S. Lawes was an internationally respected penal administrator who was known for his tough but fair administration of Sing Sing Prison. For Lawes' philosophy of penology see his Twenty Thousand Years in Sing Sing (New York: Ray Long and Richard R. Smith, Inc., 1932).



attendants to perform surgery, and accepting juveniles sentenced to the penitentiary in violation of the juvenile statutes. With this kind of record it is not surprising that these recommendations were not implemented, but the rapid-fire investigations and the prestige of the outside experts began to have their effect. 38

During the next three years, under the guidance of Governor Kerr the Board of Public Affairs instituted a number of policy changes aimed at stabilizing the penitentiary and improving its administration. A new cell house was constructed to house the increasing prison population. Plans were made to purchase a surplus federal military building adjacent to the Stringtown facility for a tuberculosis hospital for prisoners. The Board also issued new rules for the operation of the penitentiary. Some of the rules came directly from the past studies, others came from employee suggestions. Most of the new rules involved tighter controls over the inmate population such as limiting visiting hours to one day, restricting sight-seeing tours to educational groups, and requiring the warden's permission to leave state property. Because of abuses involving the stealing of food by inmates and staff for resale to a local supply house, the mess hall was closed from 8 PM to 4 AM. Guards were ordered to wear uniforms and inmates were banned from working in the offices as clerks. feeble attempt to deal with abuses of the trusty system, the Board restricted trusty movement to and from the institution in order to limit interaction with the inmates inside the walls. It also ordered

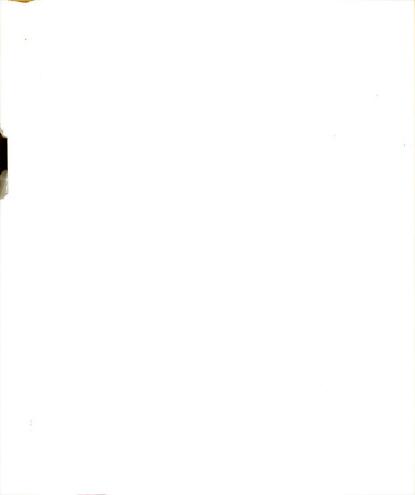
³⁸Letter, Mabel Bassett to Governor Robert S. Kerr, November 17, 1943, Oklahoma University Archives, Kerr Papers.



that no inmate be granted trusty status without the unanimous consent of the penitentiary classification committee. As in the past these new rules were only partially implemented and soon forgotten. It was an impossible situation for even the most conscientious Board of Public Affairs. Rules and regulations, general policies, and administrative orders fell on the deaf ears of the prison employees when their allegiance was not to the organization or a philosophy of correction, but solely to their political sponsors. 39

At the end of the decade a series of historical incidents converged which brought about substantive changes in one portion of the penal system. During the administration of Governor Roy J. Turner (1947-1951) a riot occurred at the reformatory and during the investigation a young, state parole officer named Joseph Harp had expressed some clear suggestions for reform and was selected by the Governor to straighten out the reformatory mess. The Governor gave Harp full authority to change staff and reorganize the reformatory. Harp concentrated on hiring a competent staff in the supportive areas of classification, records, and general clerical positions. His primary contribution to the reformatory was the development of a fully

³⁹Letters, H.G. Buchannon, Construction Superintendent to Board of Public Affairs, June 19, 1945 and Board of Public Affairs to U.S. Office of Surplus Property Utilization, March 4, 1946, State Archives Board of Public Affairs, Reformatory; Letters, Board of Public Affairs to Warden R.B. Conner, July 26, 1946 and September 6, 1946, to Warden Jess F. Dunn, September 19, 1940, State Archives Board of Public Affairs Correspondence O.S.P.; Memo, L.V. Porterfield, penitentiary employee to Warden R.B. Conner, n.d. (1946), University of Oklahoma Archives, Kerr Papers. No record could be located on the final resolution of the attempt to purchase the surplus military building, but later records discussing the need to segregate inmates with infectious diseases imply that the state did not buy the building.



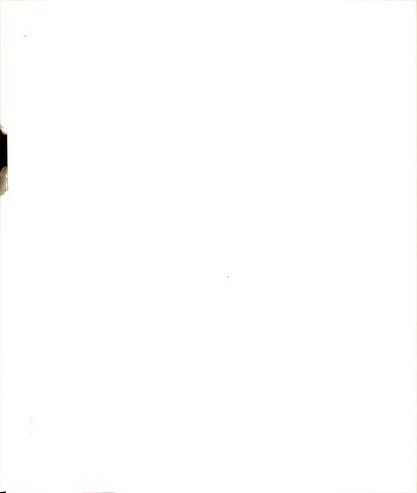
accredited elementary and secondary school inside the walls. This development turned the tide for the reformatory ideals articulated at its inception in 1909.40

Later in the year allegations made about financial irregularities and shortages at the penitentiary caused the legislature to form a joint investigating committee to look at conditions in the McAlester prison. The allegations were verified. The canteen account was too large and there was evidence of large misappropriations of funds. The buildings were deplorable, the machinery was rundown, most of the inmates were idle, the inmates controlled the office paperwork functions, and even the land had been abused and worn out. The various investigations and new administrative policies of the past three decades had little sustained impact on the daily operation of the institution. But the cumulative effect of the report gave Governor Turner the opportunity to appoint a new warden, Clarence C. Burford, at the penitentiary. 41

Governor Turner had instituted changes in the penal system that gave notice to concerned staff that reform was possible within the system. The significant changes in staff and philosophy at the reformatory was his greatest contribution to this effort. His appointment of Burford as warden of the penitentiary was an attempt to change

⁴⁰For a detailed discussion of the riot, its causes, and Warden Harp's impact see Chapter III. For a record of the investigation see Transcript of Proceedings of Investigation at Oklahoma State Reformatory, March, 1949, Vols. I and II, State Archives Governor Turner Records, Reformatory File.

Al Report Joint Committee to Investigate the Penitentiary, 1949, 1 and Generally, the State Archives Legislature, Council Files.



the operational procedures of that institution. Although Burford did not have the same degree of success as warden Harp, enough pressure and perseverance prevailed to begin a haltingly slow change in the conditions at McAlester during the Turner administration. At the end of his tenure, Governor Turner gave credit to his predecessor for making changes in the penal system and for setting a foundation for more changes instituted by him. Much of the reforms had focused on eliminating corruption. The administration terminated the policy of allowing trusties to room outside the walls and the "promiscuous leaves of absence for prisoners." It ordered a daily audit of expendable prison property and instituted a classification system at the penitentiary that segregated first-term inmates from repeaters. Finally, a vocational training program was begun and continued support of the school at the reformatory aided its successful implementation. The failure to deal with the basic weaknesses of the system, however, caused most of these reforms to be short-lived. 42

The state avoided the fundamental problems of the system like the plague. Political patronage was alive and well and caused untold problems for even the most competent wardens. These men either had to capitulate to political pressure from the executive office and from the petty political bosses in the legislature or work outside the political arena. The first alternative required them to abandon any

⁴² Quote from Governor's Message, 1951, 8; Clarence P. Burford had served for over ten years with the Federal Bureau of Prisons as a superintendent of farming, but he had no experience as an administrative head of a prison. See Letter, James V. Bennett, Director U.S. Bureau of Prisons to Governor Roy J. Turner, April 9, 1947. State Archives Governor Turner Records, Penitentiary File.

thought of implementing changes that might interfere with the interests of the politicians. Hence, warden Harp could implement a school in the reformatory but he still had problems with incompetent guards and his inmate population was still determined by the unilateral transfer system of the penitentiary. The second alternative forced the wardens outside of the favoritism mill and subjected them to internal intrigues within the institution to blunt their authority or to budgetary revenge by the legislature to limit their freedom of movement.

Inadequate funding by the legislature and the lack of any professional leadership in the penal system forced administration after administration to request deficiency funding, manipulate their annual financial statements, and forego any pretense of developing a treatment-oriented system of corrections. The appointment of individuals with no correctional background to the Board of Public Affairs did not result in more democratic or rational administration. They managed from crisis to crisis and were subject to the influence of wardens, the legislators and the Governors; no group of lobbyists presented the professional ideology of the field to these individuals and no one served as spokesman for the inmates or their families. As a result of this neglect of the basic issues surrounding Oklahoma's penal system, the changes made by Governors Turner and Kerr, though important, had little overall effect on the system.

Warden James J. Waters during the administration of Johnston Murray (1951-1955) attempted to continue some of the earlier reforms and make changes of his own, but his effort was frustrated every step of the way. After a scandal involving the escape of a convict and



various allegations about corruption, another House investigating committee studied the penitentiary in 1955. Their findings duplicated the earlier studies and investigations. The report commended warden Waters for his progress in upgrading the operations even though it disagreed with some of the practices used in the penitentiary. The committee found the physical plant in a "fair state of repair considering the age, physical arrangements, and the limited building facilities." The report attributed many of the problems to the overcrowded conditions and the "lack of space and inability to separate the prisoners." "Dope" was freely available within the walls and was being purchased by the inmates from a local doctor through the quards who charged a fee for the service. The warden testified that state law enforcement officials could not or would not arrest the doctor because of his political connections; "It was three times that the operators from the Crime Bureau got (sic) in town, then somebody knew them and nothing happened, but the federal man finally got him (the doctor)."43

In addition to and as a part of the availability of drugs various rackets ran freely in the prison. Gambling, loan sharking, coffee and ice concessions were controlled by inmate monopolies and it was not difficult for a shrewd and powerful inmate to generate a savings account in the local bank reaching into five figures before he served his time. 44

⁴³Report House Committee Investigation of Oklahoma State Penitentiary, February 4-5, 1955, quote at 1, see also 3, 13, hereafter cited as Report House Committee, 1955 and <u>Testimony</u>, 1955, 8-15, 84 (quote at 84), State Archives Legislature, House Committee Records.

⁴⁴ Testimony, 1955, 16-17, 246, State Archives Legislature, House Committee Records. One example of an inmate racketeer was



Although escapes were down considerably from the 1930s and 1940s, internal tensions were at an all time high with gangs of inmates literally running the institution. Murders and serious assaults were not uncommon when rival gangs confronted each other or when someone deviated from the rigid norms of the inmate culture. Law enforcement officials rarely investigated and when they did they generally dropped the case for a lack of evidence. 45

The political corruption was enormous and it blocked the warden's attempt to manage his institution. His testimony provided gloomy evidence of his frustration:

Committee Member: Is (sic) the political pressure on you had

anything to do with you not carrying out the

things you want to do in this prison?

Warden: Yes, and no. But I had certain principles which I tried. . . to carry out, and I received some pretty generous tongue lashings at various times.46

No further explanation was given or requested, but from the recommendations made by the committee it was clear to them that the warden

Julius Bohannon who among other services ran the after-hours coffee concession delivery from cell to cell with a cart. He charged 50 cents a cup because of the extra "ingredient" he slipped into the coffee. He engineered a couple of escapes for himself costing \$1200 to \$1500 each time and ran his bank account up to the \$10,000 mark. Obviously this activity required the collusion of the guards in order for it to succeed. See Testimony, 1955, 146-143, and 246, State Archives Legislature, House Committee Records.

⁴⁵ Escapes reached a high of 269 for the years between 1935-1939, dropped in 1940-1943 to 102, rose again between 1944-1947 to 204 and began a steady decline for 1948-1957 to 53 and only 42 for 1952-1955. For this and evidence of gang murders see Testimony, 1955, 98-99 and 105, State Archives Legislature, House Committee Records.

⁴⁶Testimony, 1955, 101, State Archives Legislature, House Committee Records.

suffered under intense political pressure and could not exercise complete administrative control over the prison.

The committee's recommendations were detailed, but wide of the mark. It noted that the penitentiary was a difficult problem and that the recommendations represented an attempt to create "a better penal program within the state of Oklahoma." The report recommended an increase in the salaries of guards, an age limitation for recruitment of 30-50 years, and the retirement of all those over 65 years old. This was an attempt to upgrade personnel, but the committee ignored the impact of patronage and said nothing about professional training or qualifications, points which the 1943 Lawes report had emphasized. ⁴⁷

In order to limit the flow of funds in the prison, the inmates' canteen coupon books were to be made non-transferable and limits placed on the monthly amount an inmate could draw from his account. This was the procedure long used in the federal penal system and which had been recommended decades earlier by other committees and had been specifically ordered by the Board of Public Affairs in 1946. More important, the committee said nothing about creating organized recreational activities to help limit the interest in gambling and to break the control of inmate rackets. ⁴⁸

⁴⁷ Testimony, 1955, quote at 6, also see 15, State Archives Legislature, House Committee Records.

⁴⁸Ibid., 6; In 1946 the Board of Public Affairs had ordered the canteen to change their procedure so that the coupon books would not be negotiable or transferable to anyone "and to restrict their use to no more than \$25.00 a month per inmate," Letter, Board of Public Affairs to Warden R.B. Conner, August 30, 1946, State Archives Board of Public Affairs, Correspondence 0.S.P.



