U.S. copyright law (title 17 of U.S. code) governs the reproduction and redistribution of copyrighted material. The copyright owner retains all rights to this work.
THE ADMINISTRATION OF THE TEXAS PRISON SYSTEM
THE ADMINISTRATION OF THE TEXAS PRISON SYSTEM

THESIS

Presented to the Faculty of the Graduate School of The University of Texas in Partial Fulfillment of the Requirements

For the Degree of MASTER OF ARTS

By

James Robert Reynolds, B.A., Trinity, Texas

Austin, Texas
August, 1925

244632
# TABLE OF CONTENTS

## CHAPTER I

| Evolution of the System | 1-42 |

## CHAPTER II

**The Present System--Its Control and Management**

| The System of Prison Government | 43-54 |
| Prison Regulation and Discipline | 54-61 |
| A Brief Summary of the Management of the Texas Prison System | 62-65 |
| A Comparison of the Present Conditions with Conditions Existing in the Past | 65-72 |
| Penitentiary Board of Supervisors | 73-74 |
| The Prison Plant | 75-78 |
| Some Changes since 1910 | 78-79 |

## CHAPTER III

**Complaints and Investigations**

| Conditions until 1915 | 80-100 |
| Investigation of 1915 | 100-101 |
| Investigation of 1917 | 101 |
| Investigation of 1919 | 102-103 |
| Investigation of 1921 | 104 |
Investigation of 1923

Investigation of 1925

Conclusion

CHAPTER IV

The Relocation Controversy

Early Appearance of the Question

Discontent with the Location

Relocation Ordered by the Legislature

Failure of the Relocation Committee

The Neff Plan

The Legislative-Citizen Committee

The Texas Committee on Prisons and Prison Labor

The Thirty-ninth Legislature and Relocation

CHAPTER V

Plans of Reorganization

Many Attempts at Reorganization

Many Suggestions of Reorganization

Proposed Plans

Governor Neff's Plan

The Plan Proposed by the Committee on Prisons and Prison Labor

The Third Plan of Reorganization
PREFACE

The Prison System of Texas has, like many institutions, gradually evolved by historical development. Beginning in 1842, it has grown from a mere handful of prisoners and property of very little value, until there is now a prison population of several thousand and prison property to the value of nearly eight million dollars.

There have been about three typical forms of responsibility and management appearing at different times in the administration of the Texas Prison System. The earliest form placed the responsibility upon the Governor of the State, with the prison directors and superintendent as aids. The Governor uniformly appointed the directors and superintendent during this period. After 1883, the superintendent and commissioners (or directors) were given more power. However, the Governor continued to appoint these officials. This period lasted until 1910. In 1910, the superintendency was abolished, and the Board of Prison Commissioners became supreme.
In 1912 an amendment to the State Constitution made the Board of Prison Commissioners constitutional. This third period has continued since that date. A reaction from this third stage has appeared. In 1921, an attempt was made to abolish the Board of Prison Commissioners. It failed to carry. The Thirty-ninth Legislature again proposed an amendment abolishing the Board. This measure will be voted on in November, 1926.

No prison system has ever been satisfactory. The Texas system is not an exception. The great number of Legislative investigations indicate that our law makers have not been satisfied, while the press of the State has voiced in a general way the attitude of the public.

The relocation controversy is simply one phase of the great question of improving our penal system. Many plans of reorganization have been suggested. Perhaps, none of these plans are perfect, but most of them contain some good features.

The most hopeful sign of the whole matter is that the people of our State are gradually awakening to the fact that reformation, and not punishment, should be the paramount purpose of our prison system.
To Dr. C. P. Patterson, Chairman of the Department of Government in the University of Texas, I wish to express my sincere appreciation for his very able, kind, and sympathetic assistance in the preparation of this paper. To Mr. F. M. Stewart, Adjunct Professor of Government in the University of Texas, I am due lasting gratitude for his timely suggestions in the selection of material. To Mrs. Elizabeth Speer, Secretary of the Texas Committee on Prisons and Prison Labor, I extend my thanks for valuable aid. I thank Miss Rogan, State Librarian, for her courtesy in helping me to find various types of material. I am under obligations to Mr. Ghent Sanderford, Private Secretary to Governor Ferguson, for his generous treatment in permitting me to examine valuable official reports connected with the prison system. To J. Alton Burdine, Assistant in the Department of Government of the University of Texas, I wish to express my appreciation for valuable suggestions in the preparation of the map of the Prison System of Texas. To Mr. J. R. Jordan, Clerk of the Department of Criminal Records of the Prison Commission of Texas, I am grateful for valuable information concerning the work of his office.

James Robert Reynolds
Austin, Texas
August, 1925
CHAPTER I

EVOLUTION OF THE SYSTEM

I realize that it is a considerable task to give anything like an adequate description of the Texas prison system. There has been so much written on the question that the amount of available material is voluminous. It becomes a task of selecting the proper material so as to get a correct understanding of the real problem. Politicians have written and spoken on the question ad infinitum. The newspapers have devoted column after column and page after page to an endless discussion of the eternal prison matter. It furnishes spectacular news for the sensational reporter. Paroles, pardons, scandals, brutality of convict guards, escaped prisoners, crooked officials, graft, and a thousand other similar head-lines greet the eye of the newspaper reader. One is led to the inevitable conclusion that the penitentiary question has been "over-played" by the newspapers and politicians of our State.

In 1829, the Congress of Coahuila and Texas took steps to formulate a penal system for Texas. In that year the Governor of Texas was authorized to contract with private individuals, native or
foreign, to establish two panoptic prisons in the State. One of these prisons was to be situated in the Department of Bexar and the other in the District of Parras. The cost of the buildings, equipment, the support of the delinquents, etc. was to be at the expense of the contractors. The contractors were to give the prisoners $30 when released. One peculiar feature was the requirement that the contractors were to set up certain skillful prisoners with looms when they left the prison. The contractors were to publish a report each year. Contracts were for a period of five years, at the end of which time the buildings were to become the property of the State. Also, it was required that the prisoners be employed in whatever mechanical trade they liked, so as to learn some worthy occupation. In case the prisoner failed to select some type of work that the contractors would give him, then the contractors had the right to select such work for him as they might deem best. All profits for the first and second years went to the contractors. For the third, fourth, and fifth years the profits were to be divided equally between the contractors and the State.

---

If anything was done to carry the above law into execution, I have been unable to find an account of it. However, a decree passed by the Congress of Coahuila and Texas in 1831 shows that Texas had a real prison problem at that early date. Note the following:

Decree No. 172.

"The Congress of Coahuila and Texas, since no measures heretofore have sufficed to prevent the escape of criminals which is taking place daily on account of the insecure condition of the prisons of the state, has thought proper to decree as follows:

"The Alcaldes may put delinquents in irons, manacles, and put their feet in stocks until the prisons of the State which now afford no security, are repaired. For its fulfillment, the Governor of the State shall cause it to be printed, published, and circulated." 2

When Texas won her independence from Mexico, one of her first internal or local problems was concerning the handling of prisoners. In 1837, the Congress of the Republic of Texas passed the following Joint Resolution:

"Resolved by the Senate and House of Representatives of the Republic of Texas in congress assembled:

"That the sheriffs of the different counties of this Republic be, and are hereby authorized, to lease or rent suitable houses for the safe keeping of any prisoners committed to their charge, and if necessary, to employ a sufficient guard to guard such prisoners, and it shall be the duty of the county courts to allow such accounts, together with all other reasonable and necessary expenses incurred by any sheriff in the performance of his duty." 3

In 1842, provisions were made for the erection of a penitentiary by the State. A committee was appointed to select a number of sites to consist of ten acres of land each. Then, the two houses of Congress met in joint session and selected one of the sites named by the Committee as the location for the future penitentiary building. The site at Huntsville was selected. 4

An agent was appointed by the President to superintend the erection of the buildings. At first, temporary buildings of logs were erected for the safe keeping of the convicts until the permanent building was completed. Most of the work of erecting the buildings was done by convicts.


4 I have no historical evidence for my opinion in this matter, but I just wonder if the fact that Sam Houston's home was at Huntsville had anything to do with the selection of that town as the site for the penitentiary. At that date, Cincinnati on the Trinity River, ten miles northeast of Huntsville, was a much larger town than Huntsville. At that time, boats navigated the Trinity River, and Cincinnati was a port. Yellow fever destroyed that little town in 1852. I obtained this information as to Cincinnati by talking with Col. A.T. McKinney of Huntsville. Also, I have seen the cemetery at Cincinnati.
A keeper at a salary of $800 per year was appointed by the Governor. The duty of the keeper was to direct the work of the convicts. However, the keeper was under the supervision of the agent, in so far as work on the prison buildings was concerned. But at any other work, the keeper had exclusive control of the convicts. The convicts were to be employed at whatever labor that was deemed by the keeper to be most profitable to the Republic. The keeper, under the direction of the President, was to employ all necessary overseers, guards, etc. The salary of the overseers was placed at $25 per month, while the guards were paid $15 per month, to kill men, as a guard was discharged in case a convict ran and the guard failed to stop him. It is needless to say that few convicts escaped in those days, but many met death in an effort to flee from some straight shooting frontier guard.

Female convicts were required to do cooking, laundry work, etc. for the other prisoners.

---

It is interesting to note the daily allowance of food for each convict:

1. Sixteen ounces of beef, or twelve ounces of pork, or eight ounces of smoked bacon.
2. One gill of molasses.
3. Sixteen ounces of corn bread.
4. Eight ounces of potatoes or one-half pint of beans or peas.
5. One twenty-fourth of a pint of vinegar.
6. One twenty-fourth of a pint of salt.

Also, fresh meat was to be kept, if possible. Special food was provided for sick convicts. The keeper was to contract with some resident physician at a fixed rate for each visit to attend sick convicts.
The sum of $2,000 was appropriated for the erection of the prison, but none of the money could be used for the erection of permanent buildings until the heavy materials were gotten out by the convicts. The first prison contained one hundred cells. The building was surrounded by a brick wall. A home for the keeper was erected just outside the walls.

But only temporary buildings were erected until after Texas entered the American Union. The convicts were housed in log prisons or barracks at Huntsville.

The Constitution of 1845 contained the following provisions concerning the erection of a penitentiary:

"The Legislature shall provide for the erection of a penitentiary at as early a day as practical." 7

In December, 1846, the Legislature passed an elaborate act providing for the erection of a penitentiary and the establishment of a penal system for Texas. But that law was very complex, indefinite, impossible to enforce, and was repealed in 1848.

---

7 Art. 5, Sec. 14.
The Act of 1848 was more definite and remedied the serious objections found in the Act of 1846.

By the law of 1848 the Governor appointed three commissioners to select a site for a penitentiary and to purchase 100 acres of land at not over five dollars per acre for the prison system. In the selection of the site the commissioners were instructed to have due regard for the health of the place, access to buildings materials, ease of importation of tools and machinery, and materials to be manufactured. The commissioners were to report to the Governor as to the purchase of the land, and the deed was to be recorded with the Secretary of State.

The law provided for a Superintendent of the Penitentiary, who was to be a master builder or skilled mechanic, and who was to be appointed by the Governor at a salary of $800 per year. It was provided that the Superintendent was to submit the plan of the prison building to the Governor, and if it was approved, it was to be deposited with the Secretary of State.

---

Gammel, op.cit. (1848), Vol. III, p.79.
There were three directors, who were to be discreet persons appointed by the Governor. The duties of these directors were: (a) To make rules and by-laws for the government of the penitentiary and punishment of the convicts, but no cruel or unusual punishment was to be inflicted; (b) To post a printed copy of the rules and by-laws where all convicts could read them; (c) To prescribe the uniform to be worn by the convicts, the uniform to be coarse but comfortable; (d) To see that the prisoners had common but wholesome food; (e) To discharge overseers for cruel treatment or misconduct; (f) To report the Superintendent to the Governor, if they should deem it necessary; (g) To make a report annually or oftener to the Governor as to the numer, age, sex, deaths, escapes, discharges, and pardons of convicts; also, to report to the Governor as to the articles manufactured, articles sold, articles on hand, together with their value, the cost of the materials, etc. In fact, a complete report was required. The prison physician was appointed by the Governor.

All convicts were to be kept constantly employed at some useful labor.
The sheriffs of the counties were to convey the convicts to the penitentiary at the expense of the State. The Clerks of the County Courts gave a certified record to the sheriffs in every case of conviction, as to crime, age, term, etc. to be delivered by the sheriffs to the Superintendent of the prison. Any clothing possessed by the prisoner on his arrival at the penitentiary was turned over to the Superintendent, whose duty it was to take care of same or sell them, if so directed by the prisoner, and turn the money over to said prisoner, or to keep the money for safe-keeping if the prisoner so willed it.

An act supplementary to the Act of 1848 was approved February 16, 1852. The chief provisions of that law were as follows:

1. The directors were required to appoint some suitable person as purchasing, selling, and disbursing agent, the agent to give bond in the sum of $20,000 secured by at least two good and sufficient securities for the faithful performance of his duties.

2. The agent was to receive from time to time money appropriated for the support of the penitentiary. However, the agent was not to receive money oftener than once a quarter, and then not more than one-fourth of the yearly appropriation in any one quarter.

---

3. The agent, upon order of the Superintendant was to purchase supplies, etc., except such as may be manufactured by the convicts.

4. The agent was to keep a record of all receipts for sales of goods and of all purchases.

5. The agent was to make an annual report to the Superintendent and directors, who were to examine the same and report to the Governor.

6. A majority of the directors had power to remove the agent.

7. The salary of the agent was $600 per year.

An Act to Provide for the Establishment of Cotton and Woolen Factories in the Penitentiary was approved by the Governor on February 11, 1854.

The superintendent, under the direction of the Board of Directors, was authorized and directed to erect (with convict labor so far as possible) buildings for the manufacture of coarse cotton and woolen cloth in the penitentiary, sufficient to employ at least fifty convicts. An appropriation of $35,000 was made to be used by the Superintendent and Directors in the purchase of an engine and machinery. Power was given the Superintendent, under the Directors to employ civilian master workmen so as to carry the

factory system into successful operation. Provision was made to dispose of the manufactured fabrics in the same way that other articles wrought in the penitentiary were disposed of at that time.

The appropriation bill, as approved February 11, 1854, for the years 1854 and 1855 is interesting. I mention this appropriation, in order to call to mind the modest appropriation for the Texas Penal System seventy years ago as compared with our $10,000,000 present day re-location project.

Until 1858 there was no law passed concerning the nature of punishment that might be inflicted on convicts. Before that date the law merely provided that no "cruel or unusual" punishment could be inflicted on prisoners. Of course, that

13 The following sums were appropriated:

1. Salary of the Superintendent for two years...$2400
2. Salary of Agent.................................1800
3. Support of the penitentiary for the two years.........................................42800

Total for two years $47000
kind of a restriction had very little effect, as the official was the sole judge as to what was cruel or unusual. So in 1858, Article 186 of the Penal Code was amended so as to read as follows:

"The punishment to be prescribed by the Directors of the Penitentiary, shall consist of closer confinement in irons, deprivation of privileges enjoyed by other prisoners, and punishments of the like kind. Whipping shall not be resorted to except by special order of the Directors in the particular case, nor shall shaving the head of a convict be in any instance allowed."

The above law was enacted as a result of agitation caused by the revolting manner of punishing convicts at that time. Shaving the head was a mild punishment; whipping and hanging up by the thumbs were common practices; while branding and maiming were not unknown methods of punishing recalcitrant prisoners.

We find the first mention of an investigation of the prison system in the form of a Joint Resolution passed by the Legislature in 1860, which reads as follows:


15 I heard Captain James Hunter, who was an employee in the prison system for several years previous to the Civil War, make that statement several years ago.
"Be it resolved by the Legislature of the State of Texas, That the Governor of the State be, and he is hereby authorized and required to appoint three competent persons to examine the State Penitentiary, who are hereby empowered to call for the books and papers, administer oaths, etc. and report to him in writing the condition of said institution."

If such an investigation was ever made, I have been unable to locate it. I inquired at the Secretary of State's Office, but was unable to get any information concerning it. However, I am confident that such an investigation was made, but the report seems to have been lost.

Notwithstanding the fact that Texas had erected a penitentiary before 1861, Article VII, Section 14, of the Constitution of 1861 is an exact reproduction of the same article and section of the Constitution of 1846. During the Civil War, special effort was made to stimulate the manufacture of cloth in the penitentiary. Laws to that effect were passed in 1863.

The Directors of the State Penitentiary were authorized to allow the Financial Agent to purchase additional machinery for the manufacture of cloth and to employ outside labor to run the same.


Use was to be made of convict labor whenever possible. Another interesting law of the same date was "An Act to regulate the distribution of cloth manufactured at the State Penitentiary among the families of soldiers in the Confederate Army." \(^{18}\)

It was provided that cloth manufactured in the penitentiary might be distributed among the families of soldiers in the Confederate Army, provided these families were indigent. Before cloth could be given any family, it was necessary for the county judge of the county in which the applicant resided to certify in his official capacity to the fact that the applicant was legally entitled to aid.

Agents in each county looked up families that needed and were entitled to the cloth manufactured at the penitentiary. In many instances, these agents proved to be dishonest. They would obtain cloth, shoes, etc. at the penitentiary under the pretense of distributing them among the needy families of the soldiers; but instead of giving assistance to such families, they would often appropriate the goods to their own use. This practice led to widespread complaint and to the passage of a law in 1863 which, among other things, contained the following provision:


\(^{19}\) Daily Gazette, Austin, Texas, April 22, 1862.
"If any person or persons, representing themselves as agents of the State of Texas, obtain goods from the acting agent of the Penitentiary and dispose of the same in any other way than is intimated by them to the said agent at the time of obtaining the same, shall on conviction thereof, in any court of the proper jurisdiction, be condemned to serve, at hard labor, in the State Penitentiary, not less than two nor more than three years for each and every such offense." 20

It was the duty of the Financial Agent to distribute the cloth to the several counties of the State in a just manner, each county to receive its proportionate part. The Financial Agent would notify the county judge of each county as to the quantity of cloth on hand. It was the duty of the county judge to determine the amount needed in his county. However, the Financial Agent was at liberty to refuse any requisition, and to determine the amount due each county. Any surplus cloth was to be sold to the Confederate Government.

