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REPORT

ON THE

Investigation of the

State Reformatory

BY THE

State Board of Charities
and Corrections

PRINTED BY

AUTHORITY OF THE LEGISLATURE.

DENVER, COLORADO:
THE SMITH-BROOKS PRINTING CO., STATE PRINTERS
1895

REPORT.

Denver, Colo., February 20, 1895.

To His Excellency,
ALBERT W. McINTIRE,
Governor of Colorado:

Sir—Under date of February 7, 1895, the State Board of Charities and Corrections received from you a communication, as follows: "I hereby request that you make an investigation into the condition and management of the Colorado State Reformatory at Buena Vista, and make your report, including the testimony, to me with all convenient speed." In accordance with that request the undersigned were by the president of this board appointed to make such investigation.

We repaired to the State Reformatory at Buena Vista and took such evidence as was available during the three days of our visit. We made a general inspection of the books and carefully examined the several buildings, bunk-houses and the entire premises of the Reformatory, and had several interviews with the inmates in the absence of all officers and guards. We also inquired into the methods, discipline and punishments in use in the institution, and into the general management thereof. We have also taken the testimony of the commissioners of the Penitentiary and other witnesses, in the rooms of the board at the Capitol. All the testimony will be found hereto attached and is made a part of this report.

Certain specific charges were filed with the board signed by one M. R. Gerraghty, and also certified to by N. T. Dodge, V. S. White and W. C. Gregg, which are marked "Exhibit A" and attached hereto and made a part hereof. These charges in substance are to the effect that Deputy Warden Hoyt was guilty of cruel and inhuman treatment of the prisoners; of using profane, foul and obscene language in their presence and in the presence of the officers, and of suffering vile and unnatural practices among the convicts.

Our specific conclusions, based upon our personal examination and the evidence herewith submitted, are as follows:

I.—VILE AND UNNATURAL PRACTICES.

As to the vile and unnatural practices the committee finds undoubted evidence of their taking place; this is confirmed by Mr. Hoyt and several of the guards in addition to the witness, Robbie, and others. (See testimony, pages 25, 26, 27, 43, 44, 76, 77, 91, 108, 117, 124, 156, 184, 233, 234, 251.)

It appears, however, that Mr. Hoyt had given instruction to the guards and the physician, and endeavored by various means to suppress these practices, and Mr. Hoyt says that convict Brooks confessed these unnatural acts about a year ago, since which time he has received no complaints. (See testimony, p. 108, 116, 156.) Nevertheless, he, as well as this committee, are satisfied that the practices still continue. It appears there has been no systematic grading nor separation attempted to prevent these outrages, and the prisoners are indiscriminately huddled together in three small buildings designated as bunk-houses and numbered respectively 1, 2 and 3, with an average of about twenty in each house. In view of such reprehensible neglect we cannot absolve the warden, deputy warden or commissioners from responsibility for the resulting immoral depravity. (See testimony, p. 245.)

II.—BUNK-HOUSES.

In bunk-house No. 3 we found one idiot, one epileptic and one consumptive. That these convicts are so afflicted we have the statement of the prison physician, confirmed by our own observation. (See testimony, p. 88, 89, 178, 179.)

The filthy, uninhabitable and unsanitary condition of this bunk-house we cannot too strongly condemn. This is a small frame building, shingle roof, and unlined. (See testimony, p. 73.) We were there on February 11, when, as is well known, the thermometer was much lower than usual in Colorado, and the snow had fallen during the night so that we gathered up with our own hands the snow that had drifted in.

The bunks are two-story affairs, one being built above the other, built of undressed lumber of the rudest kind. The bedding is covered with filth and infected with vermin, and according to the testimony of Mr. Hoyt, no bedding of any of the prisoners has been washed since the establishment of the Reformatory in May of 1891. (See testimony, p. 79, 92, 93, 129, 177, 179, 228, 255.)

This building shelters twenty-one poorly clad convicts, sick and healthy, black and white, young and old, held promiscuously together, ranging from 16 to 29. We found them doing but little work other than that of chopping wood. The environment is anything but such as would conduce to reformation, but on the other hand the environment tends to produce criminals.

Bunk-houses Nos. 1 and 2 are somewhat better than No. 3, inasmuch as they are covered with corrugated iron; but the sanitary and other conditions are similar to those just mentioned in No. 3. Under such conditions it can be seen that the vile and unnatural practices charged, seem not to be unnatural to such a filthy and degrading environment. (See testimony, p. 121, 245.)

III.—PUNISHMENTS.

Your committee finds that the punishment administered in this institution has been extremely cruel. Besides depriving them of such privileges as writing, etc., the only regulation punishment inflicted is what is known as "hanging up." (See testimony, p. 17, 18, 19, 20, 21, 22, 23, 24, 33, 41, 46, 57, 58, 59, 60, 61, 63, 65, 66, 85, 96, 98, 111, 124, 134, 143, 150, 151, 155, 168, 234, 236.)