The gambling and drug traffic were serious problems, but the committee concluded that "little (could) be done to stop this activity." Maybe higher salaries and better personnel would serve as a stop-gap measure, but the committee felt laws were needed to punish people who smuggled contraband into prison. A long-range building plan to provide for the segregation of incoming prisoners and the 10 percent of the population who were trouble-makers, would also add to the order of the prison. ⁴⁹

The 1955 House investigation was not enough to move the lethargic political system to action. Governor Raymond Gary (1955-1959) did not take a strong stand for penal reform and most of the legislature was too close to the forest to see the trees. As a result the potential reform impact of the 1955 House report was lost. But the reform impulse lingered and a Special Committee on Institutional Rehabilitation of the newly created, issue oriented Legislative Council wanted another look. The accumulation of negative reports about the Oklahoma prisons and the general publicity given to the numerous prison riots throughout the nation during 1952 frightened the state's public officials. After the American Prison Association issued its report on the riots that catalogued the basic causes, the warden of the Oklahoma penitentiary said in a report to the council that these same basic causes existed "under our system." This time, however, the House went outside the political arena and contracted

Testimony, 1955, 3-10, State Archives Legislature, House Committee Records. The legislature did pass a law prohibiting the smuggling of drugs, alcohol, or money into a prison or possessing same with a prison. The law made such action a felony with a penalty of 1 to 5 years or a fine of \$100 to \$1000. See Oklahoma Session Laws, 1955, 298-299.

with the Oklahoma Citizens Committee on Delinquency and Crime. This was the first time in Oklahoma's history that a citizen's organization interested in penal reform had an opportunity to influence public policy in this area and it represented the second shift in developing a reform initiative. The legislature and the Governor relied on outside sources to legitimize the reforms that everyone knew had to be implemented. 50

The Citizens Committee submitted a very critical report of existing practices, but couched thier recommendations in an optimistic and progressive tone. They said that experience from other states indicated that 80 percent of all first offenders could be placed successfully on probation, yet most of this offender class in Oklahoma served their time in prison. Forty-five percent of this group had received sentences of two years or less. The report concluded that Oklahoma judges sentenced offenders to these short sentences as an alternative. The committee recommended a statewide probation service within a centralized department of correction. ⁵¹

The main value of the report was its criticism of the political operation of the penal institutions. It bluntly stated that "the number one problem with these two institutions is the political patronage system which has existed" since statehood. All staff

Ouote from Annual Report O.S.P., 1954, 6. Letter from Hugh Garnett, Oklahoma Citizens Committee on Delinquency and Crime (CCDC) to House Special Committee, September 26, 1958 in the CCDC report Apathy or Action: A Survey (1958). For a contemporary analysis of the riots see Frank T. Flynn, "Behind the Prison Riots," Social Service Review (1953), 27:73-86.

⁵¹CCDC, Apathy or Action, 6.3, 6.6.

appointments to the institutions were made on the basis of political references, not qualifications, and statewide advertising of job openings was non-existent. As a result employees of the prison gave their allegiance to their sponsors not to the penal administration. This situation made penal administrators impotent to the point that they had absolutely no control over policy or personnel. The citizens group insisted that personnel be selected and employed under the state's merit system. The report concluded that because the state had no large investment in a statewide penal system and because services were at a minimum the opportunity to take direct action and create a state department of correction was ideal. They estimated that the department could be operational in four years. ⁵²

In making this recommendation the Citizens Committee recognized the amount of study accomplished to date and cited the available resources ready to be gathered for the task:

This is a significant moment in Oklahoma. There are present all the ingredients required to make a good correction system. Facts are on hand. A plan has been laid out, and citizen leadership is ready to help in any way it can. It now rests with responsible officials of state government to choose a course of action. 53

⁵²The Citizens Committee recommended specifically the creation of a centralized administrative structure with three divisions of custody, treatment, and classification; development of job specifications to meet the merit system standards; use of weekly staff meetings to encourage tighter management; implementation of a full-time, inservice training program for employees. In the treatment area the Committee wanted a new building for religious services, more vocational training, and a formal system for dispensing disciplinary action to the inmates, CCDC, Apathy or Action, 7.2, 7.7, 7.11-7.12, 10.4-10.5, quote at 7.2.

⁵³CCDC, Apathy or Action, 10.8.

The report came too late in the Gary administration for any action to be taken, however, and the committee had to wait for the next administration before its work received recognition.

In his first address to the legislature, Governor James H. Edmondson (1959-1963), using the wording of the report, became the first Governor of Oklahoma to recommend "the establishment of a Department of Correction" responsible for the entire correctional system. He proposed a Board of Correction of nine citizens appointed by the Governor which would select a Director "who would represent the best in his field." The initial budget required to establish the department was estimated at three-quarters of a million dollars for the first biennial period. The House and Senate drafted appropriate bills with the assistance of the Citizens Committee, but they never became law. Once again the Oklahoma legislature failed to address the pressing needs of its penal system. ⁵⁴

Halfway through Governor Henry Bellmon's (1963-1967) administration the state again contracted with an outside agency to study its penal system and make recommendations for change. This time the state requested the services of the National Council on Crime and

Governor's Message, 1959, 12; Letters, H.A. Elliot to Jake Blevins, Governor's Office, January 12, 1959 and to Senator Gene Stipe, January 13, 1959, State Archives Governor Edmondson Records. H.A. Elliot was a consultant on penal affairs from Austin, Texas hired by the Committee to assist in studying the Oklahoma penal system. The legislature vested the administrative authority of the reformatory's academic school in the State Department of Education with the recommendation of the warden necessary for teacher appointments and provided for the school to receive state educational funds on the same basis as other school districts. See Oklahoma Session Laws, 1961, 550, but no other legislation was passed implementing the recommendations of the Citizens Committee.

Delinquency which had organized the various Citizens Committees throughout the country into a national organization composed of state and regional offices with full-time staff. NCCD operated under the philosophy of the rehabilitative ideal which encouraged humane treatment of prisoners and alternatives to incarceration. The NCCD report echoed the earlier Citizens Committee report regarding the lack of centralized administration. The investigation found that the Board of Public Affairs primarily concerned itself with the business aspects of the penal system and ignored the larger problems of correction. The Board had business-oriented men and women as members who had no knowledge of or training in correctional administration, security, or treatment. As a result the penal system operated without any central leadership and each institution functioned as an independent entity. 55

The NCCD consultant deplored the absence of trained correctional personnel and professional staff. The report indicated that this void resulted in a preoccupation with security at the institutions. For example, it noted that guns were freely evident in areas "where a well-run prison would not have any," such as the dining room and the rotunda. The classification system was a sham because all reception interviews, inmate records, and job assignments were managed and recorded by inmates. In addition, no evidence of diagnostic or treatment facilities were found and thus the report concluded that no real classification existed. ⁵⁶

⁵⁵ National Council on Crime and Delinquency, <u>Corrections in Oklahoma: A Survey</u> (New York: NCCD, 1966), 6.

⁵⁶Ibid., 17-19.

The thrust of NCCD's report was rehabilitation. As a spokesman for the rehabilitative ideal NCCD told Oklahoma officials that "one of society's most effective means of coping with crime is through a program that corrects and rehabilitates the offender and restores him to the free community as a productive, self-supporting, and lawabiding member." If Oklahoma wished to solve its penal problems, state officials had to concentrate on two priorities. The first was to pass a law creating a state Department of Corrections. The second was to "shift the lines of administrative authority and responsibility, realign key staff, and re-orient the organization to a client-centered. treatment-oriented approach and away from the present control-oriented approach." In other words, the penitentiary and the reformatory had to cease operations as independent organizations, the Board of Public Affairs had to separate itself from the administrative control of the penal system, new staff had to be hired under the merit system and trained according to accepted professional standards of the day, and the department had to be made responsible for criminal correction throughout the state. Sixty years of entrenched political interests in and official abuse of the penal system did not provide a climate for the immediate acceptance of such a massive redirection of the penal system, but the legislative committees began work on the report's recommendations. The consistent conclusions of the recent reports had convinced the state that reform was necessary. 57

Governor Dewey Bartlett (1967-1971) supported the concept of a state correction agency and he urged the legislature to finalize the

⁵⁷Ibid., 1, 116.

work of the past four years and pass the legislation. The Oklahoma Corrections Act was passed on May 8 and became effective on July 1, 1967. The legislation created a Department of Corrections consisting of an appointed State Board of Corrections and a director to head the department and its three divisions of institutions, inspections, and parole. For the first time in Oklahoma's history the two penal institutions were placed under a single administrative head. This law restructured Oklahoma's penal system and provided an organizational skeleton for the state to use in upgrading that system. ⁵⁸

The passage of the Corrections Act represented the end of a long and disappointing history of penal reform in Oklahoma. The first three decades of statehood saw the penal system used as political leverage by the legislature to influence the Governor's patronage power. The last three decades showed a growing acceptance of responsibility by the Governor's office to clean up and redirect the penal By the end of the 1950s these efforts were supported by a small group of legislators. But it required a close series of investigations and strong public support before the legislature was willing to completely restructure the state's penal apparatus. The passage of the Corrections Act signified an end to the legacy of political corruption. But the passage of a law is not the implementation of a reform. If the history of Oklahoma's attempts at penal reform has taught us anything, it taught us that reforms die very quickly without constant vigilance from knowledgeable citizens and concerned public officials.

⁵⁸ Governor's Message, 1967, n.p.; The original law is in Oklahoma Session Laws, 1967, 413-419. For current reference see 57 Ok. Stat. Ann., secs. 501-526.

CHAPTER V

WORKING IN PRISONS: PERSONNEL, POLITICS, PATRONAGE

During the first 60 years of its development, Oklahoma's penal system recruited its personnel through the patronage system.

Oklahoma adhered to the Jacksonian philosophy that anyone was capable of holding public office and that the infusion of new blood into the governmental system every two or four years was healthy for democracy. As a result political machines dominated the patronage system and helped to shore up the current administration and reward its supporters. The Board of Public Affairs, the state's fiscal accounts and purchases, the game wardens, and the penal system were critical elements of Oklahoma's machine politics and represented the backbone of the early administrations. The infusion of patronage into the penal system resulted in a high degree of instability within the penal institutions that adversely affected staff functions, inmate morale, order maintenance, and resulted in serious dislocations to the general administration of the institutions. I

The Governor served as the chief executive of the patronage system. "A change of administration means a 90 percent turnover in

¹Harlow's Weekly, July 14, 1914, 9-15.

the minor places of departments and institutions under the direct control" of the Governor. His power of appointment combined with the patronage system gave him almost complete control over the distribution of state jobs. At times this awesome power detracted from the excitement of winning the Governorship. One newly elected chief executive complained that "this patronage business is one of the impediments in the exercise of the duties of the office of Governor. It is not a pleasure to experience it. . .great pressure is brought on me from all parts of the state." Though it may have been pleasant to reward their friends and political allies with the fruits of victory, the Governors had some difficulty making quality choices because many of their friends had "too high an estimate of their ability." A common characteristic of applicants for prison warden was that every "man who has been a sheriff thinks he has the qualifications to be a warden."

The Governor appointed the prison wardens with Senate confirmation. In an attempt to camouflage their control over penal affairs and to diminish themselves as a target for criticisms of patronage, the Governors constantly claimed that the wardens had full authority to administer the prisons and hire the staff without interference from

²H.O. Waldby, <u>The Patronage System in Oklahoma</u> (Norman: The Transcript Company, 1950), 13.

³Quotes are from Letters, Governor Robert L. Williams, to B.F. Maddox, December 4, 1914, to A.H. Ferguson, January 4, 1915, State Archives Governor Williams Records, Appointments; Governors also had to be careful not to appoint a disproportionate number of individuals from the governor's home district. See Letter, Governor Robert L. Williams to A.H. Ferguson, January 14, 1915, State Archives Governor Williams Records, Appointments.

the Governor or the Board of Affairs. But in practice, the various Boards of Affairs maintained direct supervision over the management of the institutions and approved all staff changes. Since the members of the Boards were appointed by and served at the pleasure of the Governors and worked closely with them, the real control of the prisons rested with the Governors. 4

One limitation on the absolute power of the Governors over patronage was that they received recommendations from various political allies and had to select individuals from these lists. The most influential political groups were the county party officials and the legislators. Candidates for the upper-level prison jobs such as warden, deputy warden, physician, chaplain, and teacher, submitted petitions signed by politicians and influential citizens who happened to be officials of a county's Central Democratic Committee. Appointment as a convict quard at one of the penal institutions required as a minimum an endorsement from one or more party officials from the applicant's home county. District judges, county sheriffs, party officials and legislators were the common denominators of the sponsorship system. Seldom did these letters indicate the applicant's suitability for the job; they concentrated on the political loyalty of the individual to the party and his activity in the recent campaign. Those individuals who had no direct line to the Governor resorted to

⁴Oklahoma State Planning Board, <u>State Penal and Corrective</u> <u>Institutions in Oklahoma</u> (Oklahoma City: 1936), 24; MS, Senate Confirmation List, State Archives Governor Haskell Records, Administration Files; see generally Letters from Governor J.B. Robertson to job seekers, 1920, State Archives Governor Robertson Records.

lengthy, signed petitions using their relatives and friends from their community as their sponsors.⁵

If an individual already had a job and wished to keep it a brief but clear letter extolling his personal contribution to the recent political victory and some indication of his political strength was needed. An individual at the state penitentiary held the office of prison storekeeper and appealed to the new Governor in 1920 to allow him to remain in the job. He first indicated his political activity by stating that he "was thoroughly in sympathy with your administration and I contributed my money, time, and influence to secure your nomination and election as Governor. I was one of the first Penitentiary Employees to come out openly for your candidacy." He closed the letter by showing his power when he said, "I have many friends that (sic) would regret to see me lose my position." He remained as storekeeper for another four years. The same procedure applied to higher management. Warden Dick at the penitentiary had survived two administrations and wanted to remain as warden during the new administration of Governor Robert L. Williams (1915-1919). He had his many political sponsors file affidavits and recommendations with the Governor. Because of recent scandals involving Mr. Dick,

⁵See generally correspondence on appointments in Governor Charles N. Haskell Records, Administration Files in State Archives; Transcript of Evidence in the Matter of the Investigation of the Oklahoma State Reformatory, 1913, 371, 1029, hereafter cited as C & C Transcript 1913, State Archives Department of Charities and Correction; See generally Letters from applicants to Governor J.B. Robertson, 1920, State Archives Governor Robertson Records; Letter, Board of Public Affairs to Warden Jess Dunn, April 19, 1940, State Archives Board of Affairs Records, Correspondence.

he was not successful this time and Governor Robert L. Williams replaced him. 6

By the 1940s, the patronage system had been perfected to include all appointments to the prisons and the payrolls had become political resources for the incumbent governors. Each institution maintained an employee list that also indicated their political sponsors. The payroll of the prisons would be expanded during the last months of an administration in an attempt to increase the political clout of the incumbent political faction. The Board in 1940 ordered the warden of the penitentiary to "hold as many jobs open as possible at your institution, in order to take care of urgent requests that might be made during the campaign coming up, when it is going to be necessary to help some of our friends over."