There was much discontent in connection with the distribution of cloth. Many and loud were the complaints. And so the Legislature appointed a committee consisting of five of its members to visit Huntsville and make a thorough investigation. This

committee performed its duty and reported to the Legislature that, while the prison officials were honest, yet in their opinion, there had been much irregularity in the distribution of cloth. In other words, they came to the conclusion that the prison system was full of grafters.

One interesting thing in connection with the Texas Prison during the Civil War was an arrangement whereby the prisoners from the States of Louisiana, Arkansas, and Missouri might be transferred to the penitentiary at Huntsville. That agreement came at the behest of the Confederate Government. The purpose was to use the prisoners in the manufacture of cloth. A few prisoners were transferred from Louisiana and Arkansas, but none from Missouri. While Texas passed a law sanctioning the transfer of convicts, very little came from it. The Confederacy fell before much could be done.

At the close of a war, conditions are always unstable. Such was particularly the case in Texas at the close of the Civil War. A veritable "crime wave" swept the country. Robberies, murders, and assassinations were common. The "Carpet-baggers"

---

21 Daily Gazette, Austin, Texas, Nov. 1, 1862.
disturbed conditions. Some people charged the general unsettled state of affairs to the radicals, who were attempting to ruin the South.

The prison population greatly increased during the years immediately following the Civil War. Many prisoners felt that they had been sent to the penitentiary largely because of political differences with those in authority. The prison population was increased by a number of United State military convicts. The fact that many of the prisoners felt that they had been mistreated by the State made them difficult to manage. The harsh method of treatment, coupled with the unruly disposition of many of the prisoners, presented a very difficult problem. The increase of the prison population soon overcrowded the penitentiary buildings. There was imperative need for more room. But the Legislature failed or refused to make the necessary appropriation.

The Constitutional Convention of 1868 made a Declaration the chief feature of which were as follows:

"It seems that a certain class of people are bent on up-setting all local government, and thus preventing the rehabilitation of the institutions of our country."—Tri-Weekly Gazette, Austin, Texas, July 8, 1868.
1. The Governor was authorized to lease the penitentiary with the labor of the convicts to private parties for a term of not less than five years, nor more than ten years.

2. The Penitentiary was to be managed according to the laws of the State, except that the lessee was to prescribe the kind of work for the convicts.

3. The office of Financial Agent was to be abolished.

4. The lessee was to bear all expenses of whatever nature, such as keeping the buildings in good repair, constructing necessary additional buildings, feeding, clothing, guarding, and caring for the convicts.

5. The State was to turn over to the lessee all tools, machinery, and equipment belonging to the penitentiary system. 24

But the Governor failed or refused to make the lease as authorized. Conditions continued to grow worse. The Legislature failed to make appropriation for maintenance of the penitentiary, and the management was forced to borrow from private citizens.

In 1870 there were over five hundred convicts in the penitentiary. There were no new buildings. There was a small, poorly equipped cotton factory in the walls, that employed from 125 to 150 convicts. Some of the remaining convicts

were employed as carpenters, saddlers, shoemakers, cabinet makers, blacksmiths, etc. The remainder were idle.

On March 22, 1871, the Legislature enacted a law which provided:

1. The Governor was required to lease, by published advertisement, the penitentiary for not less than ten nor more than fifteen years. 27

26 Gammel, op.cit., Vol. VI, p. 916.

27 The lease was to be made on the following conditions:

(a) The penitentiary to continue to be managed by the present or future laws of the State.

(b) The lessee to have the right to direct the kind of labor the convicts shall be engaged in.

(c) The lessees to furnish everything that is necessary for the support and maintenance of the penitentiary.

(d) The lessees to keep the buildings in good repair, and to construct such additional buildings, as in the opinion of the directors and lessees might be necessary for the proper accomodation of the employees and convicts.

(e) Lessees to have the use of all machinery, buildings, land, tools, and other property, which were destined or used for the labor of the convicts.

(f) Lessees might employ outside skilled labor.

(g) An inventory to be made of all penitentiary property turned over to the lessees.

(h) An inventory to be made of all property at the expiration of the lease.

(i) The lessees to return all property at the expiration of the lease in good condition or pay for same.

(j) The State to pay the lessees for all improvements at the expiration of the lease.
2. There was to be a Board of three Directors appointed by the Governor.

3. An Inspector of the Penitentiary, with a salary of $2000 per annum, was to be appointed by the Governor. The duty of this Inspector was to "constantly supervise the management of the penitentiary, and the treatment and discipline of the convicts therein, by the lessee or lessees of the penitentiary, and at the end of each month to submit to the Governor a report in writing showing the management of the penitentiary and the character of the treatment and discipline of the convicts therein by the lessee or lessees." The Inspector was given the power and the right to enter the penitentiary, or any part thereof, at any time in the performance of his duties.

In accordance with the above law the penitentiary was leased to private parties for a period of fifteen years. Thus, the State relinquished control of the penitentiary system, retaining only the right to employ an inspector to visit the penitentiary and report instances in which convicts were mistreated or State property injured.

But the lease proved very unsatisfactory. The number of escapes greatly increased. There was no efficient system whereby escaped convicts might be recaptured. It was not the duty of the State to capture escaped prisoners, and it was not profitable for the lessees to make much effort to capture such prisoners. The result was that many of the worst prisoners
were permitted to escape, thus ridding the lessees of the expense of handling those who most deserved punishment, but who were not a source of profit. Also, the death rate among the convicts was greatly increased. The convicts were poorly clothed. A description of the dress of a convict might not be amiss. Each convict was provided with a pair of striped trousers, a striped shirt, hat, and jacket, and a pair of coarse shoes. No underclothing or socks were provided, and shoes only in the winter and late fall. When work could not be provided in the walls, the lessees often sub-leased the prisoners to planters, railroad construction contractors, quarry managers, and various other parties. In this way there were many convict camps scattered over the eastern part of the State. There was little medical attention given the convicts. The scattered camps made adequate medical attention out of the question. The Inspectors reported the above mentioned conditions, as well as other abuses, such as excessive work, ill treatment of convicts, poor food, inadequate houses, etc.

\[28\]

Reports on the Condition of the Texas State Penitentiary for the Years 1873-4-5-6, pp.10, 11-14, 21.
As might have been expected, the lessees tried to show that the prisons were not mismanaged. For each named abuse they offered an alibi. All of these facts show that there is always some kind of a controversy in connection with the prison system.

The newspapers of the State were full of "prison news". There was much talk of graft, reform, etc. On April 10, 1875, Governor Coke appointed a committee to investigate the management of the State Penitentiary. This committee reported in May, 1876. It unearthed many abuses and much scandal. The convicts were found to be ill-treated, poorly clothed and fed, and in general improperly cared for. More newspaper talk followed.

Public sentiment was so aroused against the abuses existing in the management of the prison system that the Legislature passed an act on August 19, 1876, authorizing and requiring the Governor to

---


31 Galveston Daily News, May 18, 20; June 1, 8, 9, 16, 18, 24, 1876; and Jan. 25, and March 22, 25, 1877.

33

revoke the lease.

33

This law provided:

1. The Governor was to resume in behalf of the State the management and control of the penitentiary.

2. The lease made to Ward, Dewy and Patton was to cease, and said lessees to turn over all prison property to the person or persons designated by the Governor to receive same.

3. After resuming possession of the Penitentiary, the Governor was to appoint the necessary appraisers, accountants, arbitrators, and counsel to represent the interest of the State in making an inventory.

4. Care was to be exercised that the State take no worn out or useless property unless in strict compliance with the terms of the lease.

5. In case the State was indebted to the lessees on settlement, the Governor was to direct the Comptroller to draw on the State Treasurer to pay same.

6. In case no satisfactory settlement could be made, either party might bring suit in the District Court of Travis County.

7. The Governor was to appoint three Commissioners to hold office two years, at a salary of $2000 each per year. These commissioners were to adopt such rules and regulations, not inconsistent with the law, as were necessary to manage the convicts. Such rules and regulations were to be binding on all employees of prisoners, hirers of convict labor, guards, wardens, etc. At least twice each month, one of said Commissioners was to visit the penitentiary and all other places where convicts were kept. The Commissioners were to meet twice each month, and also were to make a monthly report to the Governor.

8. After resuming control, the Governor was authorized to advertise for bids to lease the penitentiary for not over fifteen years. Humane treatment of the convicts was to be demanded. The Legislature was to have full power to revoke any lease at any time. In fact, it was explicitly stated that the Legislature retained full power to see that the convicts were properly cared for.
The lessees attacked the validity of the law in the courts, but failed to sustain their contention.

The Governor made a temporary lease similar to the first, to last from April 2, 1877 until January 1, 1878. A permanent lease was entered into on January 1, 1878. By the terms of this permanent lease the lessees were to meet all expenses, to feed, clothe, and care for the convicts, and were to pay the State three dollars per month per man. The lessees were to be governed by such rules and regulations in the management of the convicts as the State might make through its prison officials.

9. The right to hire or operate convicts outside the prison walls was expressly given, but that right was to be exercised only under such rules, and with respect to such class or classes of convicts as the Governor and Commissioners might prescribe.

10. Thirty thousand dollars was appropriated to provide for maintenance of the prison in case the State failed to lease it again. >


34 Bond of Lessees of Texas State Penitentiary under Lease made January 1, 1876.
But soon there was much complaint as to the treatment of convicts. The guards killed many convicts who attempted to escape. Public sentiment was aroused. In fact, it would be better to say that public sentiment continued to be aroused, as it had never abated.

The widespread dissatisfaction with the affairs of the prison system had its effect on the Legislature. The Governor in his message to the Sixteenth Legislature had something to say on the subject.

The Legislature, doubtless reflecting public opinion, passed on April 24, 1879, "An Act to provide for the organization of the State Penitentiaries, and to regulate the management of the convicts therein."

________________________________________________________________________


37 Governor's Message to Sixteenth Legislature.

This was a very elaborate piece of legislation. It went to great length in giving in minute detail full instructions as to the organization, management, control, etc. of the entire system. Some idea of the elaborateness of this law may be had from the fact that it covered over fifty printed pages.

39

Some of the provisions were:

1. The Governor was to appoint three resident Directors to be styled "Directors of the Penitentiaries" to hold office for two years. No one was to be a director who was interested either directly or indirectly in hiring or working convicts. The directors had power to make all rules and regulations, with the approval of the Governor, for the management and control of the convicts. At the close of each month, the directors were to report to the Governor, in writing, as to the general condition and management of the convicts. In these reports, they were to have especial regard to the food and clothing furnished the convicts, as to whether the food was proper and healthy, and sufficient in quantity, and whether or not the clothing was of suitable kind. It was made the duty of the directors to examine into all complaints made by a convict as to treatment, and if found substantial, to take measures for correcting same. Also, the directors were to examine into any improper conduct of the Superintendent or any other employee of either penitentiary or the lessee of either penitentiary, or any hirer of convicts and to report the same to the Governor. In addition to the monthly and special reports, the directors were required to make a complete biennial report to the Governor.

2. There is provision made for a Superintendent of Penitentiaries to be appointed by the Governor for a term of two years. The Superintendent was to have general supervision and control over all
convicts, overseers, and guards. In the case of the lease of the penitentiaries such control was not to extend to the labor of the convicts, except as specially prescribed by law. As executive officer of the penitentiaries, he had all powers necessary to a discharge of his duties, subject only to the instructions of the directors or Governor. He was held responsible for the discipline of the prison. He was to reside within the walls, or if that was not practicable, he was to reside near the penitentiary at Huntsville. Among his many duties were: to visit the cells; see that the convicts were humanely treated; to give attention to all complaints made by a convict against any officer, employee, or lessee of the penitentiary; at all suitable times to converse in a kindly manner with the convicts and "use his best endeavors to produce in them a spirit of reformation;" to keep the records of the penitentiary; to keep a general record of the conduct of each prisoner, noting punishments, changes, and incidents of importance that may occur during his confinement; to receive all criminals brought to the penitentiary. Another duty of the Superintendent was to make a written biennial report to the directors. In this report he was to show: (a) Number of convicts committed to the penitentiary since his last report; (b) A report on each convict showing: Month in which received, name, age, sex, place of birth, crime for which sent to prison, habits; education, marital relations; time of imprisonment and from what county sent; (c) Number of deaths since last report; (d) Escapes; (e) Number of pardons and discharges; (f) Whole number of convicts in prison; (g) Various occupations in which the convicts were employed; (h) Number of convicts employed in each occupation; (i) Amount of vouchers issued and accounts approved or passed upon. In addition, the Superintendent was required to make a monthly report to the Governor. The Superintendent was required to make out monthly to the Governor, Comptroller of Public Accounts, and lessees of the penitentiaries, accounts showing the amount due the State for leasing or hire of convicts.

3. There was to be a physician for each penitentiary, appointed by the Directors for a term of two years. He was removable for cause by the Directors. The duties of the physician were: (a) To visit the penitentiary each day, or oftener if necessary; (b) To attend immediately on any case of sickness; (c) To examine convicts to see if they were able to work; (d) To notify the Superintendent when it was necessary to remove a criminal to some healthy locality, and to
order the isolation of convicts suffering with contagious diseases; (e) To advise the Superintendent as to the mental, as well as to the bodily ailments of the convicts; (f) To make a written report biennially to the Directors.

4. There was to be a chaplain for each penitentiary, appointed by the Directors for a term of two years. His duties were: (a) To preach at least once every Sunday to the convicts; (b) To visit the convicts at convenient times during their hours of leisure each week, and to use all the influence he might "possess to inculcate in them sound principles of religion and morality." (c) He was ex-officio librarian of the penitentiary, and under such rules as the Directors might prescribe, was to furnish the convicts with such books and periodicals as the library might contain. (d) He was to teach only such principles of religion and morality as were common to all Christian Churches. (e) By permission of the prison physician he was permitted to visit convicts in case of sickness, and in all cases he was to be admitted to the bedside of any convict who had been pronounced by any physician as beyond reasonable hope of recovery.

5. All under officers, overseers and guards, were to be appointed by the Directors, on the nomination of the Superintendent. The Superintendent was to submit a list of several names for each position. From this list, the Directors were to choose a person to fill the particular position. In case they could not find a suitable person in the list they had the authority to go outside the list in making the selection. When the penitentiary was leased, the lessees had the right to appoint all under officers; but such appointees were subject to removal at any time by the Superintendent, on account of inefficiency or misconduct. One peculiar provision was that no person should be employed as a guard who was not a qualified voter of the State of Texas.
The purpose of this law was certainly to improve the condition of the convicts. Of course, the legislators should have known that the purpose and the execution of a law are two entirely distinct things. It seems that the Legislature failed to understand that mere legislation cannot correct an evil. Note Section 49 of this Act:

"The various provisions of this Act are designed to secure to the convicts moral instruction, to provide for their health and extend to them such comforts as are consistent with their situation, and at the same time to require of them a due attention to their various occupations and a strict observance of the discipline, rules, and regulations of the prison."

In the case of a female convict who had a small child when she was received in prison, or if a child was born to such a convict while in prison, the child was to be kept with its mother in prison until it was four years of age. Then it was to be given to the relatives of the mother, if there were such relatives, who would take the child; otherwise, said child was to be turned over to the County Judge of the county from which the mother was sent to prison to be dealt with according to law.

---

40 This provision of the law could not be enforced, as the county judges refused to receive such children from the prison officials. See Report of Superintendent of Penitentiaries, Oct. 31, 1880, p. 38.
All convicts were to be treated humanely. Suitable clothing of substantial material and uniform make and sufficient food of wholesome variety were to be furnished to all. However, no convict was to be allowed any spiritous liquor, except upon the prescription of the physician. No labor was to be required of any convict on Sunday, except such as was absolutely necessary; nor was any work which in the opinion of the prison physician said convict was physically unable to perform, to be required of any convict.

The following is an interesting provision of the law:

"Section 57. Teaching Convicts. Convicts who are unable to read or write when admitted to the penitentiary, may receive instruction during lesson hours, under such regulations as the Director may prescribe; and the Directors are authorized to employ a competent teacher for that purpose, at such compensation as they may designate to be paid by the State upon the certificate of the Superintendent." 41

Elaborate provision is made for the bestowal of rewards, in the way of privileges and commutation of time upon meritorious convicts. The nature of punishment to be administered to convicts is minutely described.

41 I do not believe that any attempt was made to carry out this provision of the law. I have examined all the reports with considerable care, and fail to find any mention made of it.

42 Such punishment was to consist of closer imprisonment, confinement in irons; deprivation of privileges, and other
The salaries of the officers were meager.

The Governor, all executive and judicial officers of the government, and members of the Legislature were granted the right to be admitted to the penitentiary at all proper hours, for the purpose of observing the conduct and operation of the institution. Such officers had the right to hold conversation with the prisoners apart from all prison officials.

The desire of the Legislature to rid the State of the trouble of managing the prison

punishments of like character. A convict was in no case to be deprived of food at regular hours. Whipping was not to be resorted to, except upon the special order of the Directors in particular cases. The barbarous practice of shaving the heads of convicts was specifically prohibited.

43

Salaries as follows:
Superintendents of each penitentiary...$2000 per yr.
Directors 250 " "
Physicians 500 " "
Chaplains 250 " "

44
Other persons might visit the penitentiary by permission of the Superintendent or any Director, but such visitors could not hold private conversation with any prisoner except by special permission of the Superintendent or Director.
system is shown by the provisions of the Law of April 24, 1879, concerning the leasing of the penitentiaries.

45

It was provided that whenever practicable, the penitentiaries might be operated under a lease in accordance with the following regulations:

(a) Each lease was to be for a definite period not to exceed fifteen years.

(b) Lease was to be given only after public notice given by the Governor by advertisement in at least three newspapers of the State.

(c) The management of all convicts was to remain under the control of the State and its officers, except as to the requirement of a reasonable amount of work.

(d) Every lease was to be subject to the approval or revocation by an Legislature of Texas at any time; also subject to any and all existing laws touching the penitentiaries or convicts.

(e) Any failure of the lessee to carry out any terms of the lease was to ipso-facto operate as a forfeiture of said lease, and the Governor might so declare, and at once resume control of the penitentiary.

(f) In case of lease, the lessee was required to execute a bond (amount to be designated by the Governor) with two or more "good and sufficient sureties," payable to the State, conditional that said lessee would faithfully comply with the terms of the lease.

