

Parole:

the first 100 years in America

By Burk Foster

IN THE AMERICAN CORRECTIONS SYSTEM OF THE 21ST CENTURY, PAROLE IS A PRACTICE MADE UP OF THREE MAIN COMPONENTS—A set of bureaucratic rules by which prisoners become eligible for early release from a sentence; a review process in which the prisoner faces a screening committee called the parole board; and, if approved for release, a form of community supervision with rules applied by an official known as a parole officer. Although the use of parole as a release mechanism has shrunk and then expanded again in the “get tough on crime” era of the last 40 years or so, it remains a basic correctional practice in most states today.

Many corrections officials, and many of the prisoners who hope to get parole, may imagine that this contemporary form of parole has always been around, working in the past pretty much as it does in present day. In fact, parole grew out of reforms in the 1870s, the first official parole statute enacted in New York in 1876. Over the next hundred years, into the 1970s, parole would gradually morph into the practice by which most men and women exited the prison system.

The Birth of Parole

Parole was created as a reaction against the penitentiary and the determinate or full-term sentence of the early 1800s. Parole and its delivery mechanism, the indeterminate sentence, were first put into practice at Zebulon Brockway’s new Elmira Reformatory in July 1876, the culmination of several years of lobbying on behalf of prison reform. Not only had the penitentiary already turned into a degrading drain upon society, Brockway and other reform advocates argued, but it had also failed in its mission of reforming prisoners. Fifty years after it began, the American penitentiary was already regarded as a sad failure. The reformatory regimen, on the other hand, promised individual management of prisoners and reform based on the reward of release on parole.

Parole had been the talk of progressive penal circles in America since the 1870 National Prison Congress in Cincinnati, an international forum where the principles of parole were discussed at length. The components of parole—classification, the indeterminate sentence, programs and social training, rewards for good conduct, and earned release—were incorporated into the Congress’s “Declaration of Principles.” Parole as such did not exist in an American prison, but it had its antecedents, particularly in the British prison system, in practices both old and very recent.

Indentured servitude was practiced extensively in English courts of the 1600s and 1700s. Convicted felons and debtors were contracted to landowners and businessmen in the American colonies for periods of servitude, typically 7 to 14 years. The criminals were pardoned for their crimes, the crown made money from the sale of the felon’s labor, undesirables were removed from the country, and the laborers, if they survived the journey, eventually earned their freedom in the new world. The conditions of indentured servitude have been compared with those of parole as it developed later. One of the conditions of the contract was that the pardon was void if the criminal returned to England, in effect imposing a death sentence on any deported felon who returned (as happened to the transported convict Abel Magwitch in Dickens’s *Great Expectations* when he returned from Australia to see how the boy Pip had turned out).

The work of Alexander Maconochie, the former British naval officer who became superintendent of the Norfolk Island penal colony, was particularly influential in laying the philosophical foundation for parole. Britain had been transporting its convicts to Australia, originally known as Botany Bay, since January 1788. The convicts who committed new crimes after arriving in Australia were shipped east 800 miles, to what was called the *ne plus ultra* of convict degradation, Norfolk

Island. The men and women sent there, by all accounts, considered it a fate worse than death. It was called the worst place in the English-speaking world, or in Robert Hughes's *The Fatal Shore*, the history of Australia's founding, the "Isle of the Damned."

To this terrible place, more by accident than design, came Alexander Maconochie in 1840. Maconochie was a Scotsman, a lawyer's son who had gone to sea as a teenager. As a young lieutenant in the British navy, he was captured by the French and spent two years as a prisoner of war. As Hughes recounts, "This was Maconochie's one traumatic taste of life in prison, and he never forgot it. Indeed, he was the only major official of the transportation system who had even spent time behind bars."

Maconochie retired from the navy and became a geography professor. He was a geographer, not a prison activist, but when he was sent to visit Australia for the first time in 1837, some friends in the Society for the Improvement of Prison Discipline asked him to write an account of the penal system in Van Diemen's Land (Tasmania). He was horrified at what he saw—brutality, corruption, and exploitation of convict labor—and said so in his report. Initially he was in big trouble with government authorities, and with the local citizens who benefited from the system. They heaped criticism on him. But Maconochie, in his early 50s, like the jail reformer John Howard half a century earlier, had found his mission in life. He wrote in 1839: "The cause has got me complete. I will go the whole hog on it. ... I will neither acquiesce in the moral destruction of so many of my fellow human beings nor in misrepresentation made of myself, without doing everything that may be necessary or possible to assist both."

