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OPERATION OF THE NEW PAROLE LAW IN ILLINOIS

JOHN L. WHITMAN²

Few persons in Illinois have any understanding or knowledge of the vast changes which have come about since the first of July last year in the administration of the new parole law. Without attracting any considerable amount of public attention changes have been brought about in the parole system which practically revolutionize it. The results already are so apparent that we who are entrusted with the parole work in Illinois feel that the new plans are now safely set upon a solid foundation.

Illinois has been a pioneer in many penal enactments. Our state was one of the first to adopt the parole system. It was also one of the first to adopt probation laws. It was actually the first state to enact Juvenile Court laws, and last but not least in importance, a new Civil Administrative Code, which brings into being a Department of Public Welfare, embracing all that the name implies.

It will be the aim of the present administration to keep Illinois in the foreground in all such matters.

Illinois passed its first indeterminate sentence act and parole law in 1895. That act was amended in 1899 by giving the paroling power to the State Board of Pardons instead of to the Penitentiary Commissioners and the Wardens. The Penitentiary Commissioners and the Wardens constituted the paroling power for the four years between 1895 and 1899.

The Act of 1899 remained practically without change until the legislative session of 1915. In that session a small step was made toward a parole for what is known as definite sentence crimes. The short step made in 1915 was broadened in the 1917 session when the legislature revised the whole parole act. The present act became effective July 1, 1917.

At the Prison Congress last winter at New Orleans I heard the present parole law of Illinois described by persons who have devoted their lives to prison work as one of the very best laws in effect at this time in any of the states. The present parole act was not a compromise. It was carefully prepared in the Attorney General's office.

¹Read at the meeting of the Illinois Branch of the American Institute of Criminal Law and Criminology, at Chicago, May 31, 1918.

²State Superintendent of Prisons, Springfield, Ill.

It was introduced late in the session and finally was passed in about the form in which it was originally introduced.

Much of our legislation in its finality is a result of compromises reached in long legislative sessions after extensive hearings before the House and Senate Committees. This is not true of the parole act. The good things that are found in the present act probably could not have been obtained in long drawn out committee hearings. In its passage the parole law received the unanimous vote of the House and the Senate.

In a brief manner I shall attempt to call attention by comparison to some of the features of the present law. Murder, rape, treason and kidnaping remain definite sentence crimes in Illinois. Under the old act of 1899 these crimes were not parolable. The new act creates a separate parole system under which persons sentenced for the crimes of murder, rape, treason and kidnaping may be paroled when certain conditions are met. A life sentence murderer may be paroled when he has served actually twenty years of his sentence. This does not mean that he shall be paroled at the end of 20 years.

In all definite sentences the prisoner is made eligible to parole when two conditions are met. First, the prisoner must serve the minimum time fixed by law for the crime. Secondly, he must serve one-third of his sentence before he is eligible to parole. For instance, under a 14 year murder sentence the prisoner must serve a minimum of 8 years and 3 months which is the good time for 14 years. A third of 15 years is 5 years, and yet at the end of 5 years the murderer with a 14 years' sentence would not be eligible to parole, because he has not served the minimum. If it was a 15 year sentence for rape, the minimum of which is one year, the prisoner is eligible to parole when he has served one-third of the 15 years, or 5 years.

As another example, take a 45 years' sentence for murder the minimum for murder having been served in 8 years and 3 months, the next requirement before this prisoner becomes eligible to parole is that he serve one-third of the 45 years, which is 15 years. As it takes under the good time law 23 years and 9 months to serve a 45 years' sentence, the net result is that this prisoner would be permitted, in the event of parole being granted, to spend the last 8 years of his sentence upon parole outside the walls. All definite sentence paroles, under the rules of the Division of Pardons and Paroles, are for the maximum time. A rule provides that for the first two years on parole the prisoner shall report monthly; the third and fourth years, quarterly; the fifth year, semi-annually, and thereafter annually.