(g) The lessees were to furnish everything necessary for the support and maintenance of the penitentiary, including salaries of all officers and employees, but the salaries of the officers were to be paid by the lessees into the State Treasury and held as a special fund for the payment of said officers.
The Act of April 24, 1879 was modified and improved by an act passed March 17, 1881. The most important changes made by the Act of March 17, 1881 were the abolition of the Board of Directors and the creation of a Penitentiary Board, to consist of the Governor, the State Treasurer, and the Superintendent of Penitentiaries.

The lease entered into January 1, 1878 was never very satisfactory, and the Penitentiary Board revoked that lease and entered into new leases dated November 29, 1882, to take effect January 1, 1883. These leases included both penitentiaries, the one located at Huntsville and the other located at Rusk.

The chief features of these leases were identical.

45 Gammel, Laws of Texas, Vol. IX, Ch. 23.
47 These leases provided:

(1) The lessees were to have all the tools, machinery, and other property of the penitentiary.

(2) The Superintendent of the penitentiaries was, on or before January 1, 1883, to make a fair division of the convicts, assigning one-half of the convicts to the Huntsville Prison and one-half to the Rusk Prison.

(3) The lessees were to pay all expenses of the penitentiaries, including the salaries of the officials, and in addition to pay the State $20,000 per year.

(4) Lessees were to treat the convicts humanely.
A few words concerning the treatment of the convicts and the management of the prison system under the lease system will be sufficient to show why the Legislature revoked the above leases almost before they went into effect.

(5) Lessees were to make all necessary repairs to buildings not later than June 1, 1883.

(6) Lessees were to take charge January 1, 1883, to put at least 400 convicts to work within the walls at once, and to increase that number to at least 600 by January 1, 1886.

(7) Lessees were to turn over all property to the State in good condition on the termination of the lease.

(8) The State was to pay the lessees for all permanent improvements.

(9) The State retained the right to see that the convicts were humanely treated.

(10) Lessees were to direct the work of the convicts, but the State had the right to see that they were not subjected to unusual dangers.

(11) The time of labor was not to exceed ten hours per day.

(12) The lessees were not to sub-let the convicts.

(13) The lessees were to execute a bond for $100,000.

(14) The Governor had the right to declare the leases forfeited; also, the Legislature might revoke the leases at any time.

The leases were revoked by the Legislature, May 15, 1883. This date marks the end of the lease system.
As has already been indicated, the convicts were treated very badly by the lessees. Practically no effort was made for the comfort of the criminals. Many convicts died of disease and exposure.

The law provided that when a prisoner had served his sentence and had been discharged, he was to be furnished with a suit of citizens clothes, given dollars in cash, and railroad transportation to his home. But this provision of the law was evaded in various ways.

Under such harsh conditions, the prisoners were naturally unruly. According to the law, whipping was to be resorted to only by order of the State prison officials. But it seems that such orders were seldom granted. Yet whipping was common. There was no effort made for the education or recreation of the convicts. There was no room for schools within the walls, nor buildings for such work on the outside. Three convicts were placed in one cell. Such cells were seven feet long, five feet wide, and seven feet high.

49 I remember as a small boy seeing the graves of two convicts who had died of exposure. These convicts were employed on a road gang. It was in the dead of winter. A severe sleet and snow storm came up, and the convicts had no shelter, and hence the death of the two men.

50 Report of the Condition of the Texas State Penitentiary, for 1876, p.10

However, the Legislature passed an act on February 13, 1875, "making provisions for the purchase and safe-keeping of a library of moral and useful books, for the use and improvement of the convicts confined in the State Penitentiary." An appropriation of $500 was made to carry out the provision of that act.

Also, in 1878, the chaplain at Huntsville organized a Sunday School class and some classes in reading.

As has already been noted, the Directors were authorized by Act of Legislature, passed March 24, 1879, to employ teachers for the convicts. But that provision of the law was a mere dead letter.

Some idea of the unsettled condition of the management of the prison system during the lease period may be had from noting the various abolitions and the creating of new offices. We find the office of Superintendent created and abolished, and then created again. The same was true of the office of Financial Agent. Then came the office of Board of Directors, assisted by the Inspector. The Board of Directors


53 Biennial Report of the Commissioners and Superintendent of Texas State Penitentiary at Huntsville, Dec. 1, 1881, pp. 60-61

was finally abolished, and a new board consisting of the Governor, the State Treasurer, and Superintendent of Penitentiaries, known as the Penitentiary Board, was created.

It was impossible for the State to maintain satisfactory supervision over the penitentiaries operating under the lease system. The inspection was inadequate. Violations of the rules were often profitable to the lessees, and hence a temptation. All subordinate officers, guards, foremen, etc., were hired by the lessees and responsible to them alone. Hence, it was the welfare of the lessees, and not the obeying of the State prison laws, that interested these subordinate officers. Therefore, public sentiment, forced the Legislature to revoke the leases in 1883. The State assumed control and a new period of penal management, which may be called the contract-lease period, was ushered in.

This contract-lease period is a transition period in the management and control of the Texas prison system. It lasted from 1883 to 1910. Beginning on May 15, 1883, the State stopped leasing the penitentiaries as a whole. But the State continued to lease out certain industries connected with the penitentiaries, and also to hire out convicts to private parties.
The Superintendent and Financial Agent were placed in control of the penitentiaries. The Penitentiary Board was directing the policy of the prison management. One of the first problems confronting the Board was that of finding employment for the convicts. This was no easy task. The Huntsville prison was equipped with a machine and boiler factory, and with shops for the manufacture of wagons, furniture, shoes, saddles, and cloth on a small scale. The iron works at Rusk furnished employment for a considerable number of prisoners. Some of the prisoners were employed in burning charcoal for use in operating the iron works. But the combined industries within the walls at Huntsville and the iron works at Rusk furnished employment for only about one-half of the prisoners.

The Board finally adopted the plan of leasing the shops in the walls to private operators and hiring the convicts to these operators to man the shops. But private contractors were hard to find who were willing to risk their money on such adventures. However, by the latter part of the year 1884, contracts had been let for the machine and boiler factory, and the saddlery. Something over one hundred men were employed in these industries at sixty cents per day. The fact that there

was not sufficient work to employ all the convicts within the walls, coupled with the further fact that many prisoners were unsuited for shop work of any kind, led the Board to resort to leasing the convicts as laborers to plantation owners, rock quarry workers, mine owners, railroad construction companies, public road building contractors, saw mill operators, and others employing large numbers of unskilled laborers.

The leasing of convicts to outside parties was at first an easy matter, as there was a great demand for labor. But the depression in business beginning in 1884, curtailed the demand for such labor; hence, there were soon many idle convicts within the walls. Of course, such prisoners were an expense to the State.

The wagon factory at Huntsville, which was being operated by the State, was run at a loss, as there was little demand for wagons. In 1885, the lessees of the machine and boiler factory went bankrupt and surrendered their contracts. Likewise in 1888, the lessees of the saddlery gave up their contracts.

56 Reports of the Superintendent and Financial Agent of the Texas State Penitentiaries, for two years ending Oct. 31, 1884, pp. 42-45.
57 Ibid., pp. 40-41.
58 Ibid. for two years ending October 31, 1886, p. 31.
59 Ibid. for two years ending October 31, 1888, p. 21.
From sixty to seventy per cent. of the convicts were as a rule, employed in some kind of labor outside the walls. Most of these were employed as farm laborers. In 1886, there were more than 250 convicts employed in railroad construction, over 400 employed in quarries, and nearly 1200 employed on farms.

The employment of convicts in railroad construction reached its zenith in 1892, when there were nearly 600 employed at that kind of work. At the same time, there were nearly 1500 convicts employed on plantations.

It seems that the State gradually awakened to the fact that those hiring or leasing convict labor could not be depended upon to furnish food, clothing, and other necessities for the convicts—-the desire for profits got in the way. So by 1900, the State was furnishing practically everything, such as food, clothing, shelter, medical attention, transportation for the convicts wherever they were employed.

50 Reports of the Superintendent and Financial Agent of the Texas State Penitentiary for two years ending October 31, 1886, p. 27.

61 Ibid. for two years ending October 31, 1892.

62 Ibid. for two years ending October 31, 1900, p. 343.
The contract price for prison labor varied. At the close of the period of such contracts in 1909, the State was receiving $31 per month for negro laborers, and $29 for white laborers from plantation owners. The railroad contractors employed only first class laborers. They paid the State $1.25 per day for negro laborers and $29 per month for white laborers.

One feature of this period was the Share Farm. Such farms were operated in general, as follows:

(1) The farm owner furnished all machinery and equipment necessary, including seed for planting, feed for the mules, prison houses, and houses occupied by the guards.

(2) The State clothed, fed, guarded, and cared for the convicts, and undertook to plant, cultivate, and harvest the crop.

(3) The State's share of the crop was generally sixty per cent. of the corn or cotton, and fifty per cent. of the cane. The owner of the farm got the rest. Share farming continued until 1910.

---

63 Biennial Report of the Commissioners, Superintendent, Financial Agent, and Subordinate Officers of the Texas State Penitentiaries, for the two years ending August 31, 1910, p. 36.

64 Reports of the Superintendent and Financial Agent of the Texas State Penitentiary, for two years ending October 31, 1884, p. 58.
The idea of the State owned farm was a gradual growth. The Financial Agent, in his report in 1884, advised the purchase of State Farms.

Perhaps, parties who wanted to sell farms to the State had something to do with moulding public opinion on the matter.

The Harlem Farm in Fort Bend County was purchased in 1885 for $25,000. There were 2500 acres in the farm at that time. It was later increased to 3700 acres by purchases made in 1888 and 1908.

The Legislature by an act passed May 4, 1893, authorized the Penitentiary Board to purchase agricultural land to be used as State farms for convict labor. Acting under this law, the Penitentiary Board had purchased by 1909, the Clemens, Ramsey, Imperial, Goree, and Wynne farms. These farms, combined with the Harlem farm, gave the State more than 21,000 acres of land on its prison farms in 1910, when our present system of penal management was adopted. That system will be discussed in the next chapter.

---

65 Report of Financial Agent, 1884, p. 11
66 See Our Penal System and Its Purposes, Reprints of Articles published in Dallas News during the summer of 1909.
67 Reports of Superintendent and Financial Agent of the Texas State Penitentiaries for two years ending October 31, 1886, 1888, and 1908.
CHAPTER II

THE PRESENT SYSTEM
ITS CONTROL AND MANAGEMENT

The System of Prison Government:

The State has had complete control of the prison system since 1910. No part of the system has been leased since that date. No share farms have been operated, nor have any convicts been hired out to private parties. Everything is operated by and in the name of the State.

After many years of signal failure in handling the prison in cooperation with private parties, the State finally realized that so long as those financially interested had anything to do with the control of the convicts that abuses would continue. Hence, the plan of complete State control was adopted. However, this change of operation of the State penal system came only after a long period of agitation.

That is not strictly true of the State Railway from Rusk to Palestine. However, that road has been taken from the control of the Prison Commission, and placed in the hands of a special board not in any way connected with the prison system. See chapter 3, General Laws of Texas, R.S. of 38th Legislature.
many investigations, much recrimination, abuse, and political wrangling.

The policy of the prison system of Texas may be shown by the following excerpt:

"Art. 6172. Policy of prison system. It shall be the policy of this State, in the operation of its prison system, to so manage and conduct the same that those convicted of violating the law and sentenced to a term in the penitentiary shall have humane treatment and shall be given opportunity, encouragement, and training in the matter of reformation." 3

The sentiment expressed in the above quotation represents the feelings of the great majority of the people of Texas.

In 1911, the Thirty-second Legislature proposed an amendment to the State Constitution which created a Board of Prison Commissioners to consist

---

2 See a series of articles by George Waverly Briggs in the San Antonio Express during November and December, 1907.
4 It is interesting to note the number of times that the words "humane treatment" occur in the many laws, resolutions, and investigations of the Texas Legislature in connection with the prison affairs of our State. I have not counted them all, but I am sure that the expression occurs several hundred times.
of three members appointed by the Governor to hold office for a term of six years.

The amendment was adopted at the general election in November, 1912.

Each member of the Commission is required within ten days after his appointment, to execute a bond payable to the Governor of Texas and his successors in office for the use of the State, in the sum of fifty thousand dollars, conditioned that he will faithfully execute the duties of his office. Said bond must be executed with "two or more good and sufficient sureties", or with some indemnity, fidelity, or bonding companies, authorized to do business in Texas. In case any member of the Commission fails to perform his duties, it becomes the duty of the Attorney General to bring suit in the district court of Travis County for the forfeiture and collection of the bond.

---

6. See returns of the general election of November, 1912, as filed in the office of the Secretary of State.

7 In 1921, one of the members of the Prison Commission was charged by the Governor with failure to perform his duties, but the law for removal did not cover the case, and so the Legislature enacted a special law covering the matter. See General Laws of Texas: First C.S. of 37th Legislature, Ch. 32.
Each member of the Commission receives a salary of three hundred dollars per month, and all necessary traveling expenses. Also, he is furnished a house and groceries for the use of himself and family.

Members of the Commission are required to devote their entire time to the office, and are prohibited from being in any way interested in any contract, or sale, or purchase of property connected with the prison system.

The Prison Commission is vested with the exclusive management and control of the prison system, and is held responsible for the proper care, treatment, feeding, clothing, and management of the prisoners. The Commission appoints all necessary officers, physicians, teachers, chaplains, and all clerical help needed in conducting the system. It is incumbent on the Commission to require all appointees, who in discharging their duties, are charged with handling any money belonging to the State, to execute bond in such amount as may be fixed by said Commission.

---

8 The furnishing of houses and groceries for the use of prison employees has led to many charges of abuse. For instance, it often has been charged that prison employees keep boarders at the expense of the State. See report of Investigating Committee of 1913; also see newspaper comment.

The Commission is empowered to discharge any officer or employee of the prison system for failure to comply with the rules, regulations, or laws governing the prison system, or for any dereliction of duty, or whenever they may deem it to be for the best interests of the service.  

The law of 1910 concerning the organization of the Commission was very detailed, but the Acts of 1917 simplified it very much.

10 Acts, 1910, 4th Special Session, p. 143, Sec. 8,9, 11.

11 Its provisions concerning organization were as follows:

(1) A majority of the Prison Commission to constitute a quorum.
(2) They were to elect one of their number as chairman.
(3) They were to designate one member to have supervision over the finances of the system; one member to supervise the feeding, clothing, care, and treatment of the prisoners; and one member to supervise the work of all the officers and employees of the prison system, and who was to be known as the Superintendent of Parole, and who was to direct the enforcement of all paroles and indeterminate sentence laws.
(4) Each member so designated was to be under the general supervision of and was to report his actions to the Commission as a whole.

See Acts, 1910, 4th S.S., p. 143, Sec. 10.

12 Acts, 1917, 1st C.S., Ch. 32, Sec. 1.
The Prison Commission is authorized to purchase any machinery, tools, or supplies needed for the benefit of the Prison System. The establishment of factories of one kind or another in connection with the penitentiary has been a favorite popular idea from the beginning of the Texas penitentiary system. The mere fact of the grouping of a large number of prisoners inside the walls suggests the feasibility of operating factories by convict labor.

So the Prison Commission is given power to establish such factories, as in their judgment, may be practicable and that may afford employment to the prisoners, under such regulations, conditions, and restrictions as said Commission may deem to be for the best interest of the State and the welfare of the prisoners.

It is interesting to note the changes of regulations in regard to the purchase of land for the prison system. It was the policy of the State to permit the prison commissioners to purchase all land for the system, such purchase to be approved by the Governor.

---

This idea of factories in the penitentiary occurs thirty-one times since 1842, in the laws of Texas. Of course, it has been a current topic for newspapers for many years.

---

13 Acts, 1910, 4th S.S., p. 143, Sec. 12; and Acts, 1919, Ch. 141, Sec. 1.

The fact that the Governor appointed the Commissioners virtually placed the purchase of all land for the Texas prison system in the hands of the Governor. In 1917, the Governor of Texas was removed from office. The many charges brought and sustained against that official led to much speculation as to the wisdom of allowing the governor a free hand in buying farms for the prison. The Legislative Investigating Committee reporting in 1919, expressed the opinion that exorbitant prices had been paid by a former governor for inferior land.

This investigation led to the enactment of a law, on July 28, 1919, which took the purchase of lands for the penitentiary entirely out of the hands of the governor. It made it incumbent on the Prison Commission to get the consent and approval of the Legislature before buying or selling any more land for the prison system.

---

16 Reports of the Sub-Committees of the Central Investigating Committees of the House and Senate, 3rd C.S. of the 35th Legislature of Texas, 1917, p. 462.

17 Acts, 1919, 2nd C.S., Ch. 63, Sec. 1.

18 The tendency for the past few years has been for the Legislature to assume more and more direct control of our penal system. Witness the various attempts to abolish the Prison Commission.
The Legislature in its attempt to control the prison system has resorted to *special* legislation to a very marked degree.

It is made the duty of the Prison Commission to have constructed upon the various prison farms owned by the State, modern well-ventilated prison buildings, with proper bathing facilities, and all necessary sanitary water closets, and other sanitary arrangements. It is also required that sanitary kitchens, dining rooms, hospitals, school rooms, and chapels, and other necessary conveniences for the benefit of the prisoners be erected.

From the newspaper talk of the day one is led to believe that the convicts on the farms are still housed in the dirty squalid quarters common twenty-five years ago. But such is by no means the case.

---

19 As an example of that type of legislation, see Acts, 1919; 2nd C.S. of the 36th Legislature, Ch. 63. This Act goes into detail in describing a certain contract.

20 Acts, 1917, 1st C.S., Ch. 32, Sec. 1.

21 A modern up-to-date prison building may be seen on the Eastham Farm. This building cost about $400,000, and is modern in every sense of the term. See Mrs. J.E. King: "Reports on Prison Conditions," *Scribner's Saturday Night*, November and December, 1924.
The Prison Commission is given power to sell and dispose of all farm products, the products of all factories and any personal and movable property connected with the prison system.

In order to avoid the danger of showing special favors to any party selling machinery or equipment of any kind, the Prison Commission is required to advertise in at least three daily papers in the State for all bids for such property exceeding in value five thousand dollars.