This punishment has been inflicted in the following manner: The prisoner is taken to a small log building, in the midst of the pig-pen, used as a slaughter house. Over a beam in this building is a block and tackle used for drawing up the animals that are butchered. A pair of handcuffs is put upon the wrists of the prisoner; the hook in the block and tackle just referred to is fastened to the handcuffs, and the man is drawn from his feet. We find that this punishment has been inflicted in certain instances without the presence of the physician, notably McCarthy and Worth; notwithstanding subdivision 3 of section 4168 of Mills' Annotated Statutes provides that "The physician shall be present and superintend all corporal punishments which may be inflicted in the institution." (See testimony, p. 18, 20, 33, 41, 57, 85, 86, 96, 115, 116, 129, 236.)

This man Worth was pulled up three times, and it was made not simply punishment for what he had done, but was also made an instrument of torture to ascertain who had aided him in his efforts to get away. (See testimony, p. 17, 18, 19, 33, 279.)

If we were disposed to look lightly upon "hanging" as a method of punishment, still we certainly would express our censure and abhorrence of it when used, not for punishment, but for torture. Section 4176 of Mills' Annotated Statutes expressly provides that "The warden or deputy warden may punish inmates for misconduct *under such regulations* as may

be adopted by the Board of Commissioners; *Provided*, That no punishment by showering or whipping with the lash upon the bare back, or any brutal or inhuman punishment be allowed. The warden or deputy warden shall, as soon as the next day after inflicting punishment, enter in a book to be kept for that purpose, a record thereof, signed by him, stating the offense and the kind and the extent of punishment inflicted." (See testimony, p. 97, 98, 188.)

The spirit of this section is, that owing to the tender years of the inmates, 16 to 30, no savage punishment, such as "hanging," whatever may be thought of it as a corrective in the Penitentiary, should be permitted in the Reformatory. Mr. Hoyt does not deny the infliction of this punishment, but justifies it by claiming that he knew of no more effective method, and does not consider this either brutal or inhuman, notwithstanding the contrary view expressed to him by your committee, and he claims that it was done with the full knowledge and permission of the warden, and the knowledge of the commissioners. (See testimony, pp. 60, 65, 68, 85, 86, 91, 99, 100, 101, 111, 122, 135, 140, 145, 147, 188, 189, 190.)

In the infliction of these punishments there was no apparent sense of the deep and serious responsibility they involved, as the punishment was inflicted in a slaughter house, with undue and unnecessary publicity, with guards present from mere morbid curiosity, often treating the matter lightly and with indifference. Not less than eight or ten such guards were present when Worth and McCarthy were hung up. (See testimony, p. 60.)

The statement of the physician was that the average duration of the hangings he superintended was from four to nineteen minutes. We append to our report the itemized statement of these hangings, given by the physician, relating only to those when he was present ("Exhibit F"); as to the others he has no information. No book, such as is required in the

section of the statutes just quoted, has ever been kept in the institution, and this requirement of the law has been wholly ignored. (See testimony, p. 64.) The commissioners claim in their testimony that they never authorized the warden or deputy warden to inflict such punishment, and deny all knowledge that such punishment was being inflicted in the institution.

Section 4176 requires the commissioners to fix the punishment or the regulation thereof to be used in the institution, and, as will be seen by the testimony of Commissioner Reynolds, no punishment of any kind was ever fixed or regulated by the board, nor even discussed, but the matter was left without any kind of limitation, as shown by his testimony and by the records. (See testimony, pp. 63, 64.)

In concluding this subject, we may observe that whether any corporal punishments could be inflicted by the warden or deputy warden in the absence of "regulations" pertaining thereto, to be adopted by the commissioners, and if so, the nature thereof, is a question we shall not undertake to decide, as we fully appreciate that a satisfactory consideration of such questions involves a construction of the statute that properly belongs to the courts. (See Mills' Annotated Statutes, section 4176.)

That the commissioners never acted in the premises, never discussed the subjects of punishments, never adopted any "regulations" and never knew what the warden or his deputy was doing in the premises (See testimony of Commissioner Reynolds), is a matter of deep regret, and we are constrained to express our most earnest and indignant protest that so important and vital a function for the protection of the prisoners, was so absolutely and indefensibly surrendered by the commissioners. But, notwithstanding such surrender, we are satisfied that the authority of the warden and his deputy to inflict corporal punishment upon the inmates of the Reformatory is such

and such only, as prescribed by law, and that whatever else may be said of it, it can in no sense be "brutal or inhuman." "Showering with cold water" and "whipping with the lash on the bare body" is expressly forbidden, and to our minds "hanging up," as a method of Reformatory discipline, is equally reprehensible.