After WW II, when many states including Oklahoma began to abolish the patronage systems and install state merit systems, Oklahoma continued to exclude the penal system from that reform. Warden Joe Harp, who was appointed in 1949 to clean up the corrupt reformatory, clashed with the reality of Oklahoma politics. He had not applied for

⁶Quotes from Letter, A.C. Haden to Governor J.B. Robertson, n.d. (1920), State Archives Governor Robertson Records, General Correspondence; See generally Governor Robert L. Williams Records, Appointments in State Archives.

⁷U.S. Prison Industries Reorganization Administration, <u>The Prison Labor Problem in Oklahoma: A Survey</u> (Washington, D.C., 1937), 8; MS, Employee List of Oklahoma State Reformatory, February 9, 1935 and Letter, Warden Fred Hunt to Governor E.W. Marland, July 1, 1935, State Archives Board of Public Affairs, General Correspondence.

⁸Quote from 23rd Letter, see Letters, Board of Public Affairs to Warden Jess Dunn, March 7 and 23, 1940, State Archives Board of Public Affairs, Correspondence, O.S.P.

the job, but when he was asked to accept it he agreed on the condition that he would have control of the hiring and firing of staff. But the pressure from the legislators to hire their people was severe and Warden Harp had to choose his staff from lists submitted by the legislators. When Senator Henry Worthington of Greer County complained that Harp was not hiring from the community where the reformatory was located, Harp responded that the Senator had sponsored 14 of the guards employed at the reformatory and that 12 percent of the "new personnel hired" were from Greer county. Patronage was alive and well at the reformatory and also at the penitentiary where all 200 employees had political sponsors listed on the personnel roster. One Senator from McAlester who was a strong supporter of the current administration named "42 employees of the prison" in 1949 while a Representative from the same city, who was critical of the administration, had only five people hired from his list.

The wardens selected their employees under intense pressure from the legislators. Legislators pushed their favorites on the prison administrations and even forced the institutions to hire individuals without taking a test which had been developed to screen applicants. If they did not get their fair share of the patronage pie, they complained to the governor and made it difficult for the prison

⁹Transcript of Proceedings of Investigation at Oklahoma Reformatory, March, 1949, Vol. II, 13, 20, State Archives Governor Turner Records, Reformatory File, hereafter cited as Transcript, 1949; Quote from Letter, Warden Joe Harp to Board of Public Affairs, August 27, 1949, see also Board of Public Affairs to Senator Henry W. Worthington, August 30, 1949, State Archives Board of Public Affairs, General Correspondence.

¹⁰ Waldby, Patronage System, 27.

administration when budget requests came through the legislative committees. As a result the prisons were "run by remote control... (for) a good many years."

The legislators also were under pressure from their constituents. They needed the public's support to stay in office and they helped maintain that support by getting some people state jobs. But there was a limited number of jobs available and many legislators with personnel lists. To accommodate these politicians some jobs would change hands three or more times during a four-year period. The result was chaos. As one prison official noted in his testimony before a legislative investigating committee: "There isn't a single man in this institution, that is working here that has any security of his job." When the committee asked the penitentiary warden whether he wanted to see the political sponsorship system continued, he hedged and said that if qualifications could be met then political sponsors could recommend potential employees. But with no qualifications set by law the patronage system continued to flourish through 1967. 13

An important component of the patronage system was the monetary "contributions" made by all state employees to the coffers of the

Quote from Transcript, 1949, Vol. II, 21, State Archives Governor Turner Records, Reformatory Files; see also Testimony Investigation of the Oklahoma State Penitentiary, February 4-5, 1955, 34, 101, 118, 196, hereafter cited as Testimony, 1955, State Archives Legislature, House Committee Records.

^{12&}lt;u>Testimony</u>, 1955, 103.

¹³ Governor's Message, 1959, 15; Testimony, 1955, 103, State Archives Legislature, House Committee Records; Letter, Governor J.H. Edmondson to Ralph Clark, October 14, 1959, State Archives Governor Edmondson Records, Patronage File.

Democratic party. Prison employees were docked 10 percent of their monthly salaries for contributions to the Publicity Campaign Headquarters of the State Democratic Party Central Committee. During the 1920s, these contributions totaled \$60 a month from the penitentiary and \$50 a month from the reformatory. In 1926 Governor Martin Trapp (1923-1927) wanted the practice stopped because he felt employees were coerced to contribute when they could not afford it and because "such practices (were) distasteful" to him. 14 But this lucrative method of financing political campaigns continued and by 1940 it was not uncommon for a representative of the State Democratic Central Committee to visit each institution to solicit funds for the upcoming elections. Though the Board of Public Affairs cautioned the wardens not to exercise "high-pressure methods in the collection of campaign funds" and informed them that "the job or position of no employee will be jeopardized...by the failure...to donate to the campaign fund," the records indicated that both these activities continued unabated. 15

The patronage system benefited those few hundred people who needed jobs over the years, but it had a disastrous effect on the penal system. Because there were no minimum standards for recruitment of guards during the early years, the basic criteria for employment was

¹⁴ See State Democratic Party Control Committee Ledger Books, 1920 and Subscriptions of Employees at Oklahoma State Penitentiary, March and April, 1920, State Archives Attorney General Records, Miscellaneous; quote from Letter, Governor M.E. Trapp to Warden W.S. Key, March 19, 1926, State Archives Governor Trapp Records, Subject File.

¹⁵ Quote from Letter, Board of Public Affairs to Warden Jess Dunn, September 19, 1940, State Archives Board of Public Affairs, Correspondence O.S.P., see also Letter, Board to Warden Claude E. Moore, June 1, 1949, same Archive File.

party worker not his ability to perform the job. Applicants on the other hand, viewed the prison jobs as temporary employment when they were "out of work" and needed something to tide them over. The quality of employees was very low and some wardens complained that the absence of a system for improving the selection of personnel resulted in unqualified employees who created the problems for the prison management. For example, in 1943 of 140 guard employees, 60 percent were over the age of 50 and many of these men were infirm and would not be able to respond effectively if an emergency arose. ¹⁶

As time progressed the quality of the personnel decreased. As other opportunities for employment developed more of the prison employees left their jobs and the labor pool available to fill prison jobs decreased. In 1943 Warden Fred Hunt warned state officials that, without quality employees who have a commitment to a career, the prisons could not meet their responsibilities to the people of the state or to the inmates. He recommended that higher salaries be provided, selection standards set, and job protection established in order to recruit young veterans returning to Oklahoma after the war who "would jump at the chance. . .(to work in the prisons) if they were assured of a reasonably good future." The Board of Public Affairs attempted to restructure the employment process to meet these goals,

¹⁶ Letters, Democratic Party of Caddo County to Governor Robert L. Williams, January 18, 1915 and J.H. Phipps to Governor Williams, n.d. (January, 1915), State Archives Governor Williams Records, Appointment; Letter, Warden Fred Hunt to Board of Public Affairs, February 8, 1943, State Archives Board of Public Affairs, Correspondence O.S.P.

but the patronage system was too big to be affected by administrative directives. As a result the prisons suffered from chronic understaffing and unqualified employees. Both wardens complained in 1949 that they were understaffed and that the men were either too old or too physically weak to perform the jobs. 17

Wardens continued to bemoan the lack of competent personnel. but nothing was done to upgrade the selection process or to limit the influence of patronage. The issue of staff competence came to a head in the 1950s when the prison administration collected hard data that clearly supported their grievances against the recruiting process. The penitentiary instituted a psychological testing procedure to screen job applicants. The staff psychologist administered a battery of measuring devices, including general intelligence, aptitude, and personality tests, to the job applicants and to the incoming inmates. The results startled the prison administration and the state's elected officials. The average inmate's (# = 146) Intelligence Quotient (IQ) was 87.5 while the guard applicants (# = 80) was 86 5. Over a sixmonth period the tests showed that only 87 job applicants out of a population of 117 met the minimum IQ of dull-normal. The warden claimed that the 53 people he hired had an average IO of 94. He also claimed that emotional stability was more important to job performance than IQ. This was partially correct, but it was obvious that the warden was trying to soften the logical conclusion that the penal

¹⁷Waldby, Patronage System, 19; Transcript, 1949, Vol. I, 20, 32; State Archives Governor Turner Records, Reformatory File; Quote from Letter, Warden Fred Hunt to Board of Public Affairs, August 23, 1943, see also Board of Public Affairs to Warden R.B. Conner, December 22, 1943, State Archives Board of Public Affairs, Correspondence O.S.P.

system was receiving the bottom of the barrel of the patronage resources. 18

Even with this impressive data the warden hedged on his criticism of the patronage system and blamed the applicants:

While the administration prefers to hire men recommended by members of the Legislature these men should meet the minimum requirements established by the prison. The applicants believe, however, that the endorsement of their particular Senator or Representative is the only essential prerequisite for being hired. The screening tests are looked on merely as a formality. 19

But the figures clearly indicated that the legislature used the penal system as a dumping ground for people at the bottom of the patronage pool. The solution was clear to the warden; the state had to establish a "merit system of employment" for the penal employees and eliminate the patronage system. The Board of Public Affairs softened this recommendation when it urged the state to establish "statutory requirements setting out minimum academic training and professional experience. . . to cover all key institutional personnel" (emphasis added). The wardens pushed for sweeping changes, but the Governor and his Board of Public Affairs did not want to fight the legislature over patronage because they all had much to lose and no adequate plan surfaced as a politically viable replacement for patronage. ²⁰

^{180.}S.P. Annual Report, 1952, 6; O.S.P. Annual Report, 1954, 15; James J. Waters, Jr. to Senate Committee, Additional Information for the Committee Studying Rehabilitation Programs at State Institutions, 1954, 8, hereafter cited as Waters, Additional Information, 1954, State Archives Penitentiary Records; Testimony, 1955, 115, State Archives Legislature, House Committee Records.

¹⁹Waters, <u>Additional Information</u>, 1954, 9, State Archives Penitentiary Records.

^{200.}S.R. Biennial Report, 1950-1952, 33; Quote from State Board of Public Affairs, Biennial Report 1951-1952, 48, 0.S.P. Annual Report, 1954, 15-16.

Patronage also kept the salaries of penal employees at an extremely low level. Politicians knew the calibre of people they had referred to the institutions and this blinded them to the need for a rational salary structure. Selection of penal personnel on the basis of political influence and the low wages perpetuated the problems of under-qualified staff. If the adage "you get what you pay for" has any truth, it certainly applied to the quality of personnel hired by Oklahoma's penal system. One warden summarized the problem when he said in 1913, "they are as competent as I believe you can get men to work for \$60 a month." ²¹

Salaries inched upward during the succeeding 30 years, but remained well below subsistence wages. During the war years of the 1940s wage inflation and the availability of jobs in war industries robbed the prisons of employees. Warden Fred Hunt boldly proposed to the Board of Public Affairs a raise of \$12.50 a month to bring the prison guard's wage up to \$112.50 a month because the Navy ammunition depot at McAlester offered jobs at \$8.00 a day and local men were "not interested in a prison job that paid \$100 a month." The Board did not approve the request until four months later when it authorized a \$25.00 a month raise, but it took this action only after more than a dozen prison employees quit their jobs within a two-week period. The Board later cautioned the wardens not to submit proposals for

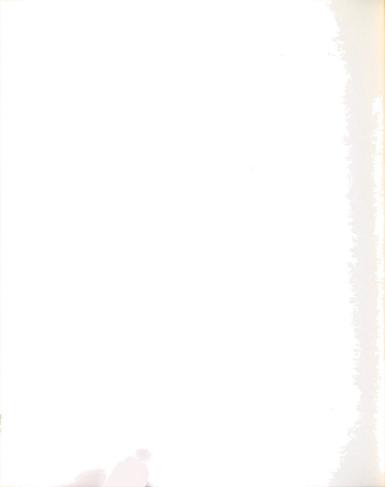
²¹C & C Transcript, 1913, 184, State Archives Department of Charities and Correction.