All money coming into the prison system is deposited with the State Treasurer. The Commission is required to send in all money received during a month at the beginning of the following month. The State Treasurer is required to place all prison funds in a special account and credit same to the Prison Commission. Said Prison Commission is authorized to draw on the State Treasurer for the funds necessary to operate the prison system, with the provision that at no time may the Prison Commission draw for a sum that will give them in hand and in bank an amount exceeding one hundred and seventy-five thousand dollars. Strict care is taken that the account of the Prison Commission with the State Treasurer is never overdrawn.

---

22 General Laws of Texas: 36th Legislature, R.S., Ch.141,Sec.3.
23 Ibid. Ch. 141, Sec. 3.
24 Ibid.: 1st C.S., 35th Legislature, Ch. 32, Sec. 1.
It is mandatory on the Prison Commission that they prescribe rules and regulations for the government of the prison system. The idea is to give the Commission a wide latitude in handling the prison. They have the power to make such regulations as will meet with the various contingencies that may arise from time to time in managing a large number of criminals. That is a wise provision, as it unties the hands of the officials in controlling what is naturally a most difficult problem. All rules and regulations are published in pamphlet form. All rules pertaining to the subordinate officers or to the convicts are posted in conspicuous places about the prison where the convicts are kept. Considerable care has been taken in the preparation of these rules.

It is generally recognized that thorough supervision will have a tendency to prevent abuses. To that end, it is required that each farm or place where prisoners are kept shall be visited at least once each month by a member of the Prison Commission or by some person designated by said Commission. Particular attention is to be paid to the food, clothing,

25 General Laws of Texas: 4th C.S., 31st Legislature, Ch. 27, Sec. 18.

26 It is interesting to note the minute details gone into by the posted rules. Such things as loud talking, cleaning the teeth, thorough bathing, etc. are mentioned.
and treatment of the prisoners, the general sanitary conditions existing at the prisons and farms, the efforts at reformation, and the general conduct of all officers and employees.

The Prison Commission makes annually a full and complete inventory of all lands, buildings, machinery, tools, live stock, and all other property belonging to the prison system. This inventory, together with a statement or statements of all receipts and expenditures, and data concerning the convicts, is formulated into the annual report which the Commission is required to make to the Governor. It is made the duty of the Governor to publish said report in bulletin form.

The Prison Commission is given some discretion in the matter of setting salaries for the subordinate employees; however, there is some restriction, so far as the salaries of guards are concerned. The salaries of guards must include board and lodging, and must not be under forty nor over sixty dollars.

\[27\] Acts, 1910, 4th S.S., p. 144, Sec. 18. If we are to believe the reports of the Supervisory Board, these visits are often of a mere perfunctory character, and amount to little or nothing. It has been charged that the officials often are "put next" just before an inspection tour, and so have things "fixed". It is hard to determine what is truth, and what is mere political propaganda in such charges.

per month.

An auditor for the prison system is appointed by the Comptroller of Public Accounts, the Attorney General, and the State Treasurer.

Prison Regulations and Discipline.

The transportation of prisoners from the place of conviction to the penitentiary always has been a perplexing problem. There have been many laws passed on that subject and many plans have been tried.

29 A convict guard must possess the following qualifications:

(1) Must be at least twenty-one years of age.
(2) Of good moral character.
(3) Must be able to read and write and have a fair knowledge of the English language.
(4) Must not be addicted to the use of alcoholic or intoxicating liquors.
(5) Such other qualifications as the Prison Commission may deem expedient. See Rules and Regulations Governing the Prison System of Texas, 1924, p. 12.


31 For a number of years, the State tried to have the prisoners transported to the penitentiary by the sheriff of the county from which the prisoner was convicted. That method proved very costly and unsatisfactory, and was abandoned.
At present, it is the duty of the Prison Commission to make suitable and proper provisions for the safe and speedy transportation of prisoners from the counties where sentenced to the prison at Huntsville, or to some other point in the prison system.

The wearing of striped or checked clothes by convicts has been abolished except as a mode of punishment for the violation of prison discipline.

The people of Texas have long desired that the convicts be given humane treatment, and that the moral and intellectual life of the prisoners be looked after.

32 General Laws of Texas: 1st Called Session of the 35th Legislature, Ch. 32, Sec. 1.

33 Acts, 1910, 4th S.S., p. 143, Sec. 25.

34 Title 104, Ch. 2, Art. 6203, Revised Statutes of 1921, reads as follows:

"The Prison Commission shall, as soon as practicable, provide at each prison, farm, and camp, where prisoners are kept or worked, schools for instruction of prisoners in elementary branches of the English language and industrial education, and such other instruction, as they may prescribe; and shall provide suitable recreation for the prisoners at reasonable hours, including music; and they shall employ such number of competent teachers to instruct the prisoners in the same, as in the judgment of the prison commission may seem necessary; and the Prison Commission shall make reasonable rules and regulations, whereby the prisoners may attend such schools. The Prison Commission shall prescribe and furnish to the prisoners suitable books, and other reading matter, and to
Further, on in this chapter, the matters of recreation, instruction, and religious services for the convicts will be discussed.

Each unit of the prison system is required to make a monthly report to the Prison Commission showing fully the condition and treatment of the prisoners, including itemized statements of all different items of food, clothing, etc., used and on hand. Also, the Prison Commission is required to keep a register which gives in a detailed and accurate manner a full personal description of each convict.

This end may establish and operate among the prisoners a circulating library, and may adopt such other means of distributing among the prisoners good and wholesome literature as in the judgment of the Prison Commission will best enable the prisoners to avail themselves of the same; provided, that all teachers herein provided for shall, as far as practicable, be taken from the convicts, and such teachers may be excused from further labors. The chaplain shall be ex officio librarian of the penitentiary, passing upon all library books, and direct such other work as may be prescribed for such library management."

Art. 6204 of the same Title and Chapter, makes provisions for religious services.

Title 104, Ch. 2, Arts. 6206 and 6207, R.S., 1921.
The prisoners are divided into three classes, known as first, second, and third class. The basis of classification is the attitude of the prisoner toward the rules of the prison. The idea of placing convicts in classes according to the type of the criminals thus grouped,--putting similar characters together, is fundamentally sound. But Texas has provided no scientific method of making a proper classification of her prisoners. This work is placed in the hands of officials who for the most part, are totally ignorant of the basic principles of criminology. But this is a step in the right direction, and indicates that much progress has been made in the solution of one of our most perplexing social questions.

36

The following is a description of the classification of the prisoners:

First Class:--Young men, first offenders, those appearing to be corrigeable, or less vicious than others, and likely to observe the laws, and to maintain themselves by honest industry after their discharge.

Second Class:--Those appearing to be less corrigeable, or more vicious, but content to work and reasonably obedient to prison discipline, as not to seriously interfere with the productiveness of their labor, or with the labor or conduct of those with whom they may be employed.

Third Class:--Those appearing to be incorrigible or so insubordinate or so vicious in their nature as to seriously interfere with the labor and moral development of those with whom they must come in contact.

See Title 104, Ch. 2, Art. 6208, R.S. of 1921.
The necessity of punishment is recognized. However, the statutes attempt to establish such safeguards as will prevent brutal treatment of State prisoners. For instance, the placing of prisoners in stocks is prohibited.

Whipping, not to exceed twenty lashes, may be resorted to with third-class prisoners who cannot be made to observe the rules by milder methods of punishment. But such punishment may be inflicted solely by order of the Prison Commission, and then only in the presence of a prison physician.

The handling of female prisoners has been a problem of especial difficulty. It has been impossible to avoid a certain amount of abuse and scandal in dealing with these unfortunate creatures.

It is incumbent on the Prison Commission to see that female prisoners are not required to do any work which they are physically unable to perform.

Prisoners who do extra work are entitled to a credit for the same and a certain diminution of time.


38 The strap to be used must be of leather, not over two and one-half inches wide, and twenty-four inches long, attached to a wooden handle.

No prisoner may be worked on Sundays except in cases of emergency or extreme necessity.  

Reward is allowed for good conduct. Such rewards for good conduct consist of certain relaxations of strict prison rules and the extension of some social privileges, as well as a definite deduction of time from the sentence which the prisoner is serving.

In order to prevent over working of the convicts, definite restrictions are placed on the amount of labor that may be required.

Of course, that provision does not apply to cooks, waiters, lot men, or men engaged in the necessary operation of machinery.

Art. 6217, Revised Statutes, 1921.

A prisoner who has a perfect record is given the following deductions from his sentence:

Two days per month off the first year of sentence
Three " " " second " " "
Four " " " third " " "
Five " " " fourth " " "
Six " " " fifth " " "
Seven " " " sixth " " "
Eight " " " seventh " " "
Nine " " " eighth " " "
Ten " " " ninth " " "
Fifteen " " " all succeeding years.

During the months of December, January, February, nine hours per day may be required; ten hours may be required for March, April, July, August, and November; and eleven hours per day is the limit for the months of May, June, September and October.
When a prisoner dies he is given decent burial. In case he has relatives they are notified and given an opportunity to take the body for burial.

In the event that a prisoner dies suddenly, or meets death in an accidental manner or from injury, then it is mandatory that a justice of the peace hold an inquest over the body and report his finding to the district judge, who if he deems it necessary, may turn over such finding to the grand jury for investigation.

Failure to give proper medical treatment to the convicts will arouse public disapproval more easily than any other abuse.

The Prison Commission is required to provide competent medical attention, and also dental service for the convicts.

---

44 Rules and Regulations Governing the Prison System of Texas, (1924), p. 34.

45 General Laws of Texas: 1st C.S. of the 35th Legislature, Ch. 32, Sec. 1.

46 For instance, the story of the death of convict Foster, as related by Chaplain Hodges. The daily press of Texas gave much publicity to that story in 1907.

There is more care manifested in seeing that a discharged prisoner is given those things provided for by law than was formerly the case.

Each physician employed in the prison system is required to file a monthly report with the Commission.

While there is a provision in the law permitting the Prison Commission, with the approval of the Governor, to employ the convicts on public works, when they cannot employ them on state farms, or within the walls, by reason of some unforeseen calamity, yet this right has not been exercised for a number of years.


49 This report states the names, race, and sex of each prisoner treated by him during the month; the malady or disease, with which each was afflicted; and if any shall be suffering from injuries or wounds inflicted by anyone, a full description of such injuries or wounds must be given. See any monthly report made by the prison physician to the Prison Commission.

50 At least, I have not been able to find in the Reports of the Prison Commissioners for the last six years, any mention of the employment of the convicts on public works.
A Brief Summary of the Management of the Texas Prison System.

The plan of management of the Texas penitentiary system by a board of three commissioners has been tried for fifteen years. It dates from 1910. A board of commissioners, or directors, for the prison system was established in 1846. That board or a board of a similar type has continued to exist to the present, except from 1868 to 1876 when private lessees had charge of the system, and from 1881 to 1883, when the penitentiary system was under the management of a board consisting of the Governor, State Treasurer, and Superintendent of the penitentiary.

From 1883 to 1885 the penitentiary board consisted of the Governor and two commissioners appointed by the Governor. At all other times, the number of commissioners or directors has been three.


52 Ibid. Vol. 9, Ch. 49, Sec. 1.

53 Ibid. Vol. 9, Ch. 114, Sec. 1.
From the beginning of the prison system in Texas until 1910, there was a chief executive officer of the penitentiary known as the superintendent who was uniformly an appointee of the Governor, as were the Commissioners or directors. The powers of these officials varied at different times; but as a general rule, the commissioners exercised supervisory powers, while the superintendent had charge of the detailed management. A purchasing agent, appointed by the commissioners was provided for in 1852. It seems that this officer was to replace the superintendent in the discharge of the duties described in his title. In 1868, when the system was leased the office of purchasing agent disappeared, but when the State took charge of the system again in 1883, it was re-established.

While his power varied at different times, there seems to have been a superintendent continuously from 1846 until the establishment of the Board of Prison Commissioners in 1910.

A resume of the many legislative acts dealing with the prison system of Texas shows about three forms of responsibility and management, appearing at different

---

55 Ibid. Vol. 9, Ch. 95, Sec. 2.
times. From the beginning of our penal system until 1876, the responsibility was placed entirely on the Governor, who had the power to appoint the directors and superintendent to do the detail work of running the system. The second period was from 1876 to 1910. As has been stated, the State took the system out of the hands of private lessees in 1876. During this period, there seems to have been a more definite recognition of the powers of the superintendent and commissioners. It is interesting to note that the superintendent and commissioners continued to be appointed by the Governor.

The third and last stage began in 1910 when the superintendency was abolished, and the Prison Commission was established. However, there is opposition to this form of management. An attempt was made to abolish the Prison Commission and substitute legislative control in 1921. But the necessary constitutional amendment was defeated. However, the Thirty-ninth Legislature passed a joint resolution which authorizes the submission to

56 However, the private lessee method of handling the penitentiary persisted in a somewhat modified form until 1883.

57 For a detailed statement of the duties of the Superintendent and commissioners, see Ch. 49 of the General Laws of the Seventeenth Legislature.
the people of another constitutional amendment, the intent of which is the same as was that of the defeated amendment. The people will vote on that amendment in November 1926.

A Comparison of the Present Conditions with Conditions Existing in the Past.

A comparative study of the present prison system with that of the past might be of some value. Such a study is attempted under the following heads:

1. Health. The average number of convicts in the penitentiary for the months of January, February, March, April, and May, for the years 1906, 1907, 1908, 1909, and 1910 was 3426. According to the monthly reports of the prison physician for that time, the average monthly number of reported cases of sickness of all kinds was 524. Taking the months of January, February, March, April, and May for 1925, the average number of convicts in the Penitentiary was 3577. Now, taking the monthly reports of the prison physician for that same period and we find the average number of cases of reported sickness to be only 461. It is easy to see that 524 cases of sickness out of a total of 3426
convicts is greater than 461 cases of sickness out of a total of 3577.

2. Sanitation. "A good sewerage and drainage system has been maintained, and all the farms and camp houses have been well screened. The water supply has been carefully looked after and guarded. The drinking water is pure, being secured from deep wells. Ample provision for bathing has been provided and in every way, personal cleanliness has been encouraged. The sleeping quarters are well ventilated and are not unduly crowded; indeed, not so much so as are the wards in some of our sanitariums. The beds are free from vermin and are well equipped with comfortable cotton mattresses and pillows. Sufficient sheets and blankets are supplied each man so that his bunk is always neat and clean. Everywhere, throughout the camp, iron bedsteads have replaced the old, wooden, unsanitary crudities of the past."

58 I made these averages by comparing the monthly reports of the prison physicians for the periods indicated.

59 Report of the Penitentiary Board of Supervisors filed with the Governor on January 19, 1925, p. 1.
Now, note the following:

"The men reek with sweat, and accumulate all the particles of dust and dirt that will stick. Their clothing and bedclothes are a repulsive spectacle. What little bathing that is done is performed in long troughs. The towels used would prove a fertile field for a microbe hunter, if visible indications may be relied upon."  

Rev. Hodges, a former chaplain of the penitentiary, when questioned concerning the quarters of the convicts, replied: "The abode of these wretches simply stinks."

The Legislative investigating committee of 1917 reported that the sanitary conditions were bad.

However, a careful reading of all reports for the past twenty years leads to the conclusion that much has been done to improve the sanitary condition in the Texas prisons, and that there is a gradual improvement year by year.

---

61 Ibid. p. 16.
Clothing. For many years, the prisoners had been wearing white duck as their regular garb, but in the latter part of 1924 a change was made to blue denim. This is a wise move, as blue denim does not soil so easily and does not require rough laundering. Each prisoner is supplied with three suits at a time, so he may have two changes a week, and an extra suit kept in reserve in case it should from any cause be needed. Heavy duck coats and extra heavy knit underwear are provided for them in winter. Each prisoner is provided with sleeping garments and is required to make use of them. This arrangement certainly makes for cleanliness, health, and comfort. A checking system is used in connection with the laundry, whereby each prisoner receives his own clothing, instead of just what he might happen to get under the old method.

Now, just one reference for the year 1910:

"The prisoners are dressed in white duck, but the clothing of most of them is so dirty, that it has lost all appearance of whiteness. The clothing is of an inferior quality, too coarse, and poorly made." 64

63 Report of the Penitentiary Board of Supervisors, filed with the Governor, January 19, 1925, p. 2.

64 Report of the Penitentiary Investigating Committee, including all exhibits and testimony taken by the Committee. Published by order of the House of Representatives, August 1910, p. 116.
4. Food. According to the report of the Supervisory Board made on January 19, 1925, the food is ample, sufficiently varied for health, and is generally well cooked.

However, in 1921, the Committee from the Thirty-seventh Legislature reporting on food conditions found that the statutes providing for proper food was being ignored by the under officers. In some instances, requisition made for food by farm managers was ignored by the Prison Commission. It was charged that the prisoners were fed on weevil eaten peas, and strong bacon, and that there was a lack of variety of food furnished.

The menu for each day is posted in each dining hall. The following is the menu for October 31, 1923, at the Imperial Farm for negroes:

**Breakfast:** biscuits, fried bacon, brown gravy, coffee, sugar, syrup.

**Dinner:** Corn bread, boiled bacon, lima beans, tomato stew, hominy, potato pudding, syrup, pickled cucumbers, pimento.

**Supper:** Corn bread, boiled bacon, stewed potatoes, grits, brown gravy, fried corn, syrup, pickled cucumbers, sweet peppers, candied pumpkin.

Of course, the menu is not the same for all the farms, and varies from day to day. Taken from report of the Investigating Committee of 1923.

5. Religion. Special effort is made to have religious services regularly at all camps. At Huntsville and at the Eastham Farm are resident chaplains who give all their time to looking after the schools and religious services. Ministers from the outside, representing the various denominations, hold services at the several camps from time to time.

There was evidently an improvement between 1921 and 1925 in the effort of the prison officials to aid the prisoners along religious lines. Note the following: "The prison authorities are indifferent to the spiritual welfare of the prisoners. No effort is made to reform the convicts by religious training.

6. Education. No money has been provided by the State for education of the prisoners. However, many books have been donated by the people. At Huntsville, classes in many branches have been organized.

---

67 Report of the Penitentiary Board of Supervision, filed with the Governor, Jan. 19, 1925, pp. 2-3.
69 Governor Neff donated all sample books that had been sent to the Text Book Board by book companies.
70 Night sessions are held from seven to nine o'clock every night. One interesting feature is the law class. However, most of the work is confined to penmanship. English, arithmetic, and other elementary branches.
However, there has been little done on the other farms in the way of supplying school facilities for the convicts. "The Statute with reference to education has not at all been complied with."