We cannot enter here into the details of the many brutal hangings disclosed by the testimony submitted herewith. The names of the unfortunate victims and their offenses, some of a very trivial nature, and the torture of their hangings, are all sufficiently disclosed in the evidence.

The world has so far advanced that not moralists alone but many parents, teachers, instructors and officers have found in kindness and love rather than in brutality and in fear the ready and sufficient means of controlling young men and boys who are vicious and wayward.

It is only to secure a necessary moral effect that punishment of any kind should ever be invoked. If the moral sense is not present when it is inflicted, it is cruel and brutalizing. With this thought in mind, who can justify the "hangings" disclosed by the evidence? Who can defend or extenuate such hangings of young men and boys done in a slaughter house with the same hook, block and tackle used to swing up hogs?

IV.—PROFANE AND OBSCENE LANGUAGE.

Mr. Hoyt denies that he ever uses profane language to the prisoners, but admits that he does when away from them. Commissioner Reynolds testifies that he had occasion to admonish Mr. Hoyt about using profanity, although Mr. Hoyt denied to him that he did use it. The whole testimony taken, however, quite conclusively proves that not only did Mr. Hoyt use both profane and obscene language to the prisoners, and in the presence of the guards, but that it was a very common occurrence among the

guards, and especially when prisoners violated prison rules. Such practice must receive the severest condemnation at our hands. We cannot conceive of more cowardly treatment than the use of profane or obscene language toward prisoners who have no means of protecting themselves therefrom; although the prisoner may be the most vicious felon, such language must serve only to intensify his viciousness, while gentlemanly conduct and proper language on the part of officers in charge must at least inspire his respect and make him more easily controlled.

V.—SUPPLIES.

The attention of your Excellency is called to the testimony of Mr. Coe who swears that the maintenance of Mr. Hoyt and family was taken from the Reformatory, consisting of meat, flour, sugar, wood, kindling, etc. His family washing and baking were often done at the Reformatory. No record was kept of any such supplies, nor any checks kept as to quantity or quality. If there is any law for the diversion of these supplies to the deputy warden we have not been able to find it. Mr. Coe also swears that about three-fourths of the time that meat was brought from Dean and Brown's for the Reformatory (See testimony, pp. 266, 269, 270.) it was short at least one-quarter in weight according to the bills that were subsequently rendered. Ordinarily the bills for supplies never accompanied the goods, as Mr. Brown testified, and hereinafter mentioned, but that they followed later. The rendition of bills as testified to by Mr. Coe is in substance about the same as Mr. Brown.

Upon the general subject of supplies we desire to submit the following further observations:

It appears from the testimony and examination of the records that the method of purchasing supplies has been loose and has been conducted in an unsatisfactory manner. (See testimony, pp. 197, 198, 202, 203.) The *modus operandi* has been as follows:

A list of supplies was made out and taken to the Dean & Brown Mercantile Company of Buena Vista, no prices being mentioned on said list. (See testimony, pp. 81, 82, 104, 108, 115.) There being no contract for such supplies nor any advertisement for bids, it was understood, this was testified to, that the regular market prices should be charged for all supplies furnished. (See testimony, p. 105.) It may be here stated that from our casual investigation it cannot be seen that there has been any exorbitant prices charged. The commissioners claimed that they could regulate the prices at Buena Vista by comparison of them with the prices paid for the same articles at the Penitentiary at Canon City, and further that no one of them had any interest, direct or indirect, in the firm known as the Dean & Brown Mercantile Company, nor was there any relation of debtor and creditor existing. (See testimony, p. 196.) There was nothing to show any system of checks regarding the weights, quantities or qualities of goods delivered at the institution. (See testimony, pp. 81, 82, 265.) Mr. Brown testified that the goods sent to the Reformatory were not accompanied with any bill of account furnished, but such bills usually followed a day or two, sometimes two or three days or a week, later. (See testimony, pp. 106, 108, 265.)

Mr. Coe, bookkeeper from about January 1, 1894, to June 1, 1894, testified that the bills sent a day or two later were memorandums of the accounts of goods furnished, without prices; that it would be the end of the quarter before the prices of the goods would be sent. (See testimony, p. 275.) There is practically no system of bookkeeping as testified to by Mr. Reynolds and Mr. Coe, so that it is not possible to determine to what extent correct account of the supplies purchased or paid for have been kept, or whether any fraud has been practiced at the Reformatory, officers in the purchase of supplies or by the firms from which such purchases have been

made, in rendering bills and in receiving payment therefor. (See testimony, p. 198.) In making an examination of the convicts' maintenance account book and comparing it with the day book giving the goods delivered, several discrepancies were shown for which no satisfactory explanation has been offered. For instance, flour which cost the institution \$1.75 per hundred is charged to this account at \$2.25 per hundred. Sugar which cost the institution 6 cents per pound is charged to this account at 71-2 cents per pound. Owing to the limited time given to this investigation your committee has not been able to look into the matter of prices, but it believes that in duty to the commissioners and the tax payers of the state an expert examination should be made of all the books kept, and to what extent the system is lacking. Mr. Hoyt is entitled to the benefit of his testimony which is further corroborated by the warden, that he had no direction nor charges of any of the books in connection with the prices, maintenance nor cash account (see testimony, p. 87), but still we find that the purchases and the active management of the institution, on account of the prolonged sickness of the late warden, almost wholly devolved upon him. (See testimony, p. 105.)