^{220.}S.P. Annual Report, 1942, 20; Quote from Letter, Warden Fred Hunt to Board of Public Affairs, July 19, 1943, State Archives Board of Public Affairs, Correspondence O.S.P.

blanket wage increases because some of the employees received a wage plus subsistence benefits, thus "they avoid a greater part of the increase in living expenses." The political pressure to hold down state expenses was intense for the penal system even during the war economy of the $1940s.^{23}$

From 1913 to 1953 the guards monthly salary rose from \$60 to \$175, a \$115 raise over a 40 year time span. That was an average increase of \$2.87 a year! Oklahoma did not pay its prison guards the lowest salary in the nation, but it was \$50 below the median of \$225 a month. Warden Jerome Waters managed to get the minimum salary up to \$200 a month in 1955. But these raises came from the "earnings" of some of the prison industries and were not legitimized in the institution's line-item appropriation approved by the legislature. As a result the wages slipped backward when industrial production fell or when a new administration took office. Thus in 1957 a legislative committee reported that 70 percent of all the prison employees earned less than \$190 a month. The following year a citizens committee studying the penal system reported that only old people or transient drifters could survive on the salary paid by the prisons. Sixty percent of all the prison employees were in the age bracket of 50-70 or over. The salary situation did not improve significantly during the

Transcript, 1949, Vol. II, 6, 18, State Archives Governor Turner Records, Reformatory Files; Report of Joint Committee to Investigate the Penitentiary, 1949, 2, State Archives Legislative Council Records; Letters, Warden Fred Hunt to Board of Public Affairs, July 19, 1943, Warden R.B. Conner to Board, November 8, 1943 and Vice Versa December 1, and 7, 1943, July 17, 1946, quote from July 17 Letter, State Archives Board of Public Affairs, Correspondence O.S.P.



1960s until the passage of the act creating the Department of Corrections in 1967.²⁴

The failure of state officials to eliminate the use of patronage in the penal system and to improve the wage structure for prison employees was the result of a deliberate policy to continue these conditions. The state passed legislation creating a statewide merit system in 1959, but prior to this time legislation had been passed to upgrade personnel conditions in specific state agencies. Similar patronage problems in the highway patrol were solved by designing a merit system to meet the organization's needs. In 1949 highway patrolmen received an annual salary of \$2400 compared to the guards salary of \$1200. The patrolmen received \$300 a year in raises for the first three years and an increase of 3 percent of their annual salary for every three-year period thereafter. All job positions received equal pay for equal work. As a result of this merit system the personnel turnover was less than two a year. The patrol had a formal selection and screening process, competitive promotional examinations, professional training, and a retirement system. Prison employees had none of these benefits. Prison wardens pleaded to have a similar system

^{240.}S.P. Annual Report, 1952, 6; Waters, Additional Information, 1954, 5, State Archives Penitentiary Records; Testimony, 1955, 219, 282 and Report of House Committee Investigation of Oklahoma State Penitentiary, February 4-5, 1955, 4 and Memorandum, February, 1957, State Archives Legislature, House Committee Records; Oklahoma Citizen's Committee on Delinquency and Crime, Apathy or Action: A Survey (1958), 7.3; NCCD, Correction in Oklahoma: A Survey (1966), 16, 34-35. From October, 1952 to October 1953, the Penitentiary had hired 94 guards and 75 others had terminated their employment, see Waters, Additional Information, 10 cited herein.

developed for penal employees, but state officials chose to continue the patronage model.²⁵

To offset the lower salaries for guards the wardens provided extra benefits such as low-rent housing when available and supplies from the prisons' storehouses. It was common practice for states to provide free housing and mercantile goods to the top management of prisons and Oklahoma's wardens extended a variation of the practice to the guard force. The prison owned four one-family homes and four duplexes which it rented to guards for \$20.00 a month. In 1942 the penitentiary warden noted that the prison provided a house for the warden, deputy, the foreman of the chicken ranch, eight houses for guards, and a guard dormitory inside the walls. He recommended the construction of a two-story dormitory outside the walls for single guards and 25 single-family homes and 25 duplexes for married guards. The dormitory was built, but the homes were not. ²⁶

In 1913 the reformatory warden recommended the construction of employee cottages near the institution because the facility was

Waldby, Patronage System, 20-26; The highway patrol was created in 1937 and had age limitations, training, and job protection from its beginning. The graduated salary increases began in 1941. The state merit system was created in 1959 and the legislation gave the Governor the authority to place state departments under the system by executive order. Obviously the penal system never received the benefit of that legislation. For appropriate laws see Oklahoma Compiled Statutes, 1938, secs. 10131a-10131v, Oklahoma Session Laws, 1941, 203 and 1949, 369, and 74 Ok. Stat. Ann. secs. 801-839.

²⁶Testimony Joint Committee Investigating the State Penitentiary, 1910, 50-51, 53, hereafter cited as Testimony, 1910, State Archives Legislature, Joint Committee Records; <u>O.S.P. Annual Report, 1942</u>, 20; Letter, Warden R.B. Conner to Board of Public Affairs, November 8, 1943, State Archives Board of Public Affairs, Correspondence O.S.P. The renting of houses was authorized by law, see 57 <u>Ok. Stat. Ann.</u> (1943 ed) sec. 135.1.



"1½ miles distant from the town of Granite, which makes it extremely inconvenient for employees to go to and from their labor, especially in cold and muddy weather." That short distance should not have been of much concern to the employees, many of whom pulled up stakes and moved their families two or three hundred miles across the state for the prison job. The warden's concern was two-fold, to ease the economic strain on the employees by providing state housing and to strengthen security by having the employees close to the institution for emergencies.

Another benefit received by employees of the penal staff was the opportunity to purchase groceries from the prison storehouse and various goods from the prison industries. The wardens used their discretion in authorizing employees to establish credit with the storehouse for grocery purchases. Employees could also purchase, on credit, prison-made goods at cost such as furniture and clothing apparel. These extra-salary benefits were heavily used by the employees who ran up their accounts as high as \$300 or more. During the early days of statehood this system was necessary for the employees to provide for their families because many times their state payroll checks were delayed 30 to 60 days due to the inefficiency of the state's newly created administrative support agencies. ²⁸

²⁷Governor's Message, 1917, 74.

²⁸ Robert Park, History of the Oklahoma State Penitentiary Located at McAlester, Oklahoma (McAlester Printing Company, 1914), 47. See generally Minutes of Board of Control of State Penal Institutions, 1913, State Archives Governor Cruce Records; Testimony, 1910, 139-154, State Archives Legislature, Joint Committee Records; Letter and Account Statements, Chief Clerk, Penitentiary, to Board of Public Affairs, September 8, 1943, State Archives Board of Public Affairs, Correspondence O.S.P.

The system was abused, however, because there were no uniform guidelines for its administration. Wardens gave these benefits free to their favorite employees as reimbursement for overtime work and demanded that other employees pay off their accounts in order to force them to quit or to indicate their displeasure with the person. Many of the accounts were never collected. Stealing of goods for resale to relatives and friends was also a common practice. The magnitude of this practice caused many local merchants to complain to state officials about their loss of business because these friends and relatives of employees bought groceries, furniture, and even laundry service at cost from the prisons. ²⁹

Working conditions in the penal system were horrible. From the beginning guards worked 12-hour shifts, seven days a week on a staggered schedule of one month of days followed by a month of nights. This was changed later to a schedule of bimonthly shift changes that survived into the late 1950s. The small number of inside guards (two to a cell house) worked eight-hour shifts, but the horse-mounted guards who patrolled the numerous work gangs outside the wall worked 12-hour shifts from "early morning to late afternoon" and most guards rotated from post to post. ³⁰ These long hours violated state law which limited public employees to an eight-hour work day, but the prisons ignored the Labor Commissioner's orders to comply with the law. The

²⁹Testimony, 1910, 139-154, State Archives Legislature Joint Committee Records; Letter and Account Statements, Chief Clerk, Penitentiary, to Board of Public Affairs, September 8, 1943 and Letter, Board to Warden Jess F. Dunn, April 28, 1939, State Archives Board of Public Affairs, Correspondence O.S.P.

^{30&}lt;sub>0.S.P.</sub> Annual Report, 1942, 20A-20B; see also C & C Transcript 1913, 629, State Archives Department of Charities and Correction.

employees also had 44 rules to obey from not discussing prison business (mentioned three times in the rule book) to providing their own uniforms. The inmates had only 28 rules! One employee said that the state penitentiary was the "hardest place to work and stay out of trouble that I ever struck in my life." 31

The guards worked seven days a week until the mid 1950s when the work week was reduced to six days. The long hours remained, however, and guards worked a minimum of 60 hours a week, up to 84 hours if an emergency required them to work overtime. Oklahoma's guards did not receive any pay for hours worked over the 60-hour minimum. This compared unfavorably with the norm at other penal institutions in the nation such as the Columbus, Ohio penitentiary where state law authorized a five day, 40 hour week and required the payment of overtime wages. In Oklahoma even when the legislature cut the work week back to a 40 hour week, they failed to provide an increased appropriation to hire additional staff to make up the difference in lost man hours. 32

The prisons of Oklahoma were not pleasant places in which to work. In addition to low wages and job insecurity, employees had to

³¹ Quote from, Park, <u>History Penitentiary</u>, 48; Testimony, 1910, 90-91, State Archives Legislature, Joint Committee Records; State Board of Public Affairs, <u>Rules and Regulations for the Government and Discipline of the Oklahoma State Penitentiary and Reformatory</u> (Oklahoma City: 1915), 11-14. The state law limiting public employees to an eight-hour work day was passed in 1909 and remained in effect throughout the period under study. The law stated that "eight hours shall constitute a day's work for all laborers, workmen, mechanics, prison guards...who may hereafter be employed by or on behalf of the State of Oklahoma," see Ok. Session Laws, 1909, 635.

³²Waters, Additional Information, 1954, 5; Testimony, 1955, 102, State Archives Legislature, House Committee Records.

cope with an aggressive and sometimes violent inmate population, a politically motivated staff, and rampant corruption. An employee during the early period observed that:

. . .to work around a prison for a long period of time will ruin almost any man's disposition and disqualify him for almost any other calling. 33

Over the years not many men could claim that they conquered the penitentiary because it developed "a reputation for defeating the strongest of men, whether they be inmates or staff."³⁴

Given the political nature of the job, the low wages, and the violation of the law by prison administrators, it was not surprising to find graft and other forms of corruption as a constant problem of the penal system. Employees performed favors for inmates who had money to pay for the services, such as running business errands outside the prison and bringing contraband to the inmates. Laws were passed to limit this trading between staff and inmates, but they had little impact. One observer of the prisons said that the "greatest handicap to proper prison administration in Oklahoma has been the necessity for a warden to spend half his time watching the inmates and the other half watching the guards." 35

But corruption was not limited to just the lower echelon of the organization. Wardens, athletic directors, foremen, and others participated in the provision of goods and services to the inmates

³³Park, <u>History Penitentiary</u>, 78.

³⁴ Percy R. Parnell, <u>The Joint</u> (San Antonio, Texas: The Naylor Company, 1976), 49.

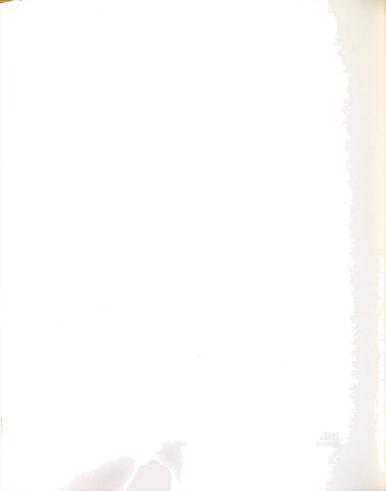
³⁵ Waldby, Patronage System, 17.

from drugs to mailing unauthorized letters. Other forms of corruption involved the use of brutality and psychological terror. During shakedowns guards would break open little boxes which held an inmate's trinkets rather than ask him for the key. Men on outside work gangs would be forced to eat in the sun when shade was nearby. An ex-inmate said that the prison was "a great place for a man to work, as a guard or foreman that (sic) wants to carry a pistol, curse prisoners, and order them around and play bad man in general." Incidents of brutality and corruption did not occur because of a few "bad apples" on the staff. The structural defects in the penal system that emphasized custody and industrial production over humanitarian standards and relied on a politically motivated personnel process contributed to a climate that fostered errant behavior. Only the psychologically strong staff member could successfully resist performing in such ways.

The most visible impact of patronage on the operation of the penal system was the constantly high rate of personnel turnover.

During the early days of the penal system wardens complained that more than half of the guard force changed every two months. Employees would come and go as they pleased. Some would work for a few months and leave for three during planting or harvest time. Others would take short leaves to return to their home counties to work for their favorite candidate during the primary and general elections. These interruptions affected upper-level positions as well. Warden Hunt

³⁶Park, <u>History Penitentiary</u>, 63, 77; Report, 1949, 3, State Archives Legislature, Joint Committee Records; 0.S.P. Annual Report, 1952, 6-7; Testimony, 1955, 44-49, 52-59, 90-92, 130-132, 153-154 and generally State Archives Legislature, House Committee Records.



complained that he could not keep his records current because the prison "changed chief clerks seven times in the last 21 months." 37

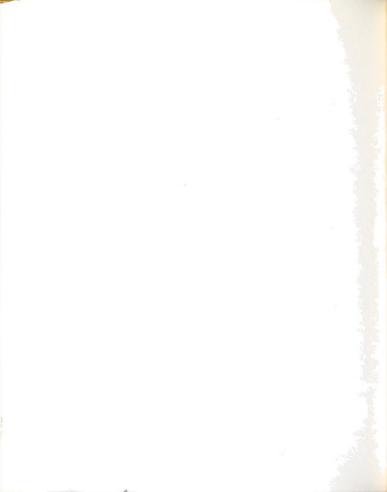
The situation deteriorated after the 1940s. Wardens noted that the personnel in the quard force completely changed within two years. The turnover rate was "such that 16 out of 191 quards either terminate or are just beginning (to work) in a one-month period." Most job applicants admitted that they were "seeking institutional jobs merely as a stop-gap measure until something better turns up." 38 Leaves of absence for political campaigning continued to lessen the stability of the penal work force. Warden Jess Dunn complained to the Board of Affairs that "a number of employees, as usual, who are desirous of engaging themselves in the forthcoming primary and general elections, in connection with various offices in county politics" had asked for leaves. He wanted a letter from the Board supporting his position that this political activity cease and failure to comply would result in discharge. But the state Board refused to support the warden and face the problem and patronage continued to encourage high personnel turnover in the penal system.³⁹

Patronage, low salaries, poor working conditions, and high personnel turnover rates had a wider impact than simply making the warden's

³⁷ Testimony, 1910, 39-138, State Archives Legislature, Joint Committee Records; Transcript 1913, 492-493, 1117, State Archives Department of Charities and Corrections, quote from Letter, Warden Fred Hunt to Board of Public Affairs, November 30, 1936, State Archives Board of Public Affairs, General Correspondence.