Amusement. "Wholesome means of amusement have been provided at all the camps. Several of the camps have pianos and all of them have victrolas. On Saturday afternoon, the men may indulge in baseball, football, and other amusements of that character, if their records have been good during the week."

Civic organizations have become interested in furnishing means of amusements and recreation for the convicts. According to the report of the Investigating Committee of 1917 there was no provision made for amusement of any kind of any of the prison farms.


72 Report of the Penitentiary Supervisory Board, filed with the Governor, January 19, 1925, p. 3.

73 The Christmas of 1923 was the first time that Christmas trees and Christmas celebrations have been provided at all the farms. The club women of Texas made that possible by providing the necessary gifts. It was repeated Christmas, 1924.
Punishment. The Committee from the Thirty-seventh Legislature found that the law as to the treatment and punishment of prisoners was being violated. The prisoners were brutally treated by subordinates who had no authority to administer or inflict punishment at all. One especially brutal form of punishment was the practice of suspending the convicts by chains fastened to the wrists with the toes barely touching the ground.

However, since 1923 the following forms of barbarous punishment have been abolished; hanging on chains, bodies placed in stretchers, hanging on windows and ladders, the dark cell, restricted diet, and the "horse". All that remains of the former punishments is the bat and standing on the barrel.

Assuming that all reports which have been quoted are true (and we have no right to doubt any of them), we are forced to the conclusion that as time goes on the prison conditions are gradually improving.

---


75 Report of the Penitentiary Board of Supervisors filed with the Governor, January 19, 1925, p.3.
Penitentiary Board of Supervisors. The Thirty-seventh Legislature created a Penitentiary Board of Supervisors. The law creating this board went into effect November 20, 1921. This board consists of three members appointed by the Governor. One of the members must be a woman. It is the duty of this board to visit the main prison and the farms at least once every three months, and to make investigation of the treatment of the convicts with reference to the character of punishment inflicted, food, clothing, sanitation, health, spiritual and educational training, segregation and classification, and to look into such other matters concerning the general welfare of the convicts as said board may deem necessary. It is the further duty of this board to make a quarterly report to the Governor and the Prison Commission as to conditions as they find them in the penitentiary system, together with their recommendations, and to report all prison officials or employees who are found to be derelict in duty or who have violated the law in handling the prisoners.

The reports of this board are published from time to time. Such reports have done much to acquaint

General Laws of Texas; First C.S. of the 37th Legislature, Ch. 59.
the general public with the conditions existing in
the penitentiary and on the prison farms.

The creating of the Supervisory Board
shows that the public was not satisfied with the
work of the Prison Commission. As the Prison Com-
mission is a constitutional board, the Legislature
has little control over it. The many abuses and scan-
dals that were revealed by the different legislative
investigations led to a demand for some method
whereby the work of the Prison Commission might be
"checked up". So this independent Supervisory Board,
responsible to the Governor, was created. The real work of
this board is to promote the humane treatment of the
convicts. Concerning this board, one of the leading
newspapers of Texas said:

"Through this agency (the board) the people
will be informed as to the real conditions existing
in the prison and on the prison farms. If the
prisoners are being treated in a brutal manner,
the people should know it. Nothing will destroy
any wrong practice that may exist so surely as the
light of an aroused public opinion." 78

77 The Legislature gave the following as the reason for
creating the Supervisory Board:
"The fact that there is no Supervisory Board to
investigate prison life in the Texas Penitentiary
System, and that cruelties have been practiced, and
many penitentiary scandals unearthed, and that the
Texas Legislature has been called upon at various
sessions to appoint investigating committees, and the
further fact that said investigations have been very
expensive to the State." 78

78 Emergency Clause of Act creating Board.

The Houston Daily Post, January 24, 1922.
The Prison Plant. The holdings of the prison system of Texas have gradually increased in extent and in value. The value of the prison property in 1846 was practically nothing.

The value at the close of 1910 was over $4,000,000. The total resources of the prison system on December 31, 1924 were $7,761,313.15.

The prison system consists of fourteen farms scattered from "the Red River to the Gulf," and the Central prison within the walls at Huntsville. The total acreage of these farms is 85,150 acres. However, from this acreage, if we deduct 110 acres of Huntsville real estate and 2,133 acres of "crop land" in Cherokee County, we will have 82,907 acres on the fourteen farms. Of this 82,907 acres, the State owns 77,800 acres and has leased for long terms 5,107 acres.

---

79 The Morning Star (Houston, Texas), January 31, 1846.
82 According to the Annual Report of the Board of Commissioners of the Texas State Prison System for the year ending December 31, 1924, the following acreage was owned and leased by the Prison System of Texas.
Roughly speaking, the State has about 50,000 acres of land under cultivation. Of this cultivated land, about 34,000 acres are subject to overflow.

"The farms, without exception, were discovered to be badly poisoned with noxious weeds, or grasses, which raises the question whether this is due to inefficiency in management, or whether the farms were in this condition at the time the State's moneys were invested in them."  

<table>
<thead>
<tr>
<th>Property owned</th>
<th>Acres</th>
<th>Cultivated</th>
<th>Uncultivated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blue Ridge Farm</td>
<td>4416</td>
<td>3954</td>
<td>462</td>
</tr>
<tr>
<td>Clemens Farm</td>
<td>8212</td>
<td>5500</td>
<td>2712</td>
</tr>
<tr>
<td>Darrington Farm</td>
<td>6746</td>
<td>3250</td>
<td>3496</td>
</tr>
<tr>
<td>Eastham Farm</td>
<td>13040</td>
<td>4778</td>
<td>8262</td>
</tr>
<tr>
<td>Ferguson Farm</td>
<td>4320</td>
<td>2060</td>
<td>2260</td>
</tr>
<tr>
<td>Goree Farm</td>
<td>1000</td>
<td>192</td>
<td>808</td>
</tr>
<tr>
<td>Harlem Farm</td>
<td>5707</td>
<td>5005</td>
<td>702</td>
</tr>
<tr>
<td>Imperial Farm</td>
<td>5227</td>
<td>5227</td>
<td>---</td>
</tr>
<tr>
<td>Ramsey Farm</td>
<td>15040</td>
<td>7418</td>
<td>7622</td>
</tr>
<tr>
<td>Retrieve Farm</td>
<td>7428</td>
<td>2965</td>
<td>4463</td>
</tr>
<tr>
<td>Shaw Farm</td>
<td>4688</td>
<td>2683</td>
<td>2005</td>
</tr>
<tr>
<td>Wynne Farm</td>
<td>1976</td>
<td>801</td>
<td>1175</td>
</tr>
<tr>
<td>Cherokee County</td>
<td>2133</td>
<td>---</td>
<td>2133</td>
</tr>
<tr>
<td>Huntsville Real Estate</td>
<td>110</td>
<td>---</td>
<td>110</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>80043</strong></td>
<td><strong>43833</strong></td>
<td><strong>36210</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Property Leased</th>
<th>Acres</th>
<th>Cultivated</th>
<th>Uncultivated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bassett Blakely Farm</td>
<td>3120</td>
<td>2835</td>
<td>285</td>
</tr>
<tr>
<td>Senior Farm</td>
<td>1637</td>
<td>1490</td>
<td>147</td>
</tr>
<tr>
<td>Imperial Farm(Lease)</td>
<td>350</td>
<td>350</td>
<td>---</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>5107</strong></td>
<td><strong>4675</strong></td>
<td><strong>432</strong></td>
</tr>
</tbody>
</table>

Recapitulation

Acreage owned 80,043 In Cultivation 43,833 Uncultivated 36210
" leased 5,107 " " 4,675 " 432
Total 85,150 " 48,508 " 36542


Ibid. p.25.
TEXAS PRISON FARM SYSTEM

NOTE: The percent refers to the cultivated area of the farm subject to overflow.
However, it is a question whether or not the prison farms are any more poisoned by noxious weeds and grasses than are privately owned farms in the surrounding territory.

During the year 1924, there was a net gain of $427,817.74 on farm operations. However, for the entire system, there was a net gain of only $145,872.52 for the year 1924.

Since 1910, the Legislature has appropriated $6,825,974 to the Prison System of Texas. This does not include the appropriations for the iron industry at Rusk and for the Texas State Railroad. In addition to the above amount appropriated out of the general revenue, the Prison System has spent its entire income from crops, convict labor, etc. In 1910, the value of the prison property was something over four million dollars. On December 31, 1924, the value was a little over seven and one-half million dollars with an outstanding indebtedness of nearly one million dollars. So from a financial standpoint, it is easy to see that the Prison System has been a failure.

85 I base this statement on personal observation.
86 Annual Report of the Board of Commissioners of the Texas State Prison System for the year ending December, 1924.
87 See various appropriation bills.
There are the following industrial plants within the walls at Huntsville:

1. Machine shop,
2. Shoe shop,
3. Wagon factory.

During the year 1924, the machine shop operated at a gain of over $24,000; while the shoe shop gained over $1800; and the wagon factory earned about $4,500 above expenses. There is also a tailor shop that makes clothing for the convicts.

Some Changes Since 1910. There was a real "shake-up" in the system in 1910. Many of the officers resigned; and as might have been expected, there was a transition period during which conditions were unsettled.

The question of paroles for convicts is a most difficult one. After many ups and downs, Texas seems to have adopted a very satisfactory method of handling this problem. Convicts are no longer paroled except for domestic purposes. No plantation owner, contractor, or manager of public works may employ a paroled convict. Reasonable wages are paid the paroled convict. The parole is subject to revocation by the Governor.

Another improvement has been the creating of the Office of Criminal Records. Formerly, the records were kept by the Superintendent. Now, there is a special department for the purpose of keeping the record of each convict. There is a chief clerk to look after the criminal records. A complete record is made of each convict. Finger prints of each convict are made for possible future use.

Without going any further into the enumeration of recent changes in the prison system, it seems that the Texas penitentiary question is gradually being solved in accordance with advanced social thought.
CHAPTER III

COMPLAINTS AND INVESTIGATIONS

Conditions until 1915

There has never been a period in the history of Texas during which there were no complaints concerning some phase of prison matters, or of handling the convicts. I am sure that mention of prison affairs or questions relating to prisoners have occurred more persistently in the press of Texas even from the very beginning of our State than any other single item. Students of Texas history know that the handling of those who violated the law was one of the problems that confronted Stephen F. Austin, the "Father of Texas." 2

Before there were any jails or prisons in Texas, prisoners were often handled in a very crude fashion. Of course, the very crudeness of administering

1 A perusal of the files of old newspapers will verify this statement.


3 When I was a small boy, I heard an old gentleman, whose father came to Texas in 1829, tell of an incident
justice would have a tendency to lead to serious abuse.

As early as 1831, the Congress of Coahuila and Texas complained that the prisons of the State were so poorly constructed that it was useless to put criminals in them, and hence it authorized the peace officers to put the prisoners in irons, manacles, and even to put their feet in stocks, if necessary to prevent their escape. 4

That illustrates the general way of handling criminals in Texas before the day of established prisons. This old gentleman's father had settled on the Trinity River in East Texas. There were five families living within a few miles of each other. Into this little settlement came one "Panther" Bill Smith, a man of questionable character. Said Smith never worked any. He would come into the community, stay a few days, and then leave, always returning after an absence of several days. It was noticed that he always had some money or new clothes on his return. So the people began to suspect that he was a robber. One evening, a Dutchman, who was a new comer in the community, came running up to one of the settler's houses and said that Smith had shot him. He exhibited a wound, evidently made by a rifle ball, in his arm. So the settlers went after Smith and captured him near the place where the Dutchman said Smith was staying. They had some kind of a trial and convicted Smith. The penalty was that Smith be chained to a tree for ten days and then be horse-whipped, and made to leave the country. So they chained him to a tree. But the first night he managed to get loose, and left for parts unknown.

4 Laws of Coahuila and Texas: Decree No. 172. (1831)
In order to show that the prison question has long been an issue in Texas political affairs, it might be well to note that the Constitutional Convention of 1868 appointed a committee to investigate the financial condition of the State Penitentiary. At that time, the records of the penitentiary were very incomplete. It was sometimes charged that prisoners who were good laborers were kept in the penitentiary after their sentence had expired.

This same committee that was to investigate the financial condition of the penitentiary was authorized also to inquire into and ascertain the cause for which each convict was committed, and the length of time each was to serve.

When the democrats regained control of the State with the election of Richard Coke as governor, there was, naturally, a "house cleaning." Acting in accordance with a joint resolution of the Legislature, the Governor appointed a committee on April 10, 1875 to investigate the management of the State Penitentiary.

---


One result of this investigation was the resumption by the State of the possession and control of the penitentiary.

It sometimes happened that the people living near a convict camp would out of sympathy or pity for the prisoners, assist them in their attempts to escape.

An examination of the various reports of the superintendent and of the financial agent of the penitentiary, as well as a perusal of the newspaper files, will easily convince one that the public was not at all satisfied with the conditions existing in the penal affairs of Texas. But nothing worthy of note occurred until 1902.

In 1902, scandals connected with the convict lease system of that time occasioned a formal legislative investigation, which revealed revolting brutality on the part of guards and officials. The revelations brought forth efforts at remedial legislation and increased State supervision and control of its convicts but no sweeping changes in the system as such. The investigation of 1902, dwelt largely with graft and inhuman treatment of the convicts.

---

7 Crockett Courier (Crockett, Texas), August 21, 1890.
8 See entire report of the Investigating Committee of 1902, but especially the last 46 pages.
Several bills attempting to correct various abuses in the penal system were introduced in the Twenty-eighth Legislature. However, there were only two acts passed by the Twenty-eighth Legislature affecting the prison system and these were of a minor nature.

One of these acts was concerning the iron works at Rusk. It provided for the enlargement of the iron furnaces at Rusk, the purchase of timber and mineral lands for the iron industry, and for the appointment of a manager for that industry.

The other act evidently was an attempt to correct certain abuses complained of in the investigation. Employees of the prison system were charged with many kinds of petty graft, such as purchasing property at a very low price from the State, (said purchaser often acting as the agent of the State, and selling the property to

---


10 General Laws of Texas, R.S., 28th Legislature, Ch. 34 and 106.

11 The passage of the act to rehabilitate the iron industry at Rusk is another example of the independent attitude that the Legislature has uniformly assumed in dealing with prison affairs. The financial agent in his report in 1902 had recommended in the strongest terms that the iron industry be abandoned.

12 General Laws of Texas, R.S., 38th Legislature, Ch. 106.
himself as a private individual), using State property for their own benefit, accepting pay from hirers of convicts. The Legislature attempted to correct some of these abuses.

The administration of Thomas M. Campbell as Governor of Texas full of political excitement. Campbell was the first prohibitionist to be elected to the office of Governor of Texas. Political controversy seemed to be the order of the day. The prison system came in for a large part of the current political news of the day. It was discussed pro and con by various parties.

The chief provisions of this Act were:

1. Prohibited employees of the penitentiary from purchasing property belonging to the State.
2. Making it unlawful for such employees to appropriate or use State property.
3. Prohibited employees of the State from accepting wages or pay from hirers of convicts.
4. Making it a misdemeanor for hirers of convicts to pay anything of value to any officer or employee having charge of convicts.

See the editorial pages of the Dallas News and Houston Daily Post for the years 1906 to 1910.

Governor Campbell took up the prison question in his messages to the Thirty-first Legislature in 1909. He called attention to the charges of irregularities that were current newspaper gossip of the day.

Acting in accordance with the Governor's message, and perhaps, in obedience to the command of public sentiment, the Legislature passed an act on the fourth of April, 1909, providing for the appointment of a committee to visit and investigate the entire prison system of Texas. This committee was given full power to examine thoroughly the prison system as to financial matters, management, treatment of prisoners, and official misconduct of prison officials and employees.

The Committee made its report to Governor Campbell in 1910. The report covered several hundred typewritten pages. Leaving out the political "thunder" (which is common to all the reports of legislative investigating committees of the prison system in Texas),

16 The Governor's Message to the 31st Legislature, 1909.
17 General Laws of Texas, R.S., 31st Legislature, Ch. 105.
18 The Committee consisted of four members of the Senate, appointed by the Lieutenant-Governor, and five members of the House, appointed by the Speaker.
the report of this Committee to the Governor in 1910, set forth the following findings:

1. The rules and regulations which the Penitentiary Board had by authority of law, established for the government of the prison system, had in many respects been almost wholly ignored.

2. But few of those charged with the care and management of convicts were familiar with the rules. 19

3. Only a few guards and other officers had taken the oath of office as required by the rules.

4. While the law required that the rules be posted in the prison buildings so that the convicts could learn them, yet only in a few instances were any rules found posted in any of the buildings.

5. Many of the officials, especially the sergeants, displayed no inclination to obey the rules.

6. While the rules prescribed the size and weight of the strap to be used in whipping, yet that rule was ignored, and the straps were constructed under the direction of sergeants, each of whom had said straps made according to the whims of his fancy. 20

7. The sanitary conditions in the main prisons and in all camps were found to be "abominable".

19 The law is mandatory that all officers charged with the care and management of convicts familiarize themselves with the rules and regulations made by the Penitentiary Board for the government and discipline of the prison system. See Gammel, op.cit., Vol. VIII, p.1347.

20 For a description of the strap to be used in whipping convicts, see foot-note 38, p.58.
8. The medical care of the convicts was condemned as "inadequate, inefficient, and poorly ministered."

9. The law required the inspectors to visit the camps at least twice a month; yet, the inspectors paid no attention to that provision of the law, and visited the camps at their pleasure,—sometimes not more than twice a year.

10. The system of bookkeeping and auditing was found to be very inferior. The committee characterized the bookkeeping as very "misleading, if not grossly dishonest." 21

11. However, a few camps were found to be kept according to the law and regulations, but these were far in the minority.

12. After a thorough auditing of the books, the Committee found that the net earnings of the system for the year September 1, 1908 to August 31, 1909 were $343,078, and the net earnings balance to the last date was $863,538. 22

Some of the more important changes that had been made in the system between 1900 and 1909 were noted by the Committee. The mention of a few of these changes will be sufficient:

1. A State railroad had been built from Rusk to Palestine.

21 It is interesting to note that every investigating committee that has ever visited the penitentiary has complained of the inferior system of bookkeeping used in the prison system. Perhaps, the practice of using convict bookkeepers has something to do with it. We may be sure that the criminal courts of Texas do not furnish any very great number of expert accountants.