VI.—IGNORED STATUTES.

Sections 4152, 4159 and 4160, of Mills' Annotated Statutes, concerning the care of prisoners, provides as follows:

"Section 4152. It shall be the duty of the commissioners to make and adopt general rules for the government and discipline of the institution, and of the officers thereof, as shall be necessary and not inconsistent with the provisions of this act, and from time to time to change and amend them as circumstances may require. In making such rules they shall, so far as practicable and consistent with the discipline of the institution, adopt such as shall appear to best conduce to the reformation of the in-

mates. A printed copy of the rules and regulations shall be furnished to each officer and guard at the time he is appointed and sworn, and so much thereof as relates to the duties and operations of the inmates shall be hung in the shops, cells and other conspicuous places of the institution, as the commissioners may direct, and may be printed in other languages than the English, if so ordered by the commissioners. The commissioners shall, at their regular meetings, examine all the different departments of the institution, and inquire into all matters concerning them; the government, discipline and police, the punishments and employments of the inmates, the doings and accounts of the warden and clerk, the money concerns, the purchases and sales, and whether the inmates are well fed and clothed, and have such educational advantages as shall have been provided for. They shall also inquire into any allegations against the warden or other officers, and for that purpose may issue subpoenas to compel the attendance of witnesses and the productions of papers and writings before them, subject to the same penalties for disobedience as in cases of trial before courts of record; and may examine any witness brought before them under oath, to be administered by the president of the board, or by any other member in his absence."

"Section 4159. It shall be the duty of said commissioners to maintain such control over all prisoners committed to said State Reformatory as shall prevent them from committing crime, best secure their self-support and accomplish their reformation. When any prisoner shall be received in the said Reformatory upon direct sentence thereto, they shall cause to be entered in the register the date of such commission, the name, age, nativity, nationality, and such other facts as may be ascertained of parentage, early association, influences, etc., as may seem to indicate the constitutional or acquired defects and tendencies of the prisoner, and based upon these, an

estimate of the then present condition of the prisoner, and the best possible plan of treatment. Upon such register shall be entered, quarterly or oftener, minutes of the observed improvement or deterioration of character and noted as to the methods and treatment employed; also, all orders or alteration affecting the standing or situation of such prisoner; the circumstances, if final release, and any subsequent facts of the personal history which may be brought to their knowledge."

"Section 4160. The commissioners shall, under a system of marks or otherwise, fix upon a uniform plan under which they shall determine what number of marks or what credit shall be earned by each prisoner, sentenced under the provisions of this act, as the condition of increased privileges or of release from their control, which system shall be subject to revision from time to time. Each prisoner so sentenced shall be credited for good personal demeanor, diligence in labor and study, and for results accomplished, and be charged for dereliction, negligence and offenses. An abstract of the record in the case of each prisoner remaining under control of the said board of commissioners shall be made up semi-annually, considered by the commissioners at the regular meeting, and be filed with the governor; which abstract will show the date of admission, the age, the then present situation, whether in the State Reformatory, State Penitentiary, Asylum or otherwise; whether any and how much progress and improvement has been made, and the reason for continued custody or release, as the case may be. The commissioners shall establish rules and regulations by which the standing of each prisoner's account of marks or credits shall be made known to him as often as once a month, and oftener if he shall at any time request it, and may make provision by which any prisoner may see and converse with the said commissioners during every month. When it appears to the said commissioners that there

is a strong or reasonable probability that any prisoner will live and remain at liberty without violating the law, and that his release is not incompatible with the welfare of society, then they shall issue to said prisoner an absolute release from imprisonment. But no other petition or other form of application for the release of any prisoner shall be entertained by the commissioners, and nothing herein contained shall be construed (construed) to impair the power of the governor to grant a pardon or commutation in any case."

No books or records have ever been kept in accordance with these provisions of the statutes, except a general entry book containing the names, ages, descriptions of the prisoners, with another, the date of their parole and the offenses for which reported, a book containing the dates of their parole reports and a book containing a list of letters written by them. (See testimony, pp. 173, 183, 184.) No rules have ever been published, and in fact we can find no record of more than four rules made by the commissioners which, referring to their journal, are as follows:

1. September 13, 1892—"On motion it was ordered that all cigarette smoking must cease about the premises."

2. May 16, 1893—"By motion of Mr. Boettcher it was ordered that no man can be made eligible to parole until he had a record of at least six months clear." (See testimony, pp. 174, 207.)