³⁸ Waters, Additional Information, 9.

^{390.}S.P. Annual Report, 1952, 6; 0.S.P. Annual Report, 1954, 15; quote from Letter, Warden Jess Dunn to Board of Public Affairs, April 12, 1940, State Archives Board of Public Affairs, Correspondence 0.S.P.



job more difficult. Wardens were appointed by the Governors and served four-year terms. The wardens generally made policy and ran the institutions. But there was no question that wardens worked directly for the governors who saw that their policies were carried out by using the Board of Public Affairs as the oversight body for penal administration. As a result most of the wardens were political appointees with no background in penal affairs. With rare exception they learned from on-the-job experience and they could not speak out on penal issues with the same degree of influence as their professional peers in other states. 40

Political patronage destroyed any sense of a professional commitment among the penal system's employees to penological goals. They neither identified with the organization nor with the larger field of correction. They looked only to their political sponsors for support. As a result political factions within the institutions attempted to control the penal administrators by threatening retaliation from the Governor, the legislature, the Department of Charities and Correction, or the various state inspectors. In this climate staff meetings were impossible and training was non-existent. The prisons did not develop policy and procedures manuals until the mid-1950s, but given the staffing problems these materials were largely ignored by the employees. 41

Not only was it impossible to run a large organization without these administrative mechanisms, it was also impossible for any

Waldby, <u>Patronage</u>, 12; Testimony, 1910, 57-59, State Archives Legislature, Joint Committee Records.

⁴¹ Oklahoma Citizen's Committee, Apathy or Action, 7.10; O.S.R. Annual Report, 1942, n.p.; Testimony, 1955, 112-113, State Archives Legislature, House Committee Records.

semblance of treatment to exist in Oklahoma's penal system. A prison staffed by employees with less than an eighth grade education did not identify with the rehabilitative goals of the treatment-oriented model. They lived by a code of rugged manliness and independence with values that were absolute and attitudes that were dogmatic. This rigid code easily transformed discipline into brutality. 42

A citizens committee studying the penal system in 1958 said that there was no coordinated administration for the provision of correctional services and that the performance level of the prisons was "among the lowest in the country." The reason for this state of affairs was clear to the committee. "We find that political patronage acts as a complete deterrent to the selection and appointment of qualified people in all levels of positions." No lasting reform could take place until the state of Oklahoma decided to clean the politics out of the personnel system of its prisons and set minimum standards for employment. This growing awareness of the problem by individuals and groups outside the formal political structure resulted in pressure for reform. The legislature finally moved to action in 1967 and passed the bill creating a state Correction Department and setting personnel standards linked to the state's merit system. A4

Parnell, <u>The Joint</u>, 74; Waters, <u>Additional Information</u>, <u>1954</u>, State Archives Penitentiary Records.

⁴³Letter, Hugh Garnett, Chairman Oklahoma Citizens Committee on Delinquency and Crime to Special Committee on Rehabilitation, Oklahoma Legislature, frontispiece in Apathy or Action.

⁴⁴ Original Oklahoma Correction Act is in Oklahoma Session Laws, 1967, 413-419, also see, 57 Ok. Stat. Ann. secs. 501-526.

CHAPTER VI

OKLAHOMA PRISONS: A VIEW FROM THE BOTTOM

After receiving a sentence to a state penitentiary inmates enter into a new and strange culture. An inmate's life is controlled by the formal routines of the prison, but the primary forces that affect his behavior and his welfare are embedded in the inmate subculture. The norms and values shift and adapt to changing stimuli, but the social organism of the inmate community survives intact. Surprisingly there have been no historical studies of this phenomenon though social scientists have expended time and effort documenting its existence.

Upon arriving at the Oklahoma penitentiary the new inmate probably was startled by the smooth efficiency and the unaccustomed racket of the opening and closing of the electrically controlled, combination steel doors. But the clanging of the doors signaled the

For two classic studies of the inmate community see Donald Clemmer, The Prison Community (New York: Rinehart & Company, Inc., 1940), and Gresham M. Sykes, The Society of Captives: A Study of A Maximum Security Prison (Princeton: Princeton University Press, 1958). For a stimulating collection of articles exploring the impact of organizational dynamics and structure on the prison community see Donald R. Cressy, ed., The Prison: Studies in Institutional Organization and Change (New York: Holt, Rinehart, and Winston, Inc., 1961). For an economic analysis of the prison culture see Virgil L. Williams and Mary Fish, Convicts, Codes and Contraband (Cambridge, Mass.: Ballinger Publishers, 1974).



beginning of a new routine. The first few days were spent in a receiving cell that was five feet wide and eight feet long with two bunks hung from one wall and an open toilet. If two people were in the cell and one of them wanted to move from the front to the back the second person "had to get in bed." Sanitary conditions were very poor and the toilet was so filthy from neglect that an inmate said "it was a miracle that all of us didn't catch some dread disease."

Upon entering the prison an inmate was searched and his valuables were credited to him and stored by the prison staff. He was taken to the Bertillon room and photographed in his civilian clothing. Next he was given a haircut that was cropped close to the scalp. The Bertillon clerk then had the inmate strip completely and he was measured minutely with every scar, lump, depression, and any other physical trait recorded in the inmate's folder. He was then finger-printed, given an inmate number and returned to the receiving cell to await further processing. No uniforms were issued to inmates until after 1924 when they received khaki colored clothing. 3

One critical point in the processing of a new arrival was the physical examination. This was not important because of its

²Ide D. Nash, My Prison Experience in Oklahoma: Bootlegging a Failure and a Lecture to Young Men (Hugo, Oklahoma: The Husonian, 1913), 23-24; quotes from Percey R. Parnell, The Joint (San Antonio, Texas: The Naylor Company, 1976), 28.

Nash, My Prison, 24; Robert Park, History of the Oklahoma State Penitentiary Located at McAlester, Oklahoma (McAlester: McAlester Printing Company, 1914), 96; Oklahoma State Penitentiary Annual Report, 1925, n.p. The Bertillon measurements operated on the assumption that an individual's physical measurements are constant after maturity was attained and thus could be identified by these measurements. See Harry E. Barnes and Negley K. Teeters, New Horizons in Criminology (New York: Prentice-Hall, Inc., 1943, 1945 edition), 284.



preventive-medicine aspects, but because the doctor's report on the inmate's fitness determined largely whether he would be assigned to light, medium, or heavy work. If the regular doctor failed to diagnose the inmate "properly," he could see the "square" or inmate doctor who was easily bribed to change the records in his favor. After completing the reception process the inmate was assigned a permanent cell in one of the cell blocks and given a job assignment. 4

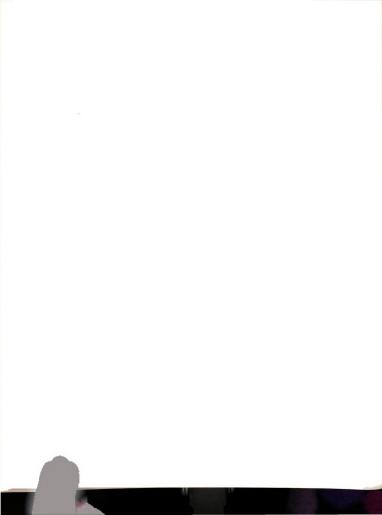
Few citizens and public officials realized that the bulk of the daily routine of the prison's operation depended entirely on the inmate work force. The warden and the officers were in charge of the front office and the outside activities, but the inmates controlled the inside operations. Bedding, clothes, job assignments, cell changes, medical drugs and care, typing, and the switchboard were all services controlled by the inmate clerks who sold these services to other inmates. Various jobs in the kitchen, industrial plants, and even farm jobs were controlled by convict laborers and convict straw bosses. In some respects inmates controlled the quality of service delivered. The inmate barbershop and laundry services that were available to both inmates and staff required an additional payment above the stipulated rate if you wanted a good job done. Rehabilitative functions were also not immune to inmate dominance. Prior to the creation of the state-funded school at Granite in 1949, the inmates served as teachers and were still being used in that capacity in the penitentiary as late as the 1960s. Some inmates performed their jobs so well that when they received parole they would be detained until another person could be

⁴Nash, <u>My Prison</u>, 24.

trained to take over the function. As a result of this job-specific expertise a tightly-knit caste system developed that controlled entry into these jobs. They negotiated job assignments for other goods and services that other inmate groups controlled. It was primarily through this bartering of goods and services that inmates adjusted to the routine of prison life.

In its daily routine Oklahoma's penal system never used the infamous lock-step form of inmate marching so common to penitentiaries during the late 19th century. But the inmates experienced a regimented form of existence that included, during the early days, enforced silence. The prison used bells to announce each change in schedule. The inmates heard one bell to wake up, one bell to wash, one to leave the cell, and one to begin eating. Later a gong was used as the signal. Inmates filed into the dining hall with whites, Indians, and Mexicans entering in that order and "the Negroes in the rear." Hats were removed and their hands were folded across their chest. Eating time was from seven to ten minutes and after the meal a bell rang and all silverware was passed to the man on the aisle seat so that he could "dash them in a bucket of water as a waiter ran by." The sound of this activity in the large, quiet dining hall was like that "of a

Nash, My Prison, 62; Park, History Penitentiary, 11-13, 19, 74-75; Parnell, The Joint, 45; Transcript of Testimony taken by House Committee Investigating State Reformatory at Granite, June 23, 1929, 90, hereafter cited as Testimony, 1929, State Archives Legislature, House Committee Reports; Typescript, Report Board of Public Affairs, February 2, 1935 and Letter, Hubert H. Shannon (inmate) to Lea N. Nichols, Board of Public Affairs, November 9, 1935, State Archives Board of Public Affairs, General Correspondence; Memorandum John D. Seal, Chaplain to Warden Jess Dunn, December 1, 1939, State Archives Board of Public Affairs, Correspondence O.S.P.; Oklahoma Citizens Committee on Delinquency and Crime, Apathy or Action: A Survey (1958), 7.5.



rhythmic beat on a kettle drum." A series of gongs or bells instructed them to stand, move into the aisles, and march out of the dining room. The work day generally began at 8:30 A.M. for the inmates and ended at 5:00 P.M. when they were fed supper and returned to their cells by 5:30. Lights went out at 9:00 P.M. and the same routine began the next morning with the 7:00 A.M. wake-up. 6

The food menu at the prisons was limited in its variety and unbalanced in its nutritional value. During the early 1900s the daily menu at the penitentiary and the reformatory offered one piece of meat, gravy or syrup, bread, and coffee for breakfast. The noon meal included a meat, potato, maybe a green vegetable and bread. Supper varied considerably regarding the meat portion because if there were no leftovers to make a stew the inmates received a bowl of rice, or tomatoes, or prunes with bread and water, and maybe some coffee.

Desserts such as pie or bread pudding were usually served once a week, on Saturday. Warden Robert Dick in 1910 had insisted that the steward provide more meat in the menu and his per capita food cost jumped from 15 cents to 19 cents a day. No doubt Dick was concerned about their health because the inmates were providing the labor to build the state penitentiary. 7

Ouotes are from Nash, My Prison, 24-25. See also Parnell, The Joint, 11-13; Transcript of Proceedings of Investigation at Oklahoma Reformatory, March, 1949, Vol. I, 7-8, hereafter cited as Transcript, 1949, State Archives Governor Turner Records, Reformatory File.

Park, <u>History Penitentiary</u>, 69-70; Transcript of Evidence in the Matter of the Investigation of the Oklahoma State Reformatory, 1913, 667, hereafter cited as Transcript, 1913, State Archives Department of Charities and Correction Records; Testimony taken by Joint Committee Investigating the State Penitentiary, 1910, 62, hereafter cited as Testimony, 1910, State Archives Legislature, Joint Committee Records.

Food conditions always seemed to be inadequate. During subsequent investigations of conditions at the two prisons food was consistently singled out by inmates and investigators as insufficient in amount and of poor quality. The reformatory served black-eyed peas daily for four to six month periods in 1928, 1943, and 1949. In 1949 the breakfast menu included butter biscuits, corn syrup, gravy and coffee. The dinner on Sunday had meat loaf, brown gravy, buns, apple pie, and ice water (in December!). No vegetables and no liquids other than water and coffee were available to the inmates most of the time. 8

Not only was the food limited it was poorly prepared under abominably unsanitary conditions. Inmates working on outside gangs were marched up to their plates which had been placed on the ground and filled with food that was usually cold by the time it was served. They sat down and ate with all the sand, dust and other elements blowing into their food. During the 1910-1920 period most prisons including Oklahoma's used enameled tinware. A doctor at the penitentiary had recommended the use of earthenware because tinware corrodes and was damaging to the health of the user. Toilet tubs on the second floor of the reformatory overflowed constantly and dripped down the walls of the dining room and kitchen on the floor below. 9

⁸Park, <u>History Penitentiary</u>, 73; Testimony, 1929, 80, State Archives Legislature, House Committee Records; Transcript, 1949, 2, State Archives Governor Turner Records, Reformatory File.