In a meager way the first start toward parole for definite sentence men was made in the 1915 session of the General Assembly. Under the system which had grown up through twenty years men who had grown old and gray in the prisons on homicide sentences could not be reached. In Chester and Joliet at that time there were upwards of 100 nearing the end of life's goal. A commutation or pardon offered the only relief. Under the system which had grown up through the various years not to exceed twenty commutations were to be granted each year. It had been customary where a prisoner who had served a long sentence and who had decent relatives upon the outside who wished to take him home and care for him during his last days, to grant a commutation. Things of this character used up the year's twenty commutations to such an extent that relief for persons who were about to die could only be furnished to four or five men each year, no matter how deserving their cases might have been.

Under the 1915 enactment, running from July, 1915, to July, 1917, definite sentence paroles were granted to forty men. Of that number 39 were homicide cases. The fortieth was a thief serving a lifetime sentence in Chester for robbery with a weapon. He had served 23 years in prison. He fell within two months after being released upon parole. Up to this time, which is now nearing three years, there has not been a single report of misconduct made against any one of these 39 sent out upon definite sentence parole. Since July 1, 1917, when the powers for definite sentence parole were considerably enlarged, quite a few other men have been released and not a report of misconduct has been received against any one of these. I am using this as an illustration of the value of supervision under a parole rather than to have these men serve their time in full inside the walls and then go upon the outside without help or guidance. This record also illustrates another important thing. It is this—persons who have had an unfortunate circumstance such as homicide come into their lives are not the dangerous men who come out of prisons. (Davy Hogan story.)

The Civil Administrative Code, also passed by the last General Assembly and the new parole law work admirably together. Under the Civil Administrative Code the former Board of Pardons was abolished and the administration of all laws heretofore administered by the Board of Pardons was given to the Department of Public Welfare, which is made up of a director, an assistant director, and six divisions, which are presided over by the following: An alienist, criminologist, fiscal supervisor, superintendent of charities, superintendent of prisons, and a superintendent of pardons and paroles. These various activities

are known as divisions. In creating the Division of Pardons and Paroles the Department of Public Welfare assigned to that work the assistant director, the criminologist and the superintendent of prisons to assist the superintendent of pardons and paroles.

The Division of Pardons and Paroles holds regular monthly meetings at the two penitentiaries and at the reformatory. In the biennial period of two years upwards of ten thousand cases are passed upon in one form or another by the division. In the penitentiaries every prisoner is eligible to a hearing before the Division of Pardons and Paroles when he has served his minimum, provided he has not served one or more prior terms. At the reformatory the system works differently. Each boy there is eligible to a hearing when he has six good months of service to his credit. At that time his case is carefully considered and there is fixed for him to serve a certain number of good months. The Division of Pardons and Paroles looks upon Pontiac as a reformatory. In the main 36 good months is the maximum for all crimes there except robbery with a gun. In crimes of violence the time may be set for any number of good months between 36 and 60. Good months may be earned by exemplary conduct on the part of the boy and by efficiency shown in shop and school. If a boy cannot come to a realization of himself in making a 36 good months' sentence, which sometimes takes him from 40 to 48 actual months, the Division of Pardons and Paroles feels that the reformatory has exhausted its resources and that longer incarceration there will be of no benefit to him. It is for that reason that the boys are given an opportunity at the end of short sentences to go upon the outside and demonstrate while on parole their fitness to go back into the world. If they fail after that the penitentiary is the place for them.

At this point I want to call attention to the new commitment features contained in the present parole law. Every male person between the ages of 16 and 26 years, except in capital cases, may, in the discretion of the court, be sentenced to the reformatory instead of the penitentiary.

Every male person between the ages of 21 and 26 years, who has previously been sentenced to the penitentiary or reformatory in this or any other state, may, in the discretion of the court, be sentenced to the penitentiary instead of the reformatory.