3. March 9, 1894—"It was moved and seconded that all prisoners under the age of twenty-one (21) years be deprived of tobacco on and after April 1, 1894; by unanimous vote it was so ordered."

4. December 3, 1894—"It coming to the attention of the board of commissioners that our order about tobacco (issued some time ago) being misunderstood, we hereby reiterate that from this time on no inmate of this institution can use tobacco while in confinement or upon the grounds, it being the desire

and intention of the commissioners (acting upon the advice of our physician) that the use of tobacco by the convicts be absolutely abolished."

The following list of rules were found posted upon the walls of the bunk-houses, and are said to have been prepared and posted at the order of the warden:

COLORADO STATE REFORMATORY—RULES.

1. Card games, dice games and all gambling games prohibited.
2. No unnecessary talking permitted after 9 o'clock.
3. Letters must be signed by the inmate's name in full, also the number on the flap of the envelope, and must be written in English; otherwise they will be rejected.
4. Man in charge at bunk-house attends to fires and lamps. Any interference prohibited.
5. Any inmate charged with striking fellow inmates or fighting will be *severely* punished.
6. Profane language or singing indecent songs is prohibited.
7. No inmate will be allowed to go late to his meals.
8. Any inmate who is sick and not able to go to his meals shall report same to an officer in charge before meal time.
9. Inmates are prohibited from entering any bunk-house other than the one assigned them, unless directed or permitted to do so by the officer in charge. The only exception to this rule is in entering No. 2 bunk-house for the purpose of washing or shaving. No loafing will be permitted in or about wash house or barber shop, and all inmates not belonging to No. 2 bunk-house must leave as soon as they are finished.

10. Any inmate guilty of violating any of the above rules will be reported.

11. No case for parole will be considered from any inmate that has not a clear record for at least six months prior to the sitting of the commissioners.

12. Those attending school must be prompt at ringing of bell.

December 8, 1894.

NOTICE.

Use of tobacco positively *forbidden*, and *any* of the prisoners caught using same will be *reported*.

Per order,

JENNIE M. BERRY,

Warden.

Each and every inmate of this institution shall make up his bed before leaving bunk-house in the morning. This rule must be obeyed. These beds must not be disturbed during the day, and blanket-fellow inmates positively prohibited.

DINING ROOM RULES.

After being seated at the table every inmate shall fold his arms until tap of bell, and after they have finished eating shall fold their arms until bell taps for marching out. (See testimony, pp. 69, 174, 175, 176.)

No rules have ever been printed for the use of the guards. (See testimony, p. 175.)

VII.—PAROLE SYSTEM.

From the testimony given by the commissioners it is evident that they failed to comprehend the measure of responsibility resting upon them as parole commissioners. No system of marking has ever been adopted by them, no classifying nor grading of any of the prisoners, but all the paroles granted since the establishment of the Reformatory have been so granted in the most arbitrary manner, with

no guide nor rule save the whim or wishes of the commissioners. In one instance it is noted on the record book, page 89 of the records of the commissioners, that the commissioners deputed the warden or deputy warden to issue a parole to one or more prisoners for Christmas, as follows:

"December 2, 1892. The warden and deputy warden were each given a parole to be given to the persons they deemed the most worthy."

The commissioners placed the power in the hands of the warden to revoke a parole, as the following from the minutes of their proceedings will show: (Record, p. 92.)

"It was moved and ordered that the warden be instructed to withhold paroles from any who, in his judgment, is not conducting himself properly, after the same has been issued. (See testimony, p. 181.)

The only record of paroled prisoners that can be found is the time book of the prisoners, and all such paroled prisoners are designated in said book as having been paroled and the date, no reasons having been assigned not any indication of their standing so as to give them parole privileges, notwithstanding that the statute, section 4160, requires: "The commissioners shall establish rules and regulations by which the standing of each prisoner's account of marks or credits shall be made known to him as often as once a month, and oftener if he shall at any time request it, and may make provision by which any prisoner may see and converse with the said commissioners during every month."

We find also that one Charles S. May, who was transferred from the Penitentiary on the 19th day of December, 1892, was paroled on the 10th day of March, 1893. The said May was serving a sentence of five years in the Penitentiary, having been sentenced January 12, 1892, and at the time of his parole had served one year and two months, of which

three months were in the Reformatory. He was convicted of forgery and embezzlement, and previous to the conviction was a fugitive from justice and returned to the state at great expense. When questioned as to this convict, Mr. Reynolds said when asked "Do you know the reason of his parole? All I know of it is that Warden Smith requested very urgently that that man be paroled. As I recollect, two years ago that man got up our records at Buena Vista and we have always made it a rule to give them some little reward, and Smith made the remark several times that "May was his man," and said "I want you to let him out." I said, "We cannot let him out till his time comes." "Well," he said, "he has made out our report and has been promised that he shall be let out."