22 For a complete statement of the findings of the Committee, see Report of the Prison Investigating Committee of the 31st Legislature (1910), under the head "Findings of the Committee."
2. Blast furnaces and foundries had been established at Rusk. 23

3. The number of convicts working under State auspices had been gradually increased. At the time of the report, less than three hundred convicts were working on property not controlled by the State. 24

In addition to the regular report, one member of the Committee made a supplementary report. This supplementary report denounced in the strongest terms the conditions found both in the camps of leased convicts and in the camps and prisons managed by the State. In the humble opinion of the writer, the supplementary report was written largely for political effect.

The Committee recommended a complete reorganization of the system. A few of the recommendations were:

1. That the contract labor system be abolished, and that all prisoners be worked on the prison farms, or within the walls, under State control and management.

2. That the old prison buildings at Rusk and Huntsville be replaced with modern fire-proof structures with sanitary bathing and sewerage systems, comfortable cells, and up-to-date lighting and ventilating schemes.

23 The construction of the railroad and the establishment of the blast furnaces at Rusk cost the State nearly three million dollars. In addition, the State had lost vast sums on the iron works before the last attempt at rehabilitation.

24 Report of the Penitentiary Committee, including all exhibits and testimony taken by the Committee. Published by order of the House of Representatives, August 1910, pp. 327-334.

25 Senator Claud Hudspeth of El Paso.
3. That there be created a board of Penitentiary Commissioners, consisting of three members, each holding office for six years, appointed by the Governor with the consent of the Senate, with salaries of $3600 each and traveling expenses, and that this board should have control and management of the prison system of Texas.

4. That the Penitentiary Board give all their time to managing the prison system, and that they should have power to choose their own secretary and clerical help.

5. That the Penitentiary Board be required, with the approval of the Governor, to choose a general manager for the entire prison system.

6. That the general manager be given the power to appoint all under officers, such as guards, stewards, wards, etc.

7. That an adequate indeterminate sentence law be enacted.

8. That laws perfecting the parole system be enacted and that said parole system be put into operation.

9. That the laws relating to the penitentiaries and convicts be so amended and revised to the end that all vagueness be eliminated, and that adequate penalties for disregarding or violating these laws be provided.

10. That all prisoners be graded according to law, and that all prisoners be treated according to their qualities as indicated by the grading.

11. That special effort be made to prosecute any officer who abuses prisoners in violation of the law or prison regulations.

12. That provision be made that the Board of Pardon Advisers be required to visit all prisons and prison camps and that all prisoners be given an opportunity to appear before said board.
13. That convicts be paid one dollar per day for necessary work on Sundays.

14. That the convicts be given a part of the net earnings of the system as wages.

15. That ministers and lecturers be provided for all units of the system.

16. That a physician be employed for every unit where there were more than one hundred convicts.

17. That a dentist be employed for the system.

18. That schools be provided for teaching the convicts the elementary branches.

19. That libraries be provided.

20. That innocent forms of amusement be provided for the convicts.

21. That strict care be taken that gambling among the convicts be prohibited.

22. That the practice of requiring the convicts to wear striped clothing be abolished.

23. That the convicts be graded on behavior.

24. That the guards be put under bond and that their salary be increased.

25. That a law strictly regulating the whipping of convicts be enacted.
These recommendations brought forth much newspaper discussion. The Governor called a special session of the Legislature largely because of the penitentiary question. There were a number of bills bearing on the penitentiary matter introduced in the Legislature, some in the House and some in the Senate. Most of these "reorganization bills" died in the Committee room. However, the committees on "Prison Affairs" of both the House and Senate finally reported "amended" bills to each of these bodies. After several conference committees had been appointed, the law of 1910 establishing a new prison system for Texas was enacted.

This law did not become operative until January 20, 1911, and is practically the law of the penitentiary system at the present time.

26 Governor's Message to the 4th C.S. of the 31st Legislature.

27 Journal of the House of Representatives for the 4th C.S. of the 31st Legislature. Also same for the Senate.

28 General Laws of Texas, 4th C.S. of the 31st Legislature, Ch. 10.

29 However, the law has been amended or modified several times since 1911. The most important of these changes will be noted later on in this chapter, and in succeeding chapters.
The act as passed by the Legislature is largely in keeping with the recommendations of the investigating committee, which have already been noted. However, the law differed in some important respects from the recommendations of the Committee. The chief differences may be stated as follows:

1. By the law, all commissioners are required to live at Huntsville. The committee did not mention that idea. It seems to me that it is wise to require all the commissioners to reside at Huntsville, thus making it possible to attend to business with less delay.

2. The committee recommended that the commissioners be paid a salary of $5600 each per year and traveling expenses, while the law in addition to this salary allowed each commissioner a house in which to live.

3. The law requires each commissioner to be put under a bond for $50,000. The committee made no mention of a bond. The wisdom of requiring the commissioners to be put under bond is self-evident.

4. The committee recommended that the Commissioners be required to choose a general manager. There is nothing in the act to prevent them from employing a general manager, yet the law does not require them to do so.

The chief provisions of the law of 1910 have been discussed in Chapter II.

If we are to believe current talk around Huntsville, the provision of the law providing a house for each commissioner has in some instances led to abuse. It has been charged that certain commissioners have used convict servants, and furthermore kept boarders and roomers at the State's expense. I do not vouch for the truth of this statement.

In fact, it may be argued that the law implies that no general manager be appointed as it makes the Commissioners the executive officers for the whole system, and the duties of administration are divided out among them somewhat after the manner of the Commission form of City Government. See Section 10 of the Law.
It has been argued by some well-informed writers that the failure of the Legislature to provide for one man management as recommended by the committee, and the substitution of a three-headed control for a one-headed control, has been the source of most of the failures of the system. 32

5. The law provides for an auditor chosen by the Comptroller, Treasurer, and Attorney-General at a salary of $2400 per year and traveling expenses. 33 The committee failed to suggest the employment of an auditor.

So it is seen that the Legislature followed the recommendations of the Committee fairly well. The law looks good on paper, as the Commission is given full and complete control of the system, subject only to the general laws, mostly of a humanitarian nature, governing said system. The Commission has ample power to set up a scientific prison system for Texas. Why has it not done so?

It has been indicated that the reorganization in 1911 produced some discontent among both the old employees and prisoners. The old employees felt that they had been discredited, and naturally resented it. The prisoners felt that the "law was on their side," and hence, in many cases, were inclined to be insubordinate.

33 General Laws of Texas, 4th S.S., 31st Legislature, Ch. 10, Sec. 23.
34 For instance, a guard told me that the convicts on one of the farms refused to work because they were not given sausage when hogs were butchered.
From some cause or causes, the system ran rapidly into debt after the reorganization. Just what these causes were is hard to determine. The natural reaction resulting from the change in management and control, mismanagement, graft, bad weather conditions, politics and many other similar causes have been named by different people as the reason for the loss of nearly $2,000,000 by the system during the years of 1911 and 1912. The particular cause for the loss assigned by different parties often bore a close relation to the attitude of the party discussing the question to the political faction in control of the State at that time, being friendly or unfriendly as the case might be.

The political campaign of 1912 was very bitter. It was at this time that the prohibition question was very prominent in political affairs. There was attack and counter-attack by both sides. The prison question was brought into the campaign.

---

35 See Governor Colquitt's speeches, as reported in the daily papers of Texas, during the summer of 1912. Also, see the speeches of Judge W.F. Ramsey, Colquitt's opponent, of the same date.
Following the hot political campaigning, the Legislature met in January 1913. A prison investigation was demanded by many members of the Legislature, as well as by many private citizens. The Governor opposed the investigation. However, the Legislature passed the resolution anyway, and ordered the investigation.

The Investigating Committee consisted of the Lieutenant-Governor, two senators, and three representatives. The Committee entered upon its investigation on April 23, 1913, and completed its work on the 24th day of the following July. It made a detailed and thorough investigation. The Committee called attention to the increasing indebtedness which amounted on January 1, 1913, to about $1,500,000, and had increased by June 27, 1913 to nearly $2,000,000.

Heavy losses were found in all departments of the system, and on all farms. The losses in manufacturing at both Rusk and Huntsville were especially heavy. During the years of 1911 and 1912, the farms had been operated at a total loss of about $800,000. The actual cost of each man was about $250 per year.

37 See Governor Colquitt's message to the Regular Session of the 33rd Legislature, pp.20-21.
38 Report of the Penitentiary Investigating Committee Appointed by the Thirty-third Legislature of Texas, July 24, 1913.
The leasing and share farm policy was carried over, under old contracts, through the years of 1911 and 1912. Heretofore, these contracts had shown a profit each year, but during these two years they showed a net loss.

It is difficult to determine the real cause or causes of these losses. The causes named by the Committee will be given first, and then other possible causes will be suggested.

The Committee mentioned the following causes of loss:

1. Partisan influence which caused a change of policy and administrative officers with each change in State administration.

2. The fact that the Prison Commission consisted of three members of equal power, scattered the responsibility, thus often causing delay and inconsistent policies.

3. The Commission often permitted local influence to interfere in the management of the system.

4. Too many prison employees.

5. Too many convicts engaged in waiting on the employees.

6. Too high prices had been paid for mules. Cheaper mules would have done just as well.

7. The Commission had used bad judgment in purchasing the Clemens sugar mill.

8. Extravagance in furnishing residences for the Commissioners and other employees. 39

---

39 In many cases, employees had been furnished residences at the State's expense, without authority of law.
9. The Commission had marketed certain products at a loss in order to avoid competition with private enterprise in the State. 40

10. The fact that the system was operating on a credit basis cost over $100,000 per year in the form of interest.

11. Bad business methods in general,---such as delay in the construction of cotton gins.

12. The practice of putting expensive improvements on land leased by the State.

13. The attempt of the State to construct and operate a railroad. 41

However, there are other things besides the above enumerated causes that may be in part responsible for the loss during the years 1911 and 1912. Some of these additional causes, as given by different parties, may be mentioned:

1. Bad weather conditions: an early frost killed the cane in 1911, and a protracted drouth destroyed a large part of the cotton and cane crops in 1912. 42 43

2. Losses caused by fire. 42

For instance, the output of the box factory at Rusk was marketed in Cuba at a loss.


See Governor Colquitt's Message to the 33rd Legislature, p. 46.

There were several destructive fires in the system during 1911 and 1912. There were two destructive fires at Rusk and the shops at Huntsville were destroyed by fire. In addition, several barns were burned on different farms. Some of the opponents of reorganization said these fires were caused by unruly convicts who did not fear the milder forms of punishment. Governor Colquitt had abolished the use of the "bat". See the Dallas News, summer of 1912.
3. The increase of expense under the new organization.

4. The payment of ten cents per day to each convict cost over $100,000 per year. Of course, this was an extra expense.

5. The shortening of the working day.

6. The eliminating of whipping encouraged many convicts, especially negroes, to persist in idleness. 44

The Committee made lengthy and detailed recommendations. A brief statement of the principal recommendations will be sufficient:

1. That the Board of Pardon Advisers be abolished.

2. That suitable manufacturing industries be established within the walls for the training of first-class intelligent convicts.

3. That Negro and Mexican convicts be employed exclusively on the farms located on the Brazos River.

4. That intensive scientific farming be adopted.

5. That the Rusk penitentiary be abandoned.

6. That the headquarters be removed from Huntsville to some more centrally located point.

7. That the office of general manager be created.

8. That the division of duties among the Commissioners be abolished.

9. That the practice of paying ten cents per day to each convict be stopped.

10. That an up-to-date, scientific accounting system be established.

44 Report of the Prison Commission, for the year ending December 31, 1912, p. 38.
The Legislature attempted to carry out some of the Committee's recommendations. But the Governor vetoed all legislation along that line.

Every Legislature since 1913 has had its "Penitentiary Investigation."

Investigation of 1915.

Only brief mention will be made of this investigation, as no important legislation came as a result of it.

Among some of the complaints made by the Investigating Committee of the Thirty-fourth Legislature may be mentioned:

1. Criticized the continual loss of the system.

2. Deplored the fact that although the Legislature had appropriated over $400,000 for the penitentiary for the past three years, still the system was in debt in the sum of more than $361,000.

3. The methods of operation were criticized as being too expensive.

---


46 See vetoes of H.B. No. 240, and S.B. No. 32 filed with The Secretary of State.


48 In addition to the $400,000 appropriated from the general revenue, the system had used all money coming from the sale of prison products.

49 Report of the Penitentiary Investigating Committee of the 34th Legislature, pp. 201-206.
Investigation of 1917.

The Thirty-fifth Legislature made two investigations. The first investigation was a mere formality. It reported that the penitentiary was in a satisfactory condition.

The second investigation was made from October 26, 1917 to January 27, 1918, by a sub-committee (No. 2) of the Central Investigating Committee.

The Committee found much to criticize. It found the management of the system to be indifferent. It found the accounts of the penitentiary fund to be poorly kept due to incompetent convict bookkeepers. Without enumerating its various findings and recommendations, it is only necessary to say that this investigation was very similar to the investigations of 1913 and 1915, but somewhat modified by the famous impeachment trial of 1917.


51 The Central Investigating Committees were appointed by the 35th Legislature, 3rd C.S. to investigate all the State institutions and departments. It was an aftermath of the Ferguson impeachment. See Reports of Sub-Committees of the Central Investigating Committees of the House and Senate, 3rd C.S. of 35th Legislature, p.vi.

52 For a detailed report of the investigation, see Reports of Sub-Committees of the Central Investigating Committees of the House and Senate, 3rd C.S. of the 35th Legislature, including audits, pp. 223-352.
The Investigation of 1919.

In his message to the Regular Session of the Thirty-sixth Legislature, the Governor discussed the prison question. So the Legislature took the matter up. The House appointed a committee which made a tour of inspection to Huntsville and to the prison farms and reported its findings.

A concurrent resolution was approved July 11, 1919, for the appointment of a joint committee of the House and Senate "to meet and confer with the Prison Commission, the Board of Pardon Advisers, and the Governor in regard to the formulation of proper corrective legislation in the interest of the betterment of the Prison System."

The committee was appointed and made its report the following September. Without mentioning its findings, a mere enumeration of its chief recommendations will be sufficient.

53 Governor Hobby's Message to the Legislature of Texas, pp. 36-41.
1. That the entire prison system be unified in some centrally located and centralized plant just as soon as the State's finances would permit.

2. That it be mandatory that the approval of the Legislature be obtained before the Prison Commission and Governor buy or sell any land for the system.

3. That the State Railroad and all prison property at Rusk be sold.

4. That all manufacturing except for prison use be abandoned, and then only relatively simple articles be made.

5. That measures be taken to prevent brutality in the treatment of prisoners.

6. That the requirement that all convicts be sent to Huntsville before being assigned to prison units be abolished.

7. That segregation of the convicts according to their class be strictly enforced, especially that the criminal insane be separated from the sane.

8. That the Prison Commission be retained as an advisory and supervisory board, and that the actual control and management of the system be placed in the hands of a general manager.

9. That reform of the prisoners, and not profits for the State be made paramount in managing the entire prison system. 57

Excepting its attempt to sell the State Railroad, the Legislature took no important step in carrying out these recommendations.

57 Two members of the Committee made lengthy supplementary reports. These reports are very scathing in denunciation of the Prison Commission.
The Investigation of 1921.

The Special Session of the Thirty-seventh Legislature which convened July 30, 1921 ordered a penitentiary investigation. After noting the usual illegal punishments, it made the usual list of recommendations. Only two of these recommendations will be noted:

1. That a board of three advisers, (one of whom must be a woman) serving without pay, be appointed for the prison system.

2. That all prison farms be sold and that the entire system be located on a tract of land to be purchased by the State within seventy-five miles of the City of Austin. 58

The Investigation of 1923.

The Thirty-eighth Legislature appointed an elemosynary commission to investigate all the elemosynary institutions of the State. This commission made its report to the Thirty-ninth Legislature. 59

58 The Legislature carried out the first of these recommendations, and attempted to carry out the second, but failed. See General Laws of Texas, First C.S. of 37th Legislature, Chs. 59 and 57.

59 For the report concerning the penitentiary, see Senate Journal, 21st day, 39th Legislature, Regular Session, pp. 366-7.
The Investigation of 1925.

This investigation caused much stir. It was devoted largely to scandal. It made no recommendations, as the Legislature adjourned before the Senate acted on the proceedings. I feel that I am safe in saying that there was more scandal, mud slinging, and petty politics connected with the investigation of 1925 than was connected with any other of the numerous penitentiary investigations of our State. Some idea of the nature of the investigation may be obtained by noting the fact that about forty pages of the proceedings are devoted to an attempt to prove that a certain prison official was guilty of moral culpability in dealing with an unfortunate woman. Some idea of the demagogism of the leaders of this investigation may be obtained by reading the newspapers of that date.

Conclusion.

While all of the legislative investigations of the prison system have been more or less of a political nature, yet they have as a whole, done much good. They serve to keep the public interested in the question.

For examples, see "The Prison System of Texas a Hell Hole," Houston Post-Dispatch, March 30, 1925.
The intentions of most of the investigating committees have been good. Most of the attempts to improve the prison system have grown out of these investigations.

If it is true that the success of a democracy depends on an enlightened public opinion, then we may indulge in the hope that in the long run more good than evil will come from this period of "complaints and investigations" in the prison system of Texas.
CH A P T E R IV

THE RELOCATION CONTROVERSY

The Early Appearance of the Question

The location of the main penitentiary at Huntsville has never been satisfactory. When the committee appointed by the Congress of Texas to select a site for the penitentiary took up the task of making a choice, there was some opposition to Huntsville. However, at this date (1842) Huntsville was near the center of population of Texas; and as it was before the day of railroads in Texas, the objection of inaccessibility could not be brought.

On August 5, 1870, the Legislature of Texas passed the following joint resolution:

"Be it resolved by the Legislature of the State of Texas,

"That the Governor be, and he is hereby authorized and required to invite proposals, by proclamation, for the location of two penitentiaries in this State, one east of the Trinity River and one west of the Colorado River, and report the result to the next session of the Legislature." 2

1 See foot-note 4, p. 4.

Nothing came of this resolution, as the Governor failed or refused to issue the proclamation.