Apparently these features in the new parole law are not fully understood by committing judges. Formerly the age limit at Pontiac was 21 years. In raising the age limit at Pontiac to 26 years there seems to have resulted confusion. When carefully read the law is

very plain. A boy who has served a sentence at Pontiac of from 30 to 36 good months and who gets in trouble a second time, probably for robbery with a gun, should not be recommitted to Pontiac. In his first incarceration there the reformatory did all it could for him. On the other hand, I have found quite a few cases since becoming superintendent of prisons now a little less than a year ago, of boys committed to the penitentiary, who, under no conditions or circumstances, should have been sent there by the committing court. In one instance I remember the boy was but 18 years old and yet he was in the penitentiary for his first offense.

Considerable leverage in transferring from Pontiac to the prisons and from the prisons to Pontiac is given by the new law. Despite all that is possible to be done for the good of the individual under the powers of transfer, the committing judges, by giving thought to these things, could render great service to the state and the individual by committing to the place best fitted, as the law contemplates. In the vast bulk of work done by the superintendent of prisons and by the Division of Pardons and Paroles we are not able to reach questions of transfer the day, or even the week or the month, following the boy's arrival at an institution which is not best suited for him. The machinery for transferring is somewhat cumbersome. Made so by the necessity of returning the individual to the trial court, and the preparation of a petition to be filed ten days before the hearing, setting out all the reasons why the transfer should be made. The proper commitment in the first place would eliminate this cumbersome method.

In this connection I want to call attention to another important feature in the new law which does not seem to be wholly understood by the committing judges. It is this: "Every male person between the ages of 16 and 21 years, who shall be adjudged guilty of an offense punishable by imprisonment in the county jail, may, in the discretion of the court, be committed to the reformatory for the jail imprisonment only, instead of the county jail, for not less than the minimum nor greater than the maximum term provided by law for the offense of which such person is convicted."

This feature was purposely placed in the new parole act. The purpose is stated exactly in the language of the new act. It was the purpose to take boys between the ages of 16 and 21 years out of small county jails, oftentimes filthy and frequently filled with older persons hardened in crime.

Committing judges interpret this language to mean that they should fix a definite sentence in these cases, and in consequence boys

are coming to Pontiac at this time to serve sentences for 30, 60 and 90 days. They are deprived of the benefits of the parole act. In addition, the reformatory is deprived of its opportunity to benefit the boy who is committed there in this manner. Sentences of this description are destructive to the reformatory and its purposes.

Varied views are held by the committing judges as to their powers under the new parole act. Section 2 of the new act makes it plain that except for the crimes of murder, rape, treason and kidnaping "every sentence to the penitentiary or reformatory, and every sentence or commitment to any other state institution now or hereafter provided by law for incarceration, punishment, discipline, training or reformation, shall be a general sentence of commitment, and the courts imposing such sentence or commitment shall not fix the limit or duration of such imprisonment."

This portion of Section 2 of the Act when read in connection with section 6, fixes, in effect, a minimum of one year for all crimes in which the statute does not provide a minimum punishment. Among other things section 6, and I am now quoting from that section, says:

"No prisoner or ward sentenced or committed under a general or indeterminate sentence, shall be eligible to parole earlier than one year after his or her commitment in said penitentiary or reformatory or state institution in this act mentioned, nor until he or she shall have served the minimum term of imprisonment provided by law for the crime or offense of which he or she was sentenced and committed."

It happens that in a few crimes, such as conspiracy, crimes against children, crimes against nature, and a few others, that the statutes do not fix a minimum punishment. Some years ago the Supreme Court held that in these crimes where no minimum punishment was fixed that the jury or the committing judge should fix a definite sentence. It was to meet this situation and make all crimes indeterminate except murder, rape, treason and kidnaping, that the Legislature made the provision I have just quoted above in section 6. It was the purpose of the Legislature in this section to provide in a general way a minimum term of imprisonment for persons convicted of crimes, the minimum punishment of which is not provided in statutes which read that the punishment shall not be greater than three years or five years. With a few exceptions, the statutes fix punishment of from one year to ten years, or from one year to twenty years.