Q. Do you know how long he was at the Reformatory?

A. He was not there a great time.

Q. Was he there three months?

A. My recollection is that he was.

Q. Do you remember what he was convicted of as charged from the indictment, and sentenced to five years?

A. No; I do not know anything about that. He had assisted in the clerical work of the office to make out our report.

Q. Do you not think, as a parole commissioner, you should have inquired into his antecedents without taking Warden Smith's statement of it alone?

A. Well, yes; but it was a matter that of course would be pretty hard to do. The warden had not received any compensation up there. We were always afraid he would bring in a bill as acting warden up there, and we considered we ought to oblige him when we could. (See testimony, p. 182.)

The foregoing is a fair sample of the manner in which the commissioners seem to have granted the paroles. The statute fixing the basis on which the

paroles were to be granted seems to have been persistently ignored, and no favorable results can be reasonably expected. We are therefore not surprised to find that in numerous instances persons paroled from the Reformatory have been rearrested for other crimes sometimes within a few days, and at most within a short time following their release upon parole. If it is found that in Ohio 90 per cent. released from the Reformatory upon parole are reformed, whereas Commissioner Reynolds testified that "I am proud of the fact that over 50 per cent. of the boys that went out of there made good records." The imperfect manner in which reports are received from paroled prisoners is but another instance of the lack of system. Paroles in some instances, too, have been made where the persons were to go outside of the state where there was no jurisdiction to require their return in case of failure to report.

"Unless you have the mark and grade system honestly carried out in prison, and keep it from political and outside influence, and make it almost a crime on the part of a director to consider an outside application, and unless you make the parole dependent on the accurate prison record of the prisoner, you would better have no parole system." (Abnormal Man, p. 102.)

As indicated by the above extract from Mr. Wines, a system of marks or classification or grading is absolutely necessary to the parole system, and a state agent is also an important requisite to the carrying out of this system. It appears that the commissioners paid \$50 a month to one George F. Loar for a short period of time, but we were unable to find from the records that any duty of any kind that a state agent should perform was performed by Mr. Loar. While it is true that the commissioners have been much cramped for means, this money expended upon Mr. Loar could have been of much benefit in pro-

viding for one whose duties were those familiarly known as a state agent. The examination discloses the fact that the commissioners exercised the power to parole as if they were invested with the power to pardon.

VIII.—GENERAL MANAGEMENT.

The first installment of prisoners at the Reformatory was about thirty in number and transferred from the Penitentiary. This was on May 4, 1891. Mr. Hoyt accompanied them and became yardmaster. Mr. Harrison became deputy warden, and Mr. Smith, then warden at the Penitentiary, was made warden of the Reformatory, without additional pay. These transferred prisoners were used in putting up the temporary buildings and erecting the stockade. We must not lose sight of the fact that both the officers of the Reformatory and the commissioners, during all these years, had to do with a raw plant and deal with very unsatisfactory financial conditions. Mr. Hoyt has had the active charge of the institution since the day last named, and has been actually the chief officer, but not nominally such, and from what we have been able to learn of his conduct he has been energetic and industrious in the discharge of his duties, but his training, as he admits, has been wholly as a prison man. He has never had the opportunity to ascertain the methods of reformatory work, and we are bound to say that for this reason and the other reason hereinabove stated, we deem him unfit to have charge of such an institution.

The act of 1891, page 88, provides, "That it shall be the duty of the Penitentiary Commission, as soon as in their judgment the State Reformatory is so far completed that prisoners may be safely confined and properly cared for therein, to notify the various courts having criminal jurisdiction in this state that said Reformatory is open for the reception of prisoners." It appears that the act intended that

the commissioners should not prematurely receive prisoners by commitment, and the committee has diligently sought to find out why such inadequate, unsuitable and unsanitary conditions were put prematurely into actual use.

Deputy Warden Hoyt testifies that the notices under the above statute were sent out to the district judges under the order of the commissioners but is unable to state when. Mr. Reynolds testifies that the board never took action, but that he personally directed Deputy Warden Harrison to notify the several district judges, and that later the deputy warden informed him that he had given such notices. Mr. Reynolds said, however, that his direction was a mere voluntary act upon his part, as he knew of no law requiring it. If he was ever advised of the law last quoted it seems to have made so little impression on his mind that he had entirely forgotten it. (See testimony, pp. 173, 174.)

Commissioner Boetcher testifies that no such notice to the several district judges was ever given to his knowledge, and, in his judgment, the Reformatory was never so completed as required by the act before the commitments could be made. (See testimony, p. 204.)