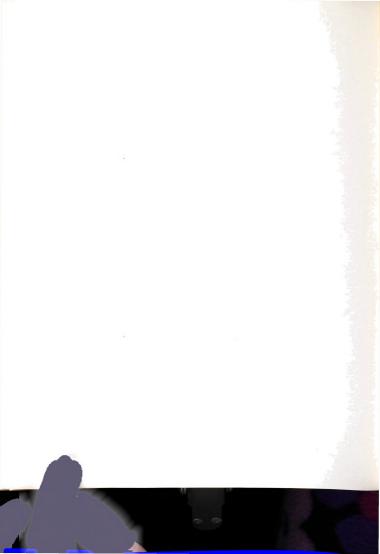
Park, History Penitentiary, 15; Testimony, 1910, 36-37, State Archives Legislature, Joint Committee Records, Transcript, 1913, 1002, State Archives Department of Charities and Correction.



In 1943 investigators from the Board of Public Affairs and in 1944 the State Health Inspector found conditions much worse. There were no hand-washing facilities in the food preparation area, vats for washing pots and pans were rusted, and the stoves and exhausts were beyond repair. Vermin had complete access to the food storage areas. Silverfish, roaches, flies, and evidence of mice and rats were found throughout the bakery and in an adjoining storage area large quantities of groceries were rat contaminated "and unfit for human consumption." 10 Yet the prison cooks served this food daily. The servings were infested with worms and weevils and the inmates had to "skim them off with their spoons." An investigator said that, if the inmates did not have access to funds from relatives to buy food at the canteen, "some would die before they would eat" this food. 11 The same conditions existed at the penitentiary. These conditions did not happen overnight and represented a far more serious problem than merely apathetic staff or unqualified cooks. The state's desire to see the penal institutions as self-sustaining organizations that required a minimal amount of tax dollars encouraged administrators to cut corners. One of these corners was the prison kitchen. The impact of this official policy plus the lack of professional qualficiations for employment encouraged a cavalier attitude among the workers to any

Memorandum, State Health Inspector to H.J. Darcey, Bureau of Sanitary Engineering, November 11, 1944, State Archives Board of Public Affairs, State Institutions. See also Letter, Commissioner of Health to Board of Public Affairs, February 19, 1945, State Archives Board of Public Affairs, Correspondence Penitentiary.

Memorandum, Ivan Kennedy, Chief Investigator to Board of Public Affairs, March 11, 1943, State Archives Board of Public Affairs, State Institutions.



rational standards which may have existed at the time. This attitude was clearly evident to the inmate help and they acted accordingly.

The unsanitary conditions in the kitchens were part of a pervasive unsanitary atmosphere surrounding the two prisons which at times affected the general population as well as the inmates. city of McAlester had a constant lack of water in the area up to the early 1920s and the penitentiary suffered as a result. In 1917 the Governor noted that the water pressure was not strong enough to reach the fourth floor of the factory or the cell house and about one-quarter of the inmates had no water to wash before breakfast or after their work day was completed. At the reformatory in 1944 the state health department found that sewage lines were connected to the drinkingwater lines. The inspector's memorandum to state officials was blunt: "In plain words there may be times when the inmates quartered in the west cell house may be consuming each other's body wastes." But this particular problem did not affect only the inmates. The reformatory's sewage plant was inadequate and as a result sewage from the institution was "discharged. . .in the drainage area of a lake used by the city of Altus for domestic water purposes." Reformatory officials had known about these problems for some time and tried to correct them, but "these efforts (sic) failed due to the lack of adequate financial support from the legislature. 13 Official neglect of the

¹² Testimony, 1910, 34-35, State Archives Legislature, Joint Committee Records; Governor R.L. Williams Message, 1929, 198, hereafter cited as Governor's Message, 19--; Memorandum State Health Inspector to H.J. Darcey, Bureau of Sanitary Engineering, November 1, 1944, State Archives Board of Public Affairs, State Institutions.

¹³ Quote from Letter, Board of Public Affairs to Warden Claude Moore, April 12, 1945, and Letter, Peyton Smith, Engineer



inmate conditions had wider repercussions for the general community.

Agitation against inmates working in competition with free labor and the large number of available inmate workers produced working conditions that were inefficient, tedious, and of no practical utility to the inmate other than relief from the unrelenting boredom. In the 1920s the free world farms were run by a combination of men and machinery, but at the penitentiary everything was "done with hand labor, when it could be done with scrapers and teams in one-eighth the time, and with one-fourth the men." The reason was simple; at the penitentiary "men were more plentiful and cheaper than mules and machinery." At the reformatory inmates broke granite rock with sledge hammers, but they were also available to avert a financial disaster if there was a shortage of cotton pickers. Convicts were hired out to cotton farmers in the area in order to save the crops when migrant labor was insufficient. This tradition, which was in direct violation of the Oklahoma Constitution, continued well into the 1940s. 15

Inmate wages were administered arbitrarily and were of limited duration because most of the jobs were seasonal. There was some evidence that indicated wages were paid in the form of bonuses for production over a set amount. In 1926 the penitentiary reported that

to Board of Public Affairs, January 2, 1945, State Archives Board of Public Affairs, State Institutions.

¹⁴Park, <u>History Penitentiary</u>, 124-125.

¹⁵ Harlow's Weekly, December 7, 1912; Typescript, Announcement to Farmers from Board of Public Affairs, January 14, 1943, State Archives Board of Public Affairs, State Institutions; Oklahoma Constitution, art. 23, sec. 2.



inmates had received over \$19,000 for the year in bonuses. These extra wages ranged from \$1 to \$5 a month per man and probably cost the institution or the contractor about \$2,500 a month during peak periods. At the reformatory some convicts who were "key men and knew their jobs" well received a bonus of \$2.50 a month in the 1940s. The penitentiary claimed that same year that 600 of the 1800 convicts worked jobs that carried a bonus and that the inmates competed among themselves for those jobs. In 1941 the legislature authorized a daily wage of 50 cents per inmate and required that half his earnings be sent to his dependents. These low wages provided little incentive to work, however, and the bonuses were administered arbitrarily by the shop foremen who generally had complete authority over the inmates. During the winter when the farms were inactive or when the weather prohibited farm work, the inmates picked up rocks on the farm for use in building retaining walls or filling in washes caused by heavy rains. No wages were paid for this work. 16

Working in prison industries was very hazardous. The warden of the reformatory said in 1924 that the granite operation was "constantly having accidents that caused injuries" because the "sharpedged granite cuts them like a file." In 1910 an inmate was killed

¹⁶ Park, History Penitentiary, 53-59; Governor's Message, 1926, n.p. and O.S.P. Annual Report, 1926, n.p.; Oklahoma Compiled Statutes 1941, Title 74, sec. 123e and Title 57, secs. 140 & 141; Memorandum "August Bonus," September 1, 1939, State Archives Board of Public Affairs, Correspondence Penitentiary; Transcript, 1949, Vol. I, 12, quote from 18, see also Vol. II, 11, State Archives Governor Turner Records, Reformatory File.

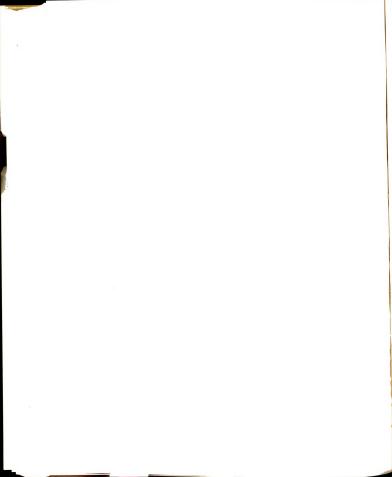
¹⁷Letter, Warden George A. Waters to Parker LaMoore, November 30, 1924, State Archives Governor Trapp Records, Subject File.



by volts from an electrified fence and another killed by a trolley wire while he was constructing the tracks. Inmates suffered crushed limbs, broken bones, and burns from industrial accidents partly because of their own negligence, but more often because of the inadequate and unsafe equipment supplied by the institution. There was another element that contributed to the mayhem. As one contemporary foreman of the prison noted, "the life of a convict is not held very sacred and if one gets killed by a guard fooling around or by an accident" he was expendable. ¹⁸

Danger was a constant companion of the convict whether he was working or just trying to serve his time. The unnatural community of incarcerated and regimented males created tensions that erupted into violence. The convict had to learn the sub-cultural values in order not to violate its norms, but also to survive. Stabbings were a common occurrence and usually resulted from jealousies over male sweethearts or "punks." If one inmate solicited or beat up another inmate's punk, it was considered a sign of weakness if the man did not defend his punk. A grudge fight in 1955 resulted in the burning death of an inmate. The second victim identified the assailant to the sheriff who immediately arranged to have the witness transferred to the McAlester hospital because "in spite of what you can do, if they are going to get you, they will get you." Inmates could complain about staff and take their chances, but the convict code brutally enforced

¹⁸ Quote is from Park, <u>History Penitentiary</u>, 75-76; Testimony 1910, 84-86, State Archives Legislature, Joint Committee Records; See Testimony, 1928, 155, for medical records showing types of injuries suffered by inmates during the late twenties, State Archives Legislature, House Committee Report.



the prohibition against "snitching" on a fellow inmate. The older and more experienced convicts helped initiate the new arrivals to the realities of survival. A warden recognized this as an additional means of control when he testified that the older convicts had learned from their prison experience the value of good behavior and "it is with the help of older and more experienced prisoners that we are in a measure able to keep them (the younger convicts) within bounds." 19

Another primary source of danger for inmates was the prison staff. During the first two decades of the penitentiary rebellious prisoners were placed in solitary confinement with a diet of bread and water. If the inmates continued to make noise, the guards handcuffed them to their cell bars with their hands slightly above their head, stuffed knotted rags in their mouths, and left them until the next morning. If their legs collapsed, and most did, the full weight of their body was "suspended by the handcuffs on their wrists." Beatings by guards were common means of maintaining order. At various times the wardens would order that all physical abuse of inmates cease and the guards and foremen would revert to harrassment techniques by making noise in the cell house so they couldn't sleep, refusing personal requests, failing to respond to an inmate's call for help if he

Nash, My Prison, 41; Parnell, The Joint, 44; C & C Transcript, 1913, 122, State Archives Department of Charities and Correction Records; Transcript, 1929, 35, 1155, State Archives Legislature, House Committee Reports; Warden's quote from Letter, Warden Joe Hunt to Board of Public Affairs, May 31, 1935, State Archives Board of Public Affairs, Correspondence. See also Transcript, 1949, Vol. I, 14, 32, State Archives Governor Turner Records, Reformatory File and Testimony Investigation of State Penitentiary, February 4, 1955, 71-73, 82 (Sheriff's quote at 73), hereafter cited as Testimony, 1955, State Archives Legislature, House Committee Records.

²⁰Park, <u>History Penitentiary</u>, 7-9.

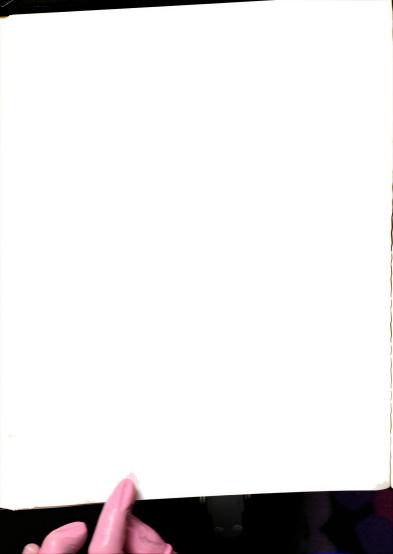


was ill or a victim of an assault, and otherwise constantly hounding the individuals. But other wardens encouraged the brutality not as punishment and not for self-protection, but as a method of control. One testified before a legislative committee investigating prison conditions and said, "my instructions to my officers is (sic) to take care of themselves and not always wait until they are struck before they protect themselves." He also admitted later in his testimony that he found "discontent running through the. . .prisoners," but saw no connection between his policy and the discontent. ²¹

The most detailed evidence about the use of brutality against inmates came from the investigation of the 1949 riot at the reformatory. The generally held notion that physical abuse of inmates by prison staff derived from peculiar psychological defects in a limited number of staff does not withstand close scrutiny. Lone guards seldom beat or whipped an inmate; the guards worked in pairs. On outside gangs they would halt the work and gather the men into a single line so that the gun guard had control before the other guard administered physical punishment to an inmate. In addition to placing inmates in the "hole" (dungeon) for up to 24 hours for missing a job assignment, guards and foremen reassigned men from a high status and pleasant job such as the planing mill to a less desirable job such as the brick factory. This activity obviously required cooperation and active participation from many staff personnel. 22

²¹Quote from Testimony, 1949, 13, State Archives Governor Turner Records, Reformatory File. Also see Park, <u>History Penitentiary</u>, 9.

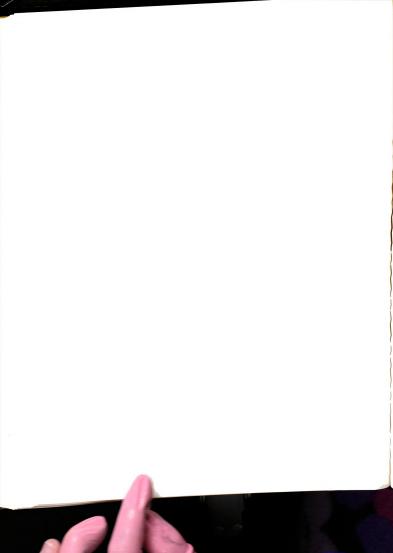
Testimony, 1949, Vol. I, 14, and generally Vols. I and II, State Archives Governor Turner Records, Reformatory File.