However, in 1875, when the democrats regained control of the State Government, "an act to provide for the building and completing of two State penitentiaries, with a view to the utilization of the convict labor of the State in mining and manufacturing enterprises" was passed.

This law provided:

1. That the Governor appoint five Commissioners whose duty was to select locations for two penitentiaries, one to be located northeast of the Trinity River, and one westward of the Colorado River.

2. The Commissioners were to select the immediate sections for the locations and then advertise in local papers (or handbills) for proposals of donations or sale to the State of locations. They were to secure not less than 200 acres for the site of each penitentiary.

The commissioners were appointed and reported the latter part of April, 1875.

---

3 I have made diligent search for this proclamation, and failed to find any trace or mention of it.

4 Gammel, op.cit. Vol. VIII, Ch. 30.

5 I have given only those features of the law relating to location. It is a long act, and provides for a complete reorganization of the penal system.

6 Report of Penitentiary Committee to the Governor of Texas, April 30, 1875.
As a result of this report the Rusk Penitentiary was erected. But nothing came of the proposed penitentiary westward of the Colorado River. Thus, the prison at Huntsville was retained, and at the same time certain influential political leaders in northeast Texas were appeased by having a new penitentiary at Rusk, where "iron-ore" lands might be sold to the State at fancy prices.

Discontent with the Location

Evidence of discontent with the location of the penitentiary appears from time to time in the various reports of the prison officials. Sometimes, there was a note of dissatisfaction from the press of the State. Note the following:

"The penitentiary at Huntsville should be removed. It is inaccessible to the greater portion of the State. Huntsville and Rusk are less than one hundred miles apart. It might be wise to sell the buildings at Huntsville, or to convert them into an asylum for the insane, and erect a new penitentiary somewhere in Central Texas."  

7 See Reports of the Superintendent and Financial Agent of the Texas State Penitentiaries, various reports from 1884 to about 1900.

8 Texas Farmer, Dallas, Texas, August 20, 1894.
The penitentiary investigation committee of the Thirty-third Legislature mentioned relocation. The majority report advised the selection of new headquarters centrally located, and with better communication than Huntsville possessed.

A minority report of Senator Humphry is more definite. He recommends the concentration of the whole system at or near Houston.

Outside of some newspaper talk of the time, nothing came of these recommendations.

During the Great War, the relocation matter was allowed to remain in abeyance. However, the penitentiary investigating committee of 1919 returned to the subject. It recommended the establishment of a single centrally located and centralized plant to comprise the whole system. However, it was further recommended that this change be not undertaken until the State's finances were in better condition. No legislation to carry out this recommendation was enacted.

9 A Record of Evidence and Statements before the Penitentiary Investigating Committee appointed by the Thirty-third Legislature of Texas, July 24, 1913, p. 316.


11 See p. 103 of this paper.
Again in 1921 the investigating committee of the Thirty-seventh Legislature recommended relocation.

Relocation Ordered by the Legislature.

The Thirty-seventh Legislature enacted a law providing for the relocation of the penitentiary in a single plant, within a radius of seventy-five miles of the City of Austin. This law became effective November 21, 1921.

Briefly stated the law provided:

1. That a commission, consisting of the Governor, Attorney-General, and Land Commissioner, and known as the "Texas Penitentiary Relocating Commission," be created.

2. That this commission be empowered to sell the entire penitentiary system, including the main buildings, at Huntsville, all the State farms, and any other property belonging to the system.

3. That said commission was to purchase with the funds realized from the sale of the prison property sufficient land (not to exceed 50,000) acres in one body, and within seventy-five miles of Austin, for the prison system. Also, the commission was required to erect a modern penitentiary on the land to be purchased.

---

12 See p. 104.
13 General Laws of Texas, 1st C.S. of the 37th Legislature, Ch. 57.
14 It is interesting to note that the law became effective without the Governor's signature.
4. That there be installed in the new penitentiary various kinds of vocational training for white male convicts under twenty-five years of age. Also, a like provision for female convicts.

5. That after completing the new prison plant, the Relocating Commission was to turn said plant over to the Prison Commission.

6. That the Relocating Commission report to the first succeeding session of the Legislature.

Failure of the Relocation Committee

It has already been indicated that the Legislature designated the Governor, the Attorney General, and the Commissioner of the General Land Office as a Board, whose duty should be to select a site within seventy-five miles of Austin, which, in their judgment, would be the best place on which to relocate the State Penitentiary.

Before looking for the site, the Governor suggested that the Board first examine the property owned by the prison system, so that it could pass upon other locations relatively.

The Legislature gave the following reasons for relocating the prison system:
1. Texas has no modern prison plant.
2. The prison farms are scattered all over the State of Texas.
3. The main penitentiary building is inaccessible and improperly located, and most of the farms are likewise improperly located.
4. The prisoners have been mistreated and abused.
5. The State is yearly losing nearly a million dollars on the prison system.

See the emergency clause of the Act.
During the summer of 1922, this Relocating Committee visited all of the prison units, except the Shaw Farm in Bowie County and the property in Cherokee County.

The Committee then visited a number of proposed sites suggested by citizens as suitable, but found none which they could agree upon as adequate.

However, the Land Commissioner (Mr. Robinson) found a site on the Guadalupe River, in Comal and Guadalupe Counties, which he advocated in the strongest terms, but the other members of the Board did not agree with him.


17 It is worthwhile to state that most of these interested citizens had land to sell. One site, not far from Austin, proposed by an interested party, might make a fair sheep ranch, but certainly it is not suitable for a centralized prison plant.

18 The site proposed by the Land Commissioner is bounded as follows:
On the west by the New Braunfels and Seguin public road; on the north by the I.& G. N. and the M.K.& T. Railroads; on the south by the S.P. Railroad; on the east by a line two miles east of the Guadalupe River and parallel to said river. The Guadalupe River traverses this area practically north and south.

Since the Relocating Board failed to agree on a site, no attempt was made to relocate the system. Acting in accordance with the law, the Board reported to the Thirty-eighth Legislature, stating in substance that no agreement as to a location had been reached, and hence nothing had been done.

The Neff Plan

Governor Neff advocated the concentration of the system on the seven penitentiary farms located in Brazoria and Fort Bend Counties, and building new headquarters on some place centrally located among them. Concerning this plan, he said:

"Some thought has been given and some discussion had by the people generally as to the wisdom of selling the present penitentiary farms and moving the entire system to some other place. Having given conservative study to this question for two years, I find myself unable to agree with the proponents of this proposition. I am for the concentration and readjustment of our penitentiary system. I would sell the Shaw Farm in Bowie County, consisting of 4688 acres, against which there is a debt of $50,000. I would sell the Ferguson Farm in Madison County, consisting of 4320 acres, against which there is also a debt of $50,000. I would sell the Wynne Farm in Walker County, consisting of 1976 acres. I would sell the Goree Farm, of but little value, in Walker County, consisting of 1000 acres. The Eastham Farm in Houston County, consisting of 13,000 acres, 6,000 acres being in cultivation, on which extensive improvements have been made, costing, without counting labor, $235,000, and having on it a fine artesian well of hot water, which is piped through the

---

19 See Journal of the House of Representatives of the Thirty-eighth Legislature, pp. 612-630.
buildings, I would convert into a home for the some seven hundred negro boys now in the Reform-
atory at Gatesville, leaving the Gatesville plant for the white boys now mixed there with the negroes. 
I would convert the old penitentiary plant at Huntsville into an asylum for the insane. This would take the insane out of the jails of Texas. I would keep the seven penitentiary farms, all being within a radius of fifty miles and easily accessible to each other, in Brazoria and Fort Bend Counties, aggregating 53,853 acres, and build a new peniten-
tiary plant on one of these centrally located farms." 20

The Governor in his message to the Thirty-
eighth Legislature advocated the concentration of the prison system as outlined in the above quotation.

The Legislative-Citizen Committee

The Legislature, taking note of what the Governor had to say concerning the Prison System, appointed a committee, consisting of the Lieutenant-
Governor, five members of the Senate, the Speaker of the House, five members of the House, and three private citizens, "to visit and inspect the proposed site or sites for the relocation of the penitentiary system, and to make such proper and necessary inquiry into the affairs of the system as in the wisdom of the committee they may deem proper, and report back their findings at the earliest possible moment during this,

20 Speeches Delivered by Pat M. Neff, Governor of Texas, Discussing Certain Phases of Contemplated Legislation, p. 45.
21 The Governor's Messages to the Thirty-eighth Legis-
lature, pp. 6-8
the regular session of the Thirty-eighth Legislature."

The committee provided for in this resolution, was appointed on the ninth of February, 1923. It visited the most important units of the system, and made its report to the Legislature on March 8, 1923.

The Committee did not have sufficient time to make a very exhaustive study of the prison system. However, it caused much newspaper talk.

The Committee voted among themselves on the following propositions pertaining to centralization and relocation of the prison system:

1. Whether or not the prison system should be centralized. All but one favored centralization.

2. Whether or not the headquarters of the prison system should be retained at Huntsville. There was a unanimous vote for removal of the headquarters from Huntsville.

3. Whether or not the prison system should be centralized on the Brazoria and Fort Bend County Farms as proposed by Governor Neff. All but one voted against the Governor's proposition.

22 General Laws of Texas, R.S. of 38th Legislature, H.C.R. No. 8.

23 Journal of the House of Representatives of Texas, R.S., 38th Legislature, "Report of the Special Committee on Relocation of the Penitentiary."

24 See the daily press of Texas, February to April, 1923.
4. Whether or not the Prison System should be centralized within a radius of seventy-five miles of Austin. Eight voted unqualifiedly for locating the prison system within seventy-five miles of Austin. One voted against any form of relocation. The rest voted for relocation in Central Texas, but not necessarily within seventy-five miles of Austin.

The Committee was particularly opposed to the Governor's plan to centralize in Brazoria and Fort Bend Counties. It entered into extensive arguments against the plan.

The Committee recommended:

1. The sale of all prison lands held by the State.

2. A relocation of the entire prison system.

3. Relocation to be made only after close study and careful preparation of plans.

The following are the principal arguments offered by the Committee against the Governor's plan:

1. Most of the land was subject to overflow.
2. The prevalence of the boll weevil in that part of the State.
3. Excessive rainfall in that region.
4. The farms were located too far from the center of the State.
5. The danger of tropical storms.
6. In order to make the farms secure, the Brazos River would have to be leveed. That would involve great expense and at the same time an uncertainty.
7. The State had lost money in ten out of thirteen years since these farms had been bought.
The Texas Committee on Prisons and Prison Labor

The Texas Committee on Prisons and Prison Labor is a division of the National organization of the same name. The Texas Committee was authorized by a resolution of the Thirty-eighth Legislature "to make without cost to the State, a scientific survey of the prison system of Texas, to call to its assistance such experts as it may desire to assist in the making of said survey, to have printed the results of said survey, to the end that the citizenship of this State and the members of succeeding Legislatures be advised of the recommendations that point the way for securing a modern and efficient prison system for this State."

The Texas Committee made an extensive scientific survey as authorized by the Legislature. It published its findings in two volumes. It advocated a complete reorganization, including a new centralized plant, and a new location.

26 General Laws of Texas, 2nd C.S. of the 38th Legislature, H.C.R. No. 2.

27 This plan is discussed in Chapter V.
The Thirty-ninth Legislature and Relocation

The prison question was very prominent in the Thirty-ninth Legislature. In addition to the famous investigation, the matter of relocation was again taken up. There were several bills and resolutions introduced concerning the matter.

After much debate and after three Conference Committees had been appointed, the two houses finally agreed on a compromise relocation bill and sent it to the Governor for her approval. This bill was far-reaching in its scope, and radical in its provisions. Briefly stated, the chief provisions were:

1. Relocation of the State Penitentiary System.

2. The creation of a commission of five, consisting of the Governor, Lieutenant-Governor, Speaker of the House, Attorney General, and Commissioner of the General Land Office, whose duty was to dispose of all the present prison property, purchase a new site for a new centralized plant, erect modern fire-proof prison buildings on the new site, and then turn the completed plant over to the Prison Commissioners.

---

28 See page 105.

29 See Journal of the House of Representatives, R.S. of the 39th Legislature, under Index, "The Prison System of Texas;" also, see Journal of the Senate, R.S. of the 39th Legislature, "Ibid".

30 H.B. No. 303.
3. Said new prison plant to be located between 30 degrees and 32 degrees, North Latitude, and between 97 degrees and 99 degrees, West Longitude, and within easy reach of a city having adequate railway and highway facilities.

4. The new site and plant to be paid for, as far as possible, out of the proceeds derived from the sale of the present prison property.

5. Appropriated $200,000. One-half of this amount was to be used in the erection of a centralized plant, and the rest to be used to meet the expense of the Commission, and for the purchase of land. 31

31

Other provisions of the bill were:
1. The Relocating Commission was to erect on the new site the following elements of a modern prison system:
   (a) A receiving station to serve as a hospital and lock-up, with a bed capacity of 250 prisoners. To this building, every prisoner was to be sent on conviction, to be classified and to receive a thorough physical and mental examination before he was assigned to work.
   (b) The necessary institutions, units and facilities, separated from each other from one to two miles, which would permit of the classification of the prisoners according to race, age, and physical and mental condition.
   (c) The first of said institutions to be erected was to be a reformatory for the young and more promising white men, where they would be given thorough industrial and school training.
   (d) A separate reformatory for women prisoners. It was to have its own hospital where women prisoners were to receive examination on entrance to the penitentiary, and cottages for the classification of women as found necessary by their entrance examination.

2. The Relocating Commission was to adopt a general policy, and proceed to dispose of the present prison property as rapidly as possible.
The bill was sent to the Governor for consideration, and the Legislature adjourned before the Chief Executive had acted on the measure. It was vetoed by the Governor and filed with the Secretary of State on April 2, 1925.

The Governor's argument supporting the veto was based chiefly on economic grounds. Perhaps, there were also political reasons for the veto. Of course, such reasons were not mentioned in the veto message, but the tone of certain newspapers of our

32

The Governor gave the following reasons for disapproving the measure:

1. She estimated it would cost at least ten million dollars to accomplish relocation.

2. The Legislature had failed to make sufficient appropriation for even the first payment of the land to be bought for the new site. Hence, the Relocating Committee would be forced to offer some of the prison farms for sale at once. If the farms now owned by the prison were sold before the new prison plant had been installed, there would be no place to keep the convicts now in the penitentiary.

3. The Legislature had made no appropriation to maintain the prison system for the current year. It would not be wise to undertake removal operations unless there was enough money on hand to meet the necessary expenses connected with such operations. See the Governor's veto message, attached to H.B. No. 303, filed in the Office of the Secretary of State.
State indicates that some people believe that the real reason for the veto was other than that expressed in the filed veto. I express no opinion on the matter, as I have no tangible evidence either way.

Notice the following clipping from the editorial page of the Houston Post-Dispatch:

"In a brief review of the work of the Legislature published on the last day of the session, the Post-Dispatch ventured the opinion that little progress had been made in solving the old prison problem. At that time, the prison relocation bill was on the Governor's desk.

"Now, that Governor Ferguson has disapproved the bill, we see that no progress at all in the rehabilitation of our Prison System has been made and that we shall have to tolerate yet awhile the present unsatisfactory, expensive, and unscientific administration of the State's penal affairs. There is no reason to look for much improvement.

"The relocation bill was invested with much merit and was the product of men who gave much patient and intelligent study to the problem they had in hand. The time and labor the committee devoted to the problem have not been lost, however, for what they evolved will have much value when the present Legislature in another session, or the Fortieth Legislature two years hence, shall again consider the subject.

"In the meantime, Mr. Ferguson, as the representative of the Governor, will have an opportunity to see if the adventitious circumstances that gave the prison farms bountiful and profitable yields during his own administration can repeat this year the
success of which he was so proud nine years ago. Let us hope the season will prosper him and that the discouraging losses of recent years may be averted." 33

The question of relocating the Texas Prison System is by no means settled. It is certain to come up in the future; and will be settled as time passes; and, let us hope, in accordance with the most advanced thought of the day.

33

The Houston Post-Dispatch, April 4, 1925.
CHAPTER V

PLANS OF REORGANIZATION

Many attempts at Reorganization

A mere copy of the various laws proposing a reorganization of the Texas Prison System would cover several hundred printed pages. The multiplicity of laws that has been enacted on that subject shows that our penitentiary affairs have never been satisfactory. Perhaps, there has never been a year since Texas had a State Penitentiary but that there has been more or less complaint from the public, as to the administration of that institution.

Since 1842, there have been fourteen different laws enacted on the subject of reorganizing the existing Prison System. This does not include many important amendments to the prison laws at different times. In other words, there have been fourteen legislative reorganizations of the Texas Prison System.

The dates of these laws are as follows: 1842, 1846, 1848, 1852, 1870, 1875, 1879 (twice in one year), 1881, 1883, 1885, 1891, 1910, 1921.
No attempt will be made to discuss these many legislative changes in the management of the Prison System.

Many Suggestions of Reorganization

In addition to the laws just referred to, there have been many suggestions from diverse sources as to how to run the penitentiary in a more efficient manner. Hints of that nature are found in many reports on prison matters. It is safe to say that a majority of reports on any phase of prison affairs contain suggestions of some kind of reorganization or reform of the entire system.

Proposed Plans

Out of the great number of plans that have been mentioned by different parties at various times only three will be discussed, and each of these is of comparative recent date. These three plans may be stated briefly as follows:

1. The plan proposed by Governor Neff.
2. The plan proposed by the Texas Committee on Prisons and Prison Labor.

3. A third plan, in which an attempt has been made to take different suggestions from many sources and formulate a workable reorganization of the entire Prison System of Texas.

**Governor Neff's Plan**

The plan proposed by Governor Neff in 1923 embraced the following features:

1. The sale or disposal of all prison property, except the farms in Brazoria and Fort Bend Counties. 3

2. The centralization of the entire system on the prison farms in Brazoria and Fort Bend Counties.

3. The construction of levees on the Brazos River so as to prevent overflow.

4. The location of the penitentiary walls, administrative offices, shops, and factories on the railroad and near the center of the group of farms.

5. Giving the convicts humane treatment, plenty of substantial food, a good, clean place to sleep, and plenty of work to do.

6. The State to provide a certain amount of clean, wholesome amusement for the prisoners. 4

3 He proposed to convert the prison at Huntsville into an asylum for the insane and to use a part of the Eastham Farm as a site for a reformatory for negro youths. See page 114.