The records fail to show any action as to this matter by the board, although this act makes it their duty to do so. They have received prisoners on the average of fifty or sixty per annum without any official action being taken as required by the act of 1891, requiring them to designate a time when the institution was ready for receiving prisoners. We are accordingly forced to the conclusion that the commissioners are thus primarily to blame for the unfortunate conditions at the Reformatory which they now mention with considerable emphasis as an excuse for their failure to comply with the law during the period of nearly four years that the Reformatory has been receiving prisoners, for it appears that whether notices were sent or not, it is now admitted that it was not ready.

We find that there have been schooling privileges offered only for the short period of six months, from January 1, 1894, to June 1, 1894, and from January 1, 1895, to date. The six months first referred to was a school of very irregular character kept by Mr. Coe, the bookkeeper. Attendance was voluntary and but little interest was manifested; no reading books were given him, and no instruction in reading given. He was not paid as a teacher and did what little work he did do in this regard as a voluntary service. (See testimony, pp. 186, 187, 282.) At the December meeting of the commissioners, Mrs. Hoyt, wife of the deputy warden, was employed to open a school at a salary still to be determined. Books were furnished, and she opened her school on the first day of the present year. Attendance is compulsory, and school hours are between 1:30 and 4:15, three times a week, one-half attending each day and manifesting considerable interest, as testified to by Mrs. Hoyt. (See testimony, pp. 137, 141, 186, 187, 211.)

A chaplain has been employed but for a short period since the institution was opened, and no resident chaplain has as yet been employed. By reference to sections 4166 and 4167, Mills' Annotated Statutes, it will be seen that the teacher and the chaplain were intended to be among the most important factors, as agencies in the reformation of the inmates. The requirements of the law in this regard had fallen far short of the mark.

No books have been kept as required by section 4160, Mills' Annotated Statutes, showing the advancement or deterioration of the prisoner in the matter of treatment, and we agree with Commissioner Reynolds, who testifies that the guards at the Reformatory, with one or two exceptions, are not competent and not of the character or education demanded by Reformatory discipline or methods, and in this connection we call attention to the fact that the commissioners are responsible for the char-

acter of all guards employed at the Reformatory. (Section 4142, Mills' Annotated Statutes.)

The records disclose that it has not been an unusual thing for paroled prisoners to be kept in the institution sometimes three months or more following the date of their parole. At the date of our visit to the Reformatory in February last, four prisoners paroled at the December meeting of the commissioners were still held within the stockade. The only explanation given for this fact is that the commissioners have not the money to give them, to-wit: \$5 and clothes and railroad fare. In cases where the paroled prisoner has friends who will pay for his transportation and clothing he is released immediately, otherwise he is detained until funds can be furnished from the state. (See testimony, pp. 181, 209.)

On November 19, 1894, by resolution of the commissioners, a lot of clothing and under clothing was ordered from the Penitentiary. These goods did not arrive at the Reformatory until about February 1, 1895. (See testimony, p. 177.) In the interim many of the inmates were deprived of underclothing and other necessary garments and many bitter complaints were heard by your committee on this question.

On the occasion of a visit of the members of this board to the Reformatory, Mr. Hoyt gave express direction to the guards to stand near the prisoners when communicating with any of the members of the board and hear anything they might say to such members.

Mr. Hoyt admits this and justifies by saying that the warden had adopted a rule requiring a guard to be present at all times and overhear anything the prisoners might say to outsiders. Such a *general* rule is undoubtedly proper, but it cannot be justified nor looked upon lightly when made applicable to the presence of members of this board since, by law, it is made their duty to ascertain by investigation

or otherwise, the condition and management of any of these institutions. Any officer in charge of an institution might be guilty of the most cruel and vicious treatment of the prisoners, and might continue such treatment indefinitely through intimidation of the prisoners, by these or similar methods, if such a rule were to obtain. Such a position is either based upon a false theory that this board is hostile to the best interests of such institution, or there are some things about the government of the institution or in the treatment of the inmates which such officer wishes to conceal.

This was so clearly an unfair advantage to be taken of the prisoners who had a right to the private conference of members of the board if they so chose, that further comment is unnecessary. We are satisfied, however, that such an occurrence will never be repeated.

In conclusion, your committee desires to express their regret that the wise and beneficent act establishing the Colorado State Reformatory has failed to secure such an institution as was contemplated. The commissioners have failed to fully realize their responsibility and what was required of them in the discharge of their duties.

While not unmindful of the fact that lack of funds, owing to the deficiency of the appropriations, has been a great hindrance in the development of the Reformatory, we cannot refrain from expressing our regret that the commissioners have failed to give that care and attention which the proper establishment of a new institution required.