The inmates were not alone in developing group norms; the guards did the same. A gun guard on the granite rockpile was watching three other guards beating an inmate and fired a shot over the inmate's head when he picked up a rock to use as a weapon. The other guards cursed their colleague for not killing the inmate and within three months they generated enough complaints against the man to get him fired. He told the investigating committee that "there is so dang much brutality there that you would not remember individual cases." ²³

Guards and foremen harassed and physically abused inmates for many reasons including personality conflicts, but the primary objective was control, control of production and control of deviant behavior. A limited number of staff had to work large numbers of men under unnatural working conditions. Because of the powerlessness of the inmates, they deflected their anger away from the tormentor to their They worked faster and harder taking their emotions out on the iob. particular task they were doing which probably resulted in increased production, but also wore them out physically. An exhausted inmate was not likely to be a rebellious inmate. In addition the prison staff had to get these groups of workers settled into a routine which eased control problems and which in turn allowed the staff to relax. Any disruption of or threat to this routine caused problems for the staff. Inmates who successfully managed to get an assignment change from one work detail to another were whipped or beaten. The beatings were to discourage transfers because these rotations required the staff to

²³Ibid., Vol. I, 18-19.



discourage transfers because these rotations required the staff to regain control of the group with its new member.²⁴

This technique of physically abusing inmates for control purposes was not unique to a few members of the prison staff, though some used it more extensively than others. Physical abuse was widespread and actively used or tolerated by all segments of the prison staff. Lacking any training in alternative methods of group control, the staff relied on fear and physical pain to maintain control of the inmate population. Although the incidents of brutality may appear random at first glance they were in fact systematic. The testimony clearly indicated that the recipients of physical abuse were more often the younger, newer inmates. The physical abuse and harassment served as a perverted method of training the new inmate and changing him from an inmate to a convict. He became less rebellious, more resourceful, less individualistic, and more group-oriented. Thus he became "conwise" and worked the system to his advantage, but without threatening the group. He and the staff recognized the aberrant nature of the system, but they tolerated it for the order it provided.

The existence of physical brutality was not time or location specific; this form of behavior by the staff was an integral part of the management of most state institutions. The Board of Public Affairs had consistently received complaints about "cruel and brutal treatment

The testimony regarding brutality given by witnesses, participants and victims was enormous. The reader is encouraged to see generally Testimony, 1949, State Archives Governor Turner Records, Reformatory File; for personal descriptions of harassment designed to "break" a man see Parnell, The Joint, 35-41, 45-47. See also Sykes, Society, 13-62 and Clemmer, Prison Community, 181-205, for broader discussions of staff brutality.



on the part of guards, attendants, matrons, nurses, and other employees in our state institutions."²⁵ The Board issued numerous orders over the years to institutional administrators demanding that the behavior be stopped, but the abuses continued. In the penal system physical punishment was still in evidence in 1953 and as late as 1966. A citizens group charged in 1958 that the penitentiary used solitary confinement and physical abuse in a highly arbitrary manner and for minor offenses of rule violations. The group attributed the activity to "untrained guards who probably never had any authority over another person (and) are now exerting it to its fullest extent."²⁶ In 1966 the penal system was accused of overusing punitive segregation and physical abuse as punishment because there was no system of "withdrawing privileges" in lieu of physical punishment. Both these conclusions were valid, but neither study attributed the abuse to the inherent nature of the total institution. ²⁷

The inmate had no recourse for relief from these assaults by other inmates or staff except for their own cunning. Normal legal

²⁵Letter, Board of Public Affairs to Warden Jess Dunn, April 9, 1940, State Archives Board of Public Affairs, Correspondence Penitentiary.

²⁶Oklahoma Citizens Committee on Delinquency and Crime, <u>Apathy or Action: A Survey</u> (1953), 7.4. For additional complaints to the Board see Report, Board of Public Affairs, February 18, 1935, Letter, Board to Warden Fred Hunt, March 18, 1936, Letters, Inmates of Reformatory to Board, December 19, 1947, State Archives Board of Public Affairs, Correspondence.

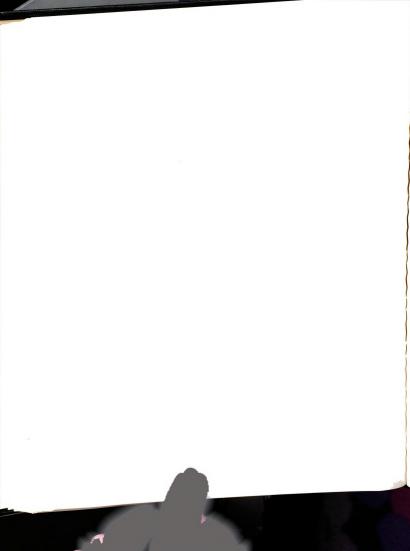
²⁷ National Council on Crime and Delinquency, <u>Correction in Oklahoma: A Survey</u> (New York: NCCD, 1966), 13; For a <u>description of the characteristics</u> of a total institution and its impact on behavior see the excellent monograph by Irving Goffman, <u>Asylums, Essays on the Social Situations of Mental Patients and Other Inmates</u> (New York: Doubleday and Co., Anchor Books, 1961).



channels open to the general population were closed to inmates because of their distrust of the legal system and because of the political nature of Oklahoma's prisons. Local law enforcement officials rarely investigated criminal activity inside the prison unless invited to do so by the warden.

When a county attorney did investigate crimes committed inside the prisons very little resulted from his effort. The inmates refused to cooperate with law enforcement officials, and would not divulge information for fear of retaliation by other inmates or the staff. Even the staff operated in this manner. As a result of this environment the investigating procedure was haphazard and totally lacking in evidentiary processes. A county attorney who investigated a murder at Granite questioned different witnesses, but the testimony "was not taken down as a matter of form, he just questioned them and took pencil notes." Because of their distrust of the legal system, their fear of retaliation from the staff or other inmates in the prison, and the resultant lack of legal redress available to them, the inmates became a law unto themselves. They developed their own system of punishment and sought their own remedy. Many inmates suffered broken bones and other serious injuries from guard beatings and inmate fights, but they rarely went to the prison hospital or reported it to officials. To paraphrase Darwin, life in the Oklahoma reformatory was based on the survival of the fittest or shrewdest. 28

Testimony, 1929, 7-8, 35-37, and generally State Archives Legislature, House Committee Records. Quote is from 7.



One of the main characteristics of institutions that incarcerate large numbers of a single sex is the high degree of sexual perversion that occurs. Oklahoma's prisons were typical. Investigations during the early period of statehood found widespread homosexual activity including rape and sodomy and attributed it to the primitive structures of the unfinished institutions and the overcrowding. these sexual conditions were also reported in later studies and it was common knowledge that older inmates would befriend a young, new arrival while he was in the receiving cell. The older inmate arranged to have a new man assigned to his cell and then made sexual demands upon the cellmate. Sexually active men placed in a sterile environment adapted their sexual drives to the unnatural conditions. The absence of discussion of this topic in the later studies of Oklahoma's prisons in the 1950's and 1960's did not mean that the problem had abated, but that the investigators had ignored its existence or had not found it important to their reform objectives.²⁹

The primary form of daily amusement for the inmates of Okla-homa's prisons was gambling. Though an inmate may not have appreciated this finer art when he entered the prison, he was indeed a rarity if

Investigation of Oklahoma State Reformatory, 1913, n.p., and Transcript, 1913, 61, State Archives Department of Charities and Correction Records; Testimony, 1910, 31-83, and Testimony, 1929, 10, State Archives Legislature, Joint and House Committee Records; also see Parnell, The Joint, 28-30. For further evidence of sexual perversion in other prisons see Sykes, Society, 70-72 for psychological ramifications and Clemmer, Prison Community, 249-273, for sociological interpretations. Social scientists are presently investigating this aspect of prison life particularly from the perspective that the act is based on violence as well as sex; see Anthony M. Scacco, Rape in Prison (Springfield, Ill.: Charles C. Thomas, Pub., 1975).



he was not addicted by the time he completed his sentence. To be sure inmates played ball games in the yard, played checkers, watched movies and participated or listened to musical jam sessions because there were "some of the best musicians in the country doing time" in Oklahoma's prisons. But the most popular form of entertainment was either the dice or card games. 30

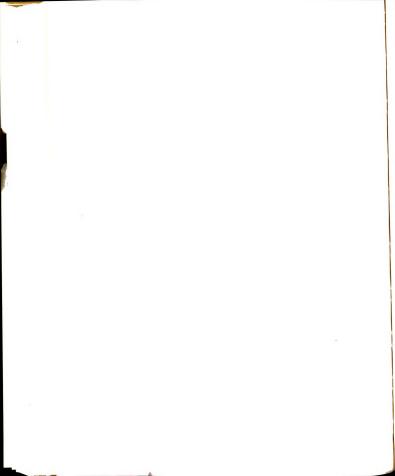
Gambling was a serious business and the games were played for money. Because gambling was against the rules and state law, no money was in evidence at the games. Participants used chips, steel washers, beans, matchsticks, ginger snaps, and other substitutes, but they all represented a pre-specified denomination. A friend of the sponsor who organized the game held the bankroll and was nowhere near the game's action. Thus the game was protected from a raid by prison officials because they would find only symbols of money. Most prison officials tolerated the games because it kept the inmates occupied and helped the staff control the inmates. An ex-foreman who was not a gambler said that it should not be prohibited "for men must have something to break the monotony of prison life" or else they would go insane. 31

Gambling was a tradition in Oklahoma's prisons since 1909.

Prison officials consistently claimed that no money was allowed inside the prison, but they condoned the gambling and indirectly supported the activity. One inmate was reprimanded for attempting to give his

³⁰Park, History Penitentiary, 62.

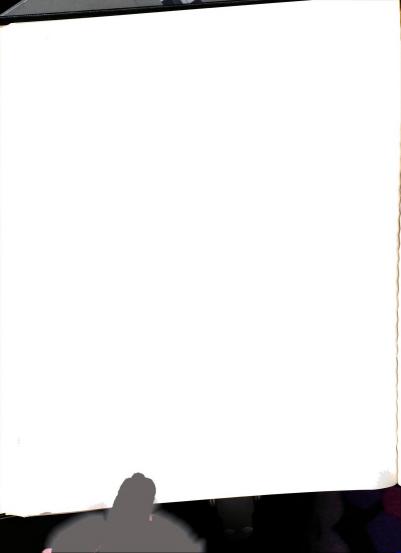
³¹ Quote from Park, <u>History Penitentiary</u>, 102-104; also see Testimony, 1910, S-9, 27, State Archives Legislature, Joint Committee Records. For the law see <u>Oklahoma Compiled Statutes 1921</u>, secs. 1938, 1945, and 21 Ok. Stat. Ann. secs. 941. et. seq.



wife a roll of cash during a visit. He was informed that money was not allowed and in the future it would be confiscated, but the deputy warden told him that if "he won money gambling that he could always deposit it to his credit" in the canteen. 32 The inmates used their canteen coupons as transferable, negotiable instruments and paid their gambling debts with these coupons. In addition each inmate had an account at the canteen and funds were transferred from one account to another through the use of signed vouchers. This activity was very lucrative to the gambling sharks and game organizers and it was not unusual for thousands of dollars to change hands after a weekend of gambling. State officials actually protected the gambling because of their fear of inmate reprisal. No attempts were made to develop alternative organized amusement activities. In 1958 a study group found at least 50 organized games involving 400 inmates in progress. State officials ignored recommendations to abolish the fund-transfer system until 1963 when it passed legislation creating a "Welfare and Recreation Fund" for the prisons, but gambling and fund transfers were still operating in 1966.³³

³²Letter, Deputy Warden J.C. Thompson to Parker LaMoore, Governor's Office, January 13, 1926, State Archives Governor Trapp Records.

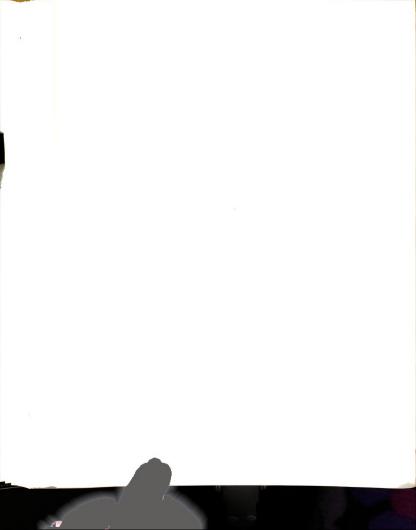
³³Transcript, 1949, Vol. I, 8, 18-19, Vol. II, 2, 12, State Archives Governor Turner Records Reformatory File; Letter, Charles G. Morris, State Examiner to Warden C.P. Burford, January 12, 1947, State Archives Governor Turner Records, Penitentiary File; Citizens Committee, Apathy or Action, 7.8-7.9; NCCD, Correction in Oklahoma, 20-21. The 1963 law created a 7-member board of directors composed of the warden, 2 staff employees and 2 inmates appointed by him, and one member each from the Board of Public Affairs and the Office of Charities and Correction. It also required state auditing of the records and prohibited the use of credit. See Oklahoma Session Laws, 1963, 368-369.