While every person is eligible, under the rules, to have a hearing before the Division of Pardons and Paroles when he or she has served the minimum time, it does not necessarily follow that these persons

are to be paroled at the end of the minimum time or when they have their hearing. Many persons not understanding the work done by the Division of Pardons and Paroles, believe that practically every person is paroled when the minimum has been served. This belief is far from correct. After a hearing a prisoner may be required to serve any number of years up to his maximum. All prisoners automatically appear upon the docket for hearing at the end of their minimum time. After a case has been heard the prisoner receives a ticket saying it is ordered that you shall be released upon parole one year, two years, five years or ten years, as the case may be, from the date of the hearing "provided your conduct remains good until that time and that no new matter is discovered in your case." It does not take the service of an attorney to get the original hearing for the prisoner nor to obtain for him a rehearing of his case. Hundreds of cases are taken up every year and rehearings granted merely upon the letters written by the prisoners. If the prisoner is not capable of writing his own letter there are other prisoners who will write for him and, in addition, he can make a request for a rehearing through the warden. Rehearings are granted by the division willingly for the reason that it furnishes opportunity of keeping in touch with the prisoners, observing their attitude of mind, and giving encouragement when they are making efforts to justify a reconsideration of their case; and also to give them an understanding of what progress they must make before they are really fit subjects for parole.

Under new plans inaugurated by the Division of Pardons and Paroles for the visitation and handling of persons while upon parole upwards of 2,500 paroled men, boys and girls are being visited by the state parole agents each four weeks. The new plans, while yet in embryo, are working so satisfactorily that the old system for handling persons upon parole appears to have been a farce. Under the old system the parole agents worked under the directions of the wardens. Each agent simply looked after persons who were upon parole from the institution which paid his salary. The wardens were not specially interested in the welfare of the person upon parole, chiefly for the reason that the public mind charged the failures while upon parole to the former State Board of Pardons, the Board of Pardons having made the parole order.

Under the new plans now in operation, all the parole agents for Joliet, Pontiac, and Chester, and the Home Visitors working out of the Industrial Schools at St. Charles and Geneva are under the direct supervision of the Division of Pardons and Paroles.

The state has been divided into 9 districts; an index card has been prepared for every ward, whether upon parole from the penitentiaries, the reformatory or the industrial schools. These index cards are worked into a county file. While the person originally may go to an institution from one county when going upon parole they may go into another county to serve that parole. The agent working in that county, when he has his assignment, receives an index card for every person upon parole in the counties in his district. The index card makes a definite assignment and upon that card he makes a report each month.

Under the old system the agent was merely told that there were from three to four hundred persons upon parole, scattered throughout the state from that individual institution, and it was up to him to search the records and make his own notes as to where he would find them. He didn't work under definite assignment and in consequence the job was so big that the agent naturally sunk down under the weight and did little of anything except to make trips and return prisoners who had been reported for violations.

Experience teaches that persons upon parole need guidance and that they need some one who can advise them at frequent intervals. Without this advice they soon become discouraged and their first thought is to run away. When a person on parole starts running he hops from one place to another until finally he commits a crime somewhere for which he is arrested and usually convicted. The fingerprints and Bertillon measurements are so well worked out that only in a very rare case does it occur that a person who has served in one penal institution is not identified soon after his incarceration in another.

The chances of ultimate success and return to right living are greatly enhanced by a successful parole period. The person upon parole who has lived properly for a year or more is vastly better fitted to again take his place in the world than he was before.

The parole agent's duty does not end when he has merely visited the prisoner and ascertained from him how he is getting along. It frequently happens that the original employment does not suit the prisoner or else he is not suited to it. A good parole agent will change a prisoner sometimes four, five or six times until he finally gets him into work which he likes and is adapted to.