To more effectively carry out the statute establishing the Reformatory, your committee would urge an adequate appropriation by the legislature. Next, that the warden and deputy warden acquaint themselves with the system and method employed for the proper treatment of young offenders at similar institutions. But, most important of all, we insist that

the commissioners of the Reformatory should be men and women who are in full sympathy with the purpose for which this institution was founded, and who will earnestly enter into the performance of their duties, and that all the officers in charge should be inspired with enough kindness and sympathy to save the fair name of Colorado from any blemish of barbarism or inhumanity.

Respectfully submitted,

J. S. APPEL,

J. WARNER MILLS,

JOHN H. GABRIEL,

Committee of the Board.

Submitted, read and discussed at a meeting of the State Board of Charities and Corrections, at the Capitol the 2nd day of March, 1895, and duly approved.

In witness whereof, the members of the said board have hereunto affixed their signatures this 11th day of March, 1895.

WM. F. SLOCUM, Jr., President.

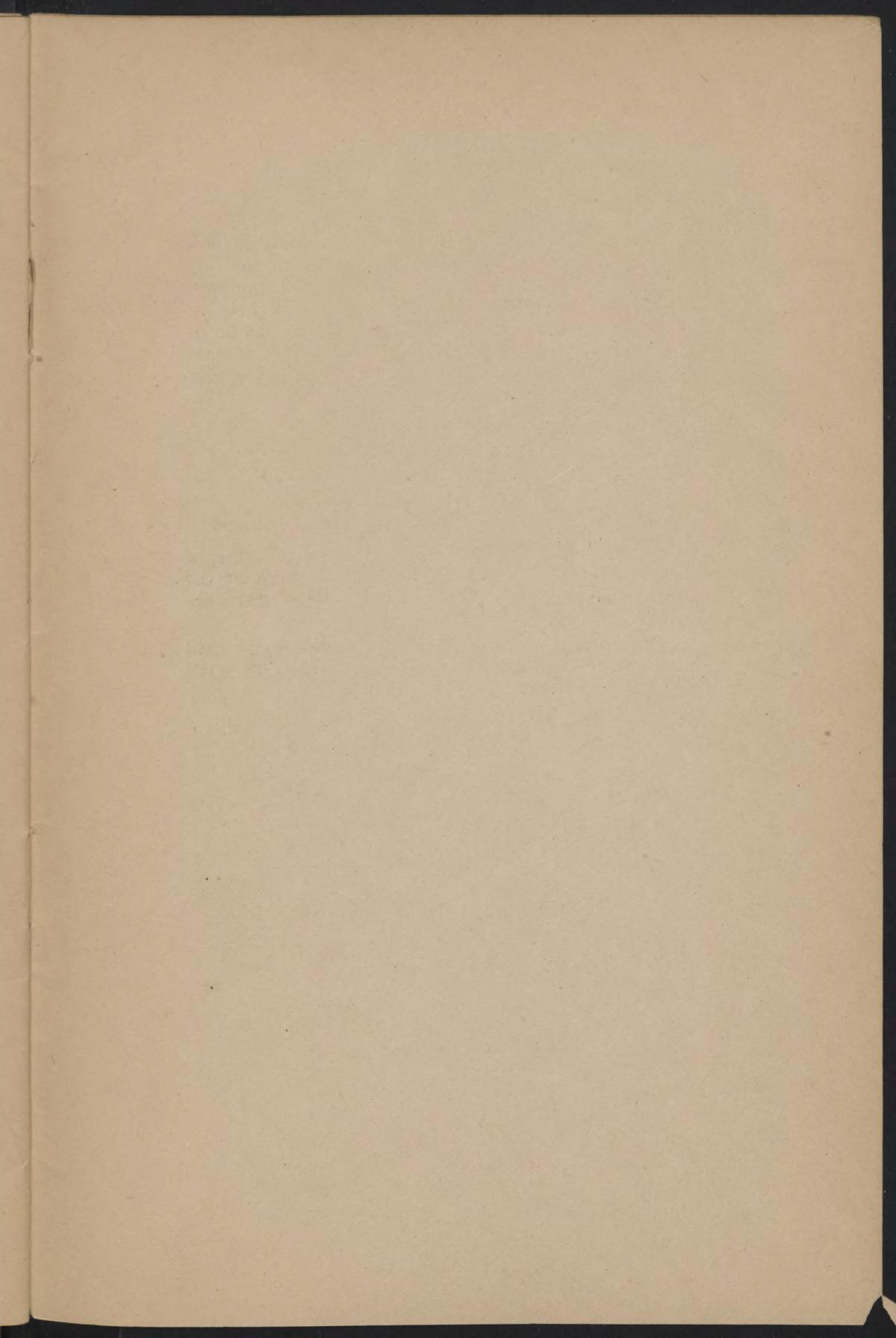
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