Escapes have long been a part of the prison folklore. Much of the romanticism associated with trying to get away from captivity appealed to the general society's emphasis on freedom and resistance to authority, but reality never quite equaled the myths. Escapes were common during the earlier part of the century, but decreased drastically in later years. Prior to 1935 escapes averaged over 100 annually. For the period 1935 to 1939 the penitentiary recorded 269 escapes. but by 1955 this figure had dropped to a total of 45 for the preceding three years and this pattern continued into the 1960s. Some attempts were accompanied by violence, such as the 1941 incident that resulted in the death of the penitentiary warden, but the escapees usually were caught quickly. In 1941 the four convicts who had escaped were gunned down and killed by prison guards less than two miles from the prison. Most escapes were simply "walk-aways" who deserted their outside jobs to visit their families or to get drunk at a local tayern. Fluctuation in the annual escape figures reflected the abuse of the trusty system by administrators rather than any changes in planning on the part of the inmates. 34

Although escapes were not usually successful it was natural for the hardier inmates to devise various methods to secure their freedom. A common method was to crawl along an open sewer or ditch to the fence. Some inmates dug a tunnel beginning underneath a pile of wood to hide their activity. Friends carried the dirt in their pockets

³⁴Transcript, 1913, 163-164, State Archives Department of Charities and Correction Records; Letter, Warden G.A. Waters to Parker LaMoore, Governor's Office, January 5, 1945, State Archives Governor Trapp Records, Subject File; Testimony, 1955, 105, State Archives Legislature, House Committee Records.



into the yard and scattered it around but a "snitch" informed the guards and the tunnel was closed. Other inmates hid in garbage trucks, dressed as a female and walked out with visitors, hid dummies in their bunks, or changed clothes with trusties outside. Other methods of escape were less romantic and more certain such as hanging and cutting one's arteries. Various modes of non-suicidal escapes continued because as an ex-inmate said, "The fact that they will risk getting shot or severe punishment if caught indicates their love of freedom or their hatred of the penitentiary or both." The problem continued to harass administrators because as the prison population increased reaching as high as 4,000 the staff was not able to maintain total and constant surveillance and "once in a while they outsmart(ed)" the administration. 35

Shifts in the number of inmates in the prison which had a finite capacity caused problems for the inmate community as well as the administration. Oklahoma had a long tradition of maintaining high incarceration rates. This constant ingestion of new inmates resulted in a rising daily population which in turn strained the social stability of the inmate community. Oklahoma doubled its prison population between the 1920s and 1930s and it consistently exceeded prison capacity by about 25 percent. The penitentiary warden pleaded for more cell space in 1923 because "during the past year we had from two to three hundred (inmates) sleeping in the corridors." The rising

Inmate quote from Parnell, <u>The Joint</u>, 43-44, also see 37-38; Administration quote from Transcript, 1949, 18, State Archives Governor Turner Records, Reformatory File.

³⁶ Governor's Message, 1923, 130.



inmate population reflected the general population growth of the state, but at a slower rate. The state's population increased 18 percent during the late 20s, but the prison population rose only 5 percent.

The oil boom attracted newcomers to settle in the state and towns grew overnight, but it also attracted drifters, grafters, prostitutes, and other deviants who had little inclination to settle down in the community and who plied their illegal trades openly. The number arrested and convicted quickly overwhelmed the local jail facilities, because of the absence of a state probation system, and the penitentiary picked up the slack. Many of the inmates during this period had received sentences of less than one year. ³⁷

When the oil played out the towns dried up and most people moved to the next oil strike. But many stayed and gravitated to the nearest city seeking employment. This population movement added to the "tendency of those living on farms to move to town and engage in non-producing vocations" and compete for a limited or declining number of jobs. Sinally, in the 1920s there had been a real increase in crime. In 1924 Oklahoma experienced 52 bank robberies with a loss of

³⁷ Governor's Message, 1923, 132; Governor's Message, 1931, 13; Oklahoma State Planning Board, State Penal and Corrective Institutions in Oklahoma (Oklahoma City, 1936), 8. There are not any studies of the growth of cities or the urbanization movement in Oklahoma since statehood. For an introduction to this topic see Luther B. Hill, A History of the State of Oklahoma, 2 vols., (New York: The Lewis Publishing Co., 1908-1910), Vol. I, 216-267. For territorial origins of Oklahoma cities see John Ally, City Beginnings in Oklahoma Territory (Norman: University of Oklahoma Press, 1939). For the impact of oil booms on law and order see Carl C. Rister, Oil! Titan of the Southwest (Norman: University of Oklahoma Press, 1949), 120-122.

³⁸ Governor's Message, 1921, 4.



\$232,000 and hundreds of automobiles were stolen. The level of fear rose and so did the inmate population. In 1927 the penitentiary had 2,100 inmates compared to 1,300 in 1924.

Oklahoma had started very early in its history to incarcerate offenders at a high rate and continued that pattern throughout the 1930s. In 1936 Oklahoma had only 2 percent of the nation's population, but it had over 3 percent of the nation's prison population in its institutions. In a two year period from 1935-1937 the penitentiary population increased 12 percent from 3,200 to 3,600 inmates and reached a high of 4,000 at one point in 1937. Over half the counties in the state had higher incarceration rates per 100,000 population than the state as a whole. The highest rates came from the urban areas and the sub-marginal land areas of the southeastern counties. These counties also had the highest percent of tenant farmers, illiterates, relief dependents, and juvenile delinquents in the state. ⁴⁰

Clearly the criminal justice system served as an absorbent that collected those individuals cut loose from the stabilizing norms of society. The social disorganization created by the rapidly shifting economic and social systems caused by the boom and bust patterns of the oil industry, the droughts and declining price of farm products, as well as the genuine fear of rising crime placed enormous pressure on the state's penal system. These social conditions changed over time, but Oklahoma continued its disproportionately high incarceration rates.

³⁹Governor's Message, 1927, 33, 41.

⁴⁰ Governor's Message, 1937, 53; Oklahoma Planning Board, State Penal, 9-10.



In 1956 its prison population totaled 2,600 and its rate of incarceration per 100,000 population was 121, well above the national rate of 102 and the regional rate of 108. Ten years later the pattern was the same and the prison population had increased to almost 3,000. All during this time the prisons experienced a 50 percent turnover of inmates annually. These constant increases and the high turnover contributed to the inmate tensions described earlier. 41

The quality of life for incarcerated criminals was not supposed to equal conditions in the general society, but Oklahoma's inmates lived in an environment that was far worse than the lowest strata of the free population. Oklahoma's prisons did more than constrain a person's liberty; they robbed him of his security, his dignity, and his humanism. The cells were small and always had more than one occupant thus limiting privacy. The staff was unqualified and too often brutal, the food was poor, and daily living was hazardous. All these conditions cannot be attributed to the nature of institutional life. Official neglect and general apathy contributed to the historical development and persistence of these wretched conditions. More important to these developments was the conscious and deliberate violation of the state's laws regarding the administration of the prisons by elected officials and prison administrators. These actions brought out the worst aspects of institutional life because the inmates as social outcasts had no legal recourse for protection and thus relied on their own resources.

⁴¹ U.S. Bureau of Prisons, <u>National Prisoner Statistics:</u>
<u>Prisoners in State and Federal Institutions</u> (Washington, D.C.: U.S. Department of Justice, 1956), 4 and Ibid., for 1966, 1, 25.



CONCLUSION

The origin of Oklahoma's penal system was enmeshed in a spirit of reform and progress. The penitentiary was a direct response to the brutal treatment of Oklahoma's inmates at the Kansas penitentiary and the reformatory was clearly linked to the rehabilitative thrust of the social reform movement of the early 1900s. Both these institutions represented the best of penology at that time, but these reforms did not survive. Within two years after statehood Oklahoma's penal system became mired in scandal and the state's reaction set a pattern that survived for over 60 years. Elected officials delayed their response to emerging penal problems until they were extreme emergencies. When they did react it was to the crisis, not the problem. Their solutions were based on political and economic considerations rather than penological objectives or standards because the prisons were operated as economic enterprises for a profit not as social agencies for the rehabilitation of convicted offenders.

The state's desire to operate a profitable industrial prison collided with the economic and political realities of the marketplace. Industries and commercial interests saw prison products as a threat to their markets. Labor saw this competition as a threat to job security. These groups worked together and slowly squeezed the prison out of the open market. Oklahoma's prisons were crippled, the inmates



were idled, and the cost of maintaining the institutions rose. State officials refused to discard the concept of the industrial prison, however, and the penal system floundered.

In addition to the problems generated by economic issues the penal system very quickly became enmeshed in the underside of politics. Patronage dominated personnel selection and corruption was rampant during most of the state's penal history. Study after study documented the shortcomings of the penal institutions, but the legislature refused to make the corrections. Indeed one of the most striking findings of this study was the legislature's deliberate refusal to solve the state's penal problems.

The Governor's office also did not escape untarnished from this study. Governor after Governor condoned or tolerated illegal activity by the state's penal system. Whether the activity involved penal employees working beyond the number of hours limited by law, or the contracting of convicts to private individuals, or the use of state materials and labor for private gain, or the selling of prison-made goods that had been prohibited by law, the evidence clearly indicated that the governors knew about these law violations and in many instances had ordered or approved the action. When elected state officials violated the law there was little reason to expect lower echelon employees to respect the law or use it to guide their behavior.

The impact of political manipulation and official disregard of the law had severe repercussions for staffing and operating the prisons. Low wages, job insecurity, and poor working conditions made the working environment miserable for penal employees. These conditions did not



attract career-oriented applicants and as a result, the prisons were at the mercy of the competitive job market with only the old or infirm applying for prison jobs. Personnel turnover was high and employees had no sense of commitment to the organization or to standards of penology. Very little training occurred, planning was non-existent, and the daily operations were managed from crisis to crisis. Rarely was the warden in total administrative control of his institution.

The brutality suffered by the inmates was at times the result of incompetent staff hired under the patronage system, but the roots of official brutality were ingrained in the structural defects of the penal system. The industrial prison required production for profit and a limited number of staff had to control large numbers of inmates in an artificial working environment. The inmates had no incentives to cooperate and the guards resorted to pain and fear as their means of controlling the large and diffuse work force.

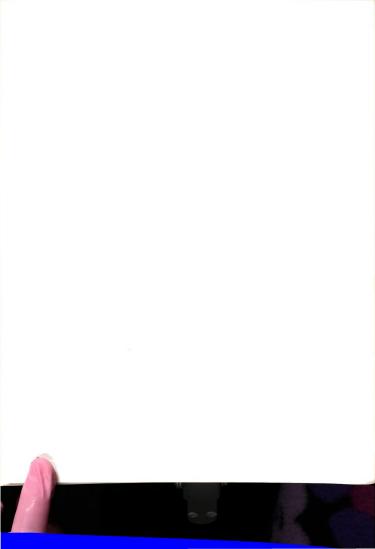
Oklahoma's penal history had some bright spots such as the intense social reform movement during the first year of statehood. A few of the governors such as James Robertson and Roy Turner made an honest effort to upgrade penal services in the state, and partially succeeded. The impact of these reforms, however, were quickly diluted or they were simply discarded by an intransigent legislature or a short-sighted governor. In the historical struggle between the forces of continuity and change in Oklahoma's penal system, the forces of continuity won.

In the larger picture of penal development in this country,
Oklahoma's history challenges long-held conclusions about the purpose

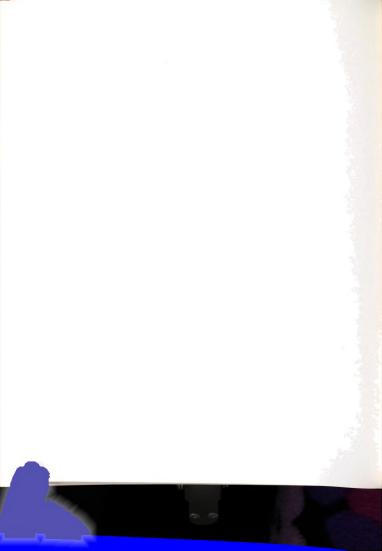


of prisons. This state viewed the penal system as an economic enterprise first and questions of rehabilitation were a distant second. If this state was not unique in its approach to penal development then the generally held notion that prisons were built for reformation purposes will have to be modified as we move forward in time and from east to west. This study clearly indicated that the role of prison industries in a state's penal system was far more important than criminologists have led us to believe.

Recent research on Louisiana's penal history indicates Oklahoma was not unique. See Mark T. Carleton, Politics and Punishment: The History of the Louisiana State Penal System (Baton Rouge: Louisiana State University Press, 1971), particularly 81-83, 112-114, 127-130.



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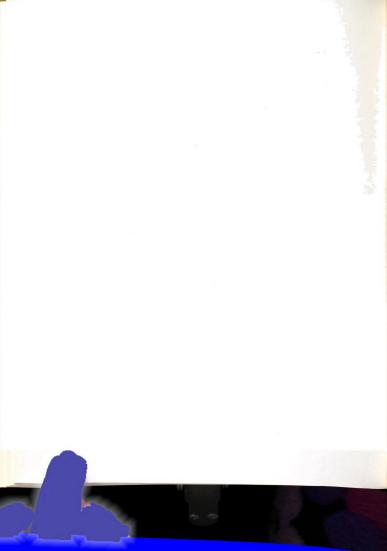
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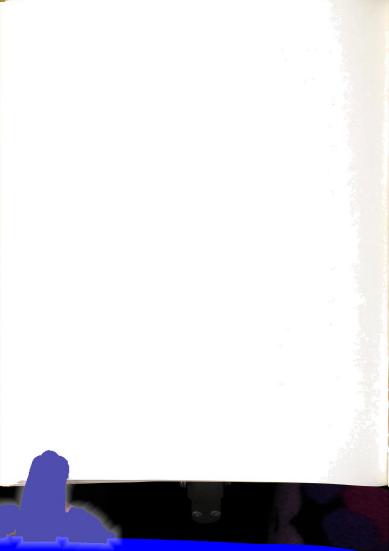


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