4. For a detailed statement of the plan, see the Governor's Message to the R.S. of the 38th Legislature.
There are serious objections to the above plan. In the first place, it is not complete. It might do for a plan for a slave plantation, but not for an institution, one of whose chief purposes is to reform its inmates. Of course, work is necessary, but it is easily over-stressed in prison affairs. It must not be forgotten that many of the prisoners believe that they have not been given a fair deal by the State, and that society has enslaved them. If possible, this erroneous idea must be corrected. Reformation is out of the question until the prisoner feels that he is being given a "square deal".

Another objection is that it involves the sale of some valuable prison property. It is a well-known fact that when the State has sold prison lands in the past, that without an exception, there has been graft connected with it.

A further objection is that there is no provision made whereby a discharged prisoner may be given an opportunity to "come back", and make a good citizen. The danger of turning a prisoner out to make his way, without any assistance from the State or friends, is manifest. It is to be expected that many prisoners thus thrown on society will soon fall into paths of wrong-doing, and, within a short while be sent to the penitentiary again, for some new offense, and develop
into that class of hardened criminals commonly known as "repeaters". 5

This plan possesses some good features, but I do not believe that it is at all adequate. If this plan should be adopted, I am confident that public opinion would continue to press for further reform and reorganization. It is not wise to attempt such an extensive change unless there is reasonable hope that it will, at least, settle the prison problem for a while.

5 I once knew a young man who was sent to the penitentiary for a minor felony. His mother died during the period of his imprisonment. After he had served his sentence, he returned to the community of his former home. He found himself without money, friends, or employment. The result was that soon he fell into error again, committed a crime much worse than the one for which he was first sent to prison, and was soon serving another term in the penitentiary. I heard him say in the court room, after his second conviction, that he could at least find a place in the penitentiary in which he could "eat and sleep and be welcome,"—a thing he could not find on the outside after his return from his first term of imprisonment.
The Plan Proposed by the Texas Committee on Prisons and Prison Labor

The Texas Committee on Prisons and Prison Labor made an extensive survey of the Texas Prison System during the summer of 1924. Its findings are both instructive and interesting.

The following is a summary of its recommendations for a reorganization of the Texas Prison System:

I. The re-location of the Texas prisons according to the penal colony plan, the site of which shall be selected by a Commission appointed by the Legislature, and all of which shall be located in or near the centre of the State, and accessible by road and railroad to some large medical center if practicable. The extent of this colony shall be adequate for the various types of institutions necessary for the penal population, and shall include acreage sufficient and suitable for industries, and according to the opinion of the agricultural authorities of the State for the production of all foodstuff for the institution population of Texas which can be economically produced within the State.

II. The sale of all present farms and the Huntsville property as rapidly as the inmates can be transferred to the penal colony.

III. The erection, immediately upon the selection of a site for the penal colony, of a reception building which shall serve the purpose of both hospital and lock-up, and shall have a bed capacity of 250 prisoners. To this building every prisoner shall be sent immediately upon conviction to be classified; there he shall receive a thorough physical and mental examination, and a record shall be made of his educational training, work efficiency, family history, and general life.

For a complete report of this survey, see The Texas Committee on Prisons and Prison Labor, 1924, 2 vols.
IV. The erection, as rapidly as possible, upon the penal colony, but separated from each other from one to two miles, of the various types of institutions which will permit of the classification of prisoners according to age, race, physical, and mental condition. The first of these institutions to be constructed to be a reformatory for the young and more promising white men, where they will receive thorough industrial and school training.

V. The establishment of a separate reformatory for women prisoners. This institution shall be under the Board of Directors of the State Prison, but shall have its own hospital, where women shall receive their examination on entrance, and cottages for the classification of women as proved necessary by their entrance examination. The superintendent of this institution, the physician in charge of the hospital, and all the officers directly dealing with women prisoners shall be women.

VI. The establishment of a mental hospital for the care and treatment of prisoners who are mentally ill. This building to be a special building for so-called "insane criminals," located at one of the present State hospitals for the insane.

VII. Immediate provision to be made at Houston for the examination of all prisoners before distribution to the farms, and the immediate treatment of all sick prisoners and segregation of those having infectious diseases in order that they may receive the care and treatment they need until the new institutions have been completed.

(Houston selected, as it is the most accessible city to the present location of farms.)

VIII. The creation of a Board of Directors for the penal colony similar to the Board directing the Educational Institutions of the State, which Board shall determine the policies and employ a general manager to carry out such policies.
IX. Transfer of the functions of supply purchase, construction of buildings, and the fiscal affairs of the penal system to the Bureau, existing at the present time for these purposes, under the State Board of Control or to some Bureau created by the State to conduct these matters for all its Institutions and Departments.

X. The adoption of a Constitutional Amendment providing for the regulation of the management of the prison system by the State Legislature.

XI. The employment of prisoners in the production of commodities for use by the State Institutions and Departments. If a surplus is produced then sell to other States for use in their Institutions and Departments. Also employment of prisoners in public works, including road building. Competent management to be provided for all prisons under this plan, and an adequate rotating fund for the assured equipment and operation of the industries.

XII. The adoption of the "States' Use" plan for the consumption of products produced in the prison systems.

XIII. The development of a system of paying adequate wages to prisoners. The cost of a prisoner's maintenance shall be deducted from his wage and paid back to the State, the balance shall be his own, and available for his dependents.

XIV. Strict compliance with both the spirit and the letter of the present law in regard to the education and recreation of prisoners.

XV. The abolition of flogging and all other forms of cruel, unusual, and brutal punishment.

XVI. The establishment of a Board of Parole, which shall be unsalaried with an adequate method of examining prisoners and securing work for the prisoners before their final discharge from the control of the penal authorities. This Board, if it meets with the approval of the Governor, to advise him in regard to "Pardons".

XVII. A thorough study of probation, suspended sentence, and the indeterminate sentence as a basis for the revision of the Texas Law. 7

On paper these recommendations seem good, but a careful examination of them will reveal grave defects. A few of these defects will be pointed out.

1. The idea of removing the entire prison system to "near the center of the State" is in a great measure purely idealistic. It is easier said than done; and if it should be accomplished, it would not necessarily improve matters. It would involve the purchase of about 50,000 acres of land which would cost at least $7,500,000 alone, to say nothing of the erection of all necessary buildings which would without doubt, run the total cost up to not less than $10,000,000. I submit the proposition that such an experiment is too costly. Why spend so much money when there is grave doubt that such a removal will be of material advantage in solving the problem?

2. The sale of all the property now owned by the prison system would involve a loss of at least two or three million dollars to the State. Much of it would have to be junked, as it is practically certain that private buyers could not be found who would pay anything like a reasonable price for much of the property. For instance, who would want the costly prison house on the Imperial Farm? The sale of the prison property would be a fertile field for grafters.
3. In so far as reforming the prisoners is concerned, a penal colony presents certain problems of administration that nullify much of the good that is claimed for such a scheme. Where the units are so close to each other (one or two miles at most, and some much nearer), it is impossible to separate the "good" prisoners from the "bad" prisoners. They may not get together very much, but we may be certain that the bad prisoners will have unwholesome influence on those prisoners for whom there is some hope of reformation. It is not safe to have them so near each other. The bad will contaminate the good in spite of the best supervision.

4. The argument for a Board of Directors similar to the Board directing the Educational Institutions of the State is not well taken. The present Prison Commission can with a suitable personnel, perform the same work.

5. The recommendation of the adoption of a Constitutional Amendment providing for the regulation of the management of the prison system by the State Legislature is likewise not well taken. The Legislature controlled the prison system until the creation of the Board of Prison Commissioners by Constitutional Amendment in 1910. Today, the prison system is much better than it was before 1910. So why go back to legislative control when conditions have improved very much under the Prison Commission's management?
6. The suggestion that flogging be abolished is purely sentimental. Of course, its use should be restricted. It should be surrounded by ample safeguards, so as to prevent abuse. But, for certain classes of incorrigibles it should be used as a last resort. Such form of punishment is particularly efficacious in handling a certain type of ignorant, lazy, brutal criminal negroes, who are always a menace to society when they are out of prison.

The Third Plan of Reorganization

An attempt has been made to suggest a plan whereby each criminal will, as far as is practicable, receive that particular type of treatment that is suited to his case. Most systems of dealing with criminals are based largely on the assumption that men are, or ought to be, of one pattern. As a result, few criminals have been reformed. Criminals have been sent to our penitentiaries to be punished; their acts, not their personality are the cause of their imprisonment. If any great number of our prisoners are to be reclaimed for society, the idea of punishment must be secondary to that of reformation.
The Legislature of Texas in attempting to handle the prison question has made the mistake of trying to harmonize two incompatible principles: First, to operate the system without expense to the State; in other words, to make it self-supporting; second, so to operate it as to make it serve as a reformatory for the convicts. I submit the proposition that these two principles cannot be carried on together in a successful manner. If the convicts are to be self-supporting, then slavery is their lot; if an attempt is to be made to reform them and thus save them to society, the taxpayers will have to meet the bill. In that way, the taxpayers will be paying for the making of better citizens for society. By the other way, the wayward will be lost to society, though in the losing, he meets most of his expense. Leaving out all questions of emotion, I believe that viewed strictly from an economic viewpoint, in the long run, the taxpayer gains more by reforming the criminal and thus making him a useful member of society than by making a virtual slave out of him, and thereby forcing him "to pay for his keep," but forever losing him as a real productive citizen of our country.
Personally, I do not believe that the proposed re-location plan is the correct way to handle the matter. I do not believe that it is wise to concentrate the system. My idea is to separate the convicts into as many groups as possible, using scientific methods in grouping the prisoners. Each group should know as little as possible about any other group. In fact, if it were possible, I believe it would be best if a prisoner when put in a certain group would not know even of the existence of other groups of wrongdoers. But, of course, it would not be practicable so to divide the inmates of the prison system into any type of groups whereby the culprits would not be aware of the existence of other groups than their own.

But the keynote to my plan is separation, rather than concentration. The ideal way to reform a criminal is so to place him that he will not come in contact with other criminals, at the same time giving him access to uplifting influences. If the individual criminal can be reformed more easily by taking evil companions from him, then does it not follow that a system whose cardinal principle is so to group the convicts as to place only those together who are afflicted with similar evil tendencies, is better than any system concentrated on a few thousand acres of land, even if
strenuous efforts are made to handle each group separately? Crime is contagious. I believe it impossible to get the best results at reform when criminals of all types and classes are near each other, even if an honest effort is made to segregate them according to the extent of their criminality.

One advantage of the proposed plan is that it avoids the sale of any of the lands now owned by the prison system. Likewise, it does not contemplate buying additional land. However, it does not prohibit the buying or selling of land by the system. It is elastic. It can easily be installed, and changed from time to time, so as to keep apace with the onward march of social evolution.

With the above word of explanation, I offer the following as an incomplete outline for a penal system for Texas:

1. A Board of three Prison Commissioners appointed by the Governor. Overlapping terms of six years, one appointed every two years.

2. The Board of Commissioners to select a General Manager, who shall hold his office at the discretion of the Board of Prison Commissioners.

3. The General Manager to have charge of the entire system under the direction of the Board of Prison Commissioners.
4. The General Manager to select all subordinate employees including a trained criminologist and alienist.

5. The erection of a central receiving station for the reception of all persons convicted to a term in the penitentiary.

6. All persons immediately on their reception at the central receiving station to be given a thorough physical examination. Those found suffering from any physical ailment to be sent to a hospital to be treated until they are cured. I do not believe it right to punish a sick person. Hence, I think that all convicts suffering from disease should be given thorough treatment before assignment to any group.

7. A thorough scientific test and examination conducted by expert psychologists, criminologists, and alienists to determine the proper group to which the prisoner is to be assigned.

8. The creation of as many groups as the General Manager and his expert assistants may advise.

9. The erection of proper buildings, facilities, etc. for the wise handling of each group.

10. No two groups to be placed on the same farm, or near enough to each other so as to be able to know anything of the work being done in any other group.
11. The General Manager to have power to transfer convicts from group to group as he sees fit.

12. All convicts be required to do some kind of work in so far as they are able.

13. Care to be taken that each convict, so far as practicable, be required to do the kind of work that he is best suited to do.

14. Opportunity be given for real educational training to those convicts who would be benefited by it.

15. All convicts be given a certain amount of pleasurable recreation, such as hearing lectures, seeing moving pictures, hearing good music, radio concerts, etc.

16. The selection by the General Manager of a Board of Pardon Advisers, who are trained criminologists and penologists. Make it the duty of this Board to visit each unit or group of the system at least once every sixty days, and to study each convict individually, examining carefully into his conduct, attitude toward discipline, etc. Also, make it the further duty of this Board to recommend to the Governor that pardon or parole be granted to those convicts who in the opinion of said Board had sufficiently reformed to take their place as a member of society.

17. Limit the Governor's pardoning power to approval or disapproval of the recommendation of the Board of Pardon Advisers. However, in capital cases, give the Governor freedom of action.
18. The erection of a receiving station for convicts who have served their time in the penitentiary. At this station, discharged prisoners should be given the privilege of staying at least sixty days while endeavoring to find employment. The State should assist all discharged prisoners in getting work to do after they have left the penitentiary.

I realize that the above plan is not at all perfect, but I believe that a system worked out along the lines indicated will in the long run be cheaper to the State than any system whose cardinal principle is to save money to the taxpayers by making the convict earn money for society through a type of virtual slavery. There is no way of calculating the value in dollars and cents of a human being.
BIBLIOGRAPHY

I. Secondary

1. General


2. History


3. Personal


4. Reclamation


5. Prison Labor


6. Special


*Dallas News*. Reprints of Articles on Various Phases of the Texas Prison System appearing during the summer of 1909.
7. Miscellaneous


II. Sources

1. Addresses, Speeches, and Letters.

Cabell, Hon. B.E., Chairman of the Prison Commission: Penitentiaries of Texas, Past and Present. An address delivered at the State Conference of Charities and Correction at the Annual Meeting in Waco, Apr. 12-16, 1912.

Scott, Dr. A.C.: Summary of the Physical Examination of the Prison Population of the State Penitentiary System, by a Group of Representative Members of the Texas State Medical Association, and the Duty of Texas towards its Prisoners. An address delivered Oct. 27, 1924, to the Texas State Conference of Social Welfare, Austin, Texas.


2. Constitutions

Art. 5, Sec. 14 of the Constitutions of 1845 and 1869.

3. Laws and Statutes

Gammel, H.P.N., Laws of Texas. 12 Vols.
Gammel Publishing Co., Austin, Texas.

General Laws of Texas. Regular and Called Sessions of the 31, 32, 33, 34, 35, 36, 37, 38, and 39 Legislatures.

Revised Civil Statutes of Texas, 1911.
4. Legislative Journals

Journals of the House of Representatives of the Legislature of Texas for all regular and special sessions of the Legislature from 1845 to 1925.

Journals of the Senate of the Legislature of Texas for all regular and special sessions of the Legislature from 1845 to 1925.

5. Investigations.

Report of the Legislative Investigating Committee of the Twenty-eighth Legislature of the State of Texas.

Report of the Penitentiary Investigating Committee, including all exhibits and testimony taken by the Committee. Published by order of the House of Representatives, August, 1910.

A Record of Evidence and Statements before the Penitentiary Investigating Committee Appointed by the Thirty-third Legislature of Texas, July 24, 1913.

Report of the Penitentiary Investigating Committee of the Thirty-fourth Legislature, April, 1915.

Reports of the Sub-Committees of the Central Investigating Committees of the House and Senate, Third Called Session of the Thirty-fifth Legislature of Texas.


6. Official Reports

Biennial Report of the Superintendent of the Texas State Penitentiary, December 1, 1878.
Biennial Reports of the Penitentiary Board and the Superintendent of the Texas State Penitentiary, with Reports of Physician and Chaplain, November 1880 to October 31, 1882.

Report of the Condition of the State Penitentiary at Huntsville, Feb. 10, 1870.

Reports of the Directors of the State Penitentiary to the Governor. Monthly Reports, with some omissions from 1870 to 1885.

Report of the Condition of the Texas State Penitentiary for the years 1874-5-6-7.

Reports of the Inspector of the Texas State Penitentiary to the Governor of Texas. These reports were irregular, sometimes monthly, and sometimes not so often. None after 1885.

Reports of the Lessees of the Texas State Penitentiary. Various reports during the lease period.

Reports of the Superintendent and Financial Agent, embodying the reports of the subordinate officials for the following bienniums:
Two years ending Oct. 31, 1884, 1886, 1888, 1890, 1892, 1896, 1898, 1900, 1902, 1904, 1906, 1908, 1910.

Annual Reports of the Board of Prison Commissioners from 1911 to 1924, inclusive.

Monthly Reports of the Board of Prison Commissioners from 1911 to 1924, inclusive.

Reports of the Board of Penitentiary Supervisors, quarterly, March 1, 1922 to December 1, 1924.

F. Messages and Vetoes

Messages of the following Governors to the Legislature: Coke, Ross, Sayers, Lanham, Campbell, Colquitt, Ferguson, Hobby, and Neff.

Vetoes: In 1913, H.B. No. 240 and S.B. 32 by Colquitt; in 1925, H.B. No. 303 by Ferguson. All vetoes filed with The Secretary of State.
8. Rules and Regulations

Rules, Regulations and By-Laws for the Government and Discipline of the Texas State Penitentiary and Convicts Belonging Thereto. Issued in the following years: 1893, 1900, 1911, 1913, 1924.

9. Surveys


10. Newspapers

Austin City Gazette, 1839 to 1842.
The Daily Herald, San Antonio, Texas, 1869 to 1873.
The Daily State Gazette, Austin, Texas, October and November, 1867.
The Daily State Journal, Austin, Texas, January to April, 1874.

Dallas (Texas) News.
The Crockett Courier, Crockett, Texas.
The Texas Farmer, August 1894, Dallas, Texas.
San Antonio Daily Express, San Antonio, Texas.
The Houston Post-Dispatch, Houston, Texas.
Scribner's Saturday Night, San Antonio, Texas.
The Houston Daily Post, Houston, Texas.
Galveston Daily News, Galveston, Texas.
The Waco Times-Herald, Waco, Texas.
The Morning Star, Houston, Texas, 1843 to 1846.