Before the prisoner is permitted to leave the institution it is also the duty of the parole agent to investigate the sponsor who is to take him upon parole. This is a very important part of the work. By doing this work in advance of the time the prisoner leaves the institu-

tion the opportunity for making an error in the selection of the sponsor is greatly lessened.

In order to obtain closer co-operation between the committing authorities in the various counties and the state paroling authorities it has, under the new plan, also become a part of the parole agent's duty to visit state's attorneys, sheriffs, and county and circuit judges; also chiefs of police in the various towns. With these officers the parole agent discusses the cases of the individuals who are doing their paroles in that particular county. In these discussions he not only enlists the aid of the county authorities in looking after the prisoner, but learns of the various things that may not be for the best interests of the paroled person.

Since becoming familiar with the plans and the efforts made by the Division of Pardons and Paroles to look after wards of the state who are upon parole it is surprising the number of police departments in various towns in Illinois that are now in hearty accord with the work and are lending their assistance to it. I do not know why it should have been so, but, nevertheless, it has been true for years, that men going out of prison upon parole were afraid of the police departments. Under the new order of things this is changing. When men upon parole are trying to do right the assistance of police officials can be exerted to an important end in their lives. The results already obtained in localities throughout the down-state are most gratifying.

The Division of Pardons and Paroles is exerting its energies toward the enlistment of support for its work through every possible channel. At this time there are not to exceed twenty-five persons, including the parole agents, the home visitors and the members of the Division of Pardons and Paroles, actively engaged in the work. There is a limit, of course, to what these twenty-five individuals can accomplish, but if these twenty-five, through their efforts, can interest and enlist each year in their work more state's attorneys, county and circuit judges, sheriffs, chiefs of police and public spirited citizens there can be but one result—a great and real accomplishment and a successful operation of the parole law.

Very recently the Division of Pardons and Paroles has addressed the penal institutions of other states asking to be advised of the names and addresses of persons coming from those states into Illinois to do their paroles and offering to look after them with the Illinois Parole Agents in the same manner as the agents look after persons paroled from the Illinois institutions. As near as can be ascertained there are at times as many as six or seven hundred persons upon parole in

Illinois from other states. Responses to these letters are just now being received from other states, some 28 in number, which have parole laws. In the main, these responses are in hearty accord with the suggestion that the prisoner coming into Illinois from other states be visited and looked after by the Illinois agents.

Before concluding I want to say that the Civil Administrative Code which brought into being the Department of Public Welfare, makes possible for the first time in the state's history a real co-operation between prison management and the paroling department. Without this co-operation administration of the parole law cannot be nearly so successful. The Division of Prisons and the Division of Pardons and Paroles, each a part of the Department of Public Welfare, I am glad to say are working in hearty accord and to the same end, as evidence of which the principles of prison management are recognized by the Division of Pardons and Paroles in the following classifications:

1. Proper treatment of the mentally and physically sick.
2. Classification according to needs and abilities of individual inmates.
3. A progressive merit system working toward freedom.

This progressive merit system being a thing that is entirely visible to prisoners serves to maintain discipline and promote industry, as well as to fit them for useful careers in after life and provides for their passing through the following stages while in preparation for freedom:

- (a) Confinement within prison and subjection to all the prison rules with very little personal responsibility.
- (b) Increasing opportunities to merit more confidence on the part of prison authorities by strict application to industry and adherence to prison regulations.
- (c) Positions of trust within the prison walls.
- (d) Life in cottages outside the prison walls, but under supervision of prison officials.
- (e) Work on the prison farm without guards—final preparation for parole.
- (f) Parole.
- (g) Freedom.

I began by speaking of Illinois pioneering in penal enactments. I shall conclude with a prediction that Illinois will also be the pioneer soon in an enactment which will give state-wide supervision to all probation.