When the report of the Molesworth Committee recommended an end to transportation of convicts and a shift to free immigration to Australia in 1838, Maconochie suddenly found himself the unexpected hero of the prison reformers. He was sent to Norfolk Island in 1840 to put into practice these new penological ideas that he had been developing the past three years. Maconochie's basic concept was that punishment should be by "task, not time." He developed the mark system, based on credits earned for hard work and good behavior, to replace the existing system of punishment by time served. Prisoners would buy their way out of custody (and back to the Australian mainland) with the marks they earned—6,000 to replace a seven-year sentence, 7,000 a 10-year sentence, 10,000 a life sentence.



Former naval officer and prison reformer Alexander Maconochie (1787-1860), the "Father of Parole" (photo: K.S. Machonochie)

The moral lesson of the mark system, "nothing for nothing," was applied through a series of stages—from solitary confinement to several levels of individual labor to group labor to discharge from custody through a ticket of leave. Some of his ideas were influenced by other thinkers, particularly theologian William Paley, but Maconochie was in a position to actually try out his ideas. As superintendent of a prison colony in a remote corner of the world, he could experiment without interference.

Maconochie put the mark system ideas into practice over the next three years, writing voluminous reports full of reform philosophy and asking for more money and more authority to manage his convicts in accordance with his plan. His reform ideas did appear to be working. The colony was safe, orderly, and productive. Of the more than 900 convicts sent back to Australia during his tenure, by 1845 only 20 were convicted of new felonies—a modern day recidivism rate of 2 percent. But a high death rate from disease, problems with agriculture, and constant complaints from old-line settlers who advocated a return to harsh treatment of convicts led to Maconochie's recall in 1844.

He returned to England and wrote a book in 1846, *Crime and Punishment, The Mark System, framed to mix Persuasion with Punishment, and Make their Effect Improving, yet their Operation Severe*. Briefly put in charge of a new prison in Birmingham, he was

dismissed after two years of conflict with subordinates, who would not put his humane ideas into practice. Bitterly disappointed but too proud for self-pity, he died in 1860, too obscure by then to draw attention at his death. He had no idea he would eventually become known as the “father of parole.”

In 1853, the English parliament passed the English Penal Servitude Act, which had two important effects on criminal punishment: (1) It substituted imprisonment for transportation, except for sentences of longer than 14 years; and (2) It specified the minimum length of time convicts must serve to be eligible for conditional release on a ticket of leave.

Sentence length was tied to eligibility for release, making this in effect a form of the indeterminate sentence. The monarch, acting through prison officials, was given the authority to grant conditional release to a convict and to revoke the release and have the offender arrested again. When England began to release convicts early, an apparent sharp increase in crime followed. The ticket of leave system took the blame.

The Irish prison system, under the direction of Sir Walter Crofton, took a different approach. At his new prison, Mountjoy, he developed a four-stage prison management system: Stage 1 was eight or nine months in solitary confinement. Stage 2 used four grades, with inmates earning marks through labor to move from one grade to the next. It lasted about 18 to 24 months. Stage 3 was the “intermediate stage,” a small, open prison. The first was at Lusk near Dublin. It would compare with a prerelease center today. Stage 4 was release on a ticket of leave. Staff members helped prisoners find jobs, and police were given the responsibility of supervising parolees. Police often delegated supervision to volunteer friends who stayed close to the offender after his or her release from custody.

The orderly progression of Crofton’s Irish System was reported to have a greater crime reduction effect than England’s unstructured and unsupervised ticket of leave distribution system. It attracted many supporters in Europe and America. His ideas, supplementing Maconochie’s concepts of indeterminacy, struck home with the growing number of Americans who did not like what had happened to the penitentiary. Conceived as a reformatory, humane alternative to physical punishments, the penitentiary had quickly become a factory with chains—an institution whose operation combined breaking the convict’s spirit and cheap management of convict labor.

Americans had been talking about the practice of parole since Dr. Samuel Gridley Howe, a prison activist and ardent abolitionist of the day, began using the term in Boston in the 1840s. He based it on a French practice, *parole d'honneur*, or word of honor, a method of release from custody similar to release on recognizance today.

Two other practices in American prisons were also important antecedents of parole. The first, good time, was approved by legislative act in New York in 1817. Its purpose was the same as good time today: The criminal’s sentence was shortened as a reward for good behavior in custody. Good time was generally adopted as an administrative control device, providing an incentive for good conduct in prison, in other state prisons during the remainder of the 1800s. It started as a minimal adjustment—a few days a month—and then grew more generous to convicts over time.

The second practice was the conditional pardon, which was in use in a number of states in the 1800s. In this era, pardons were often used to set convicts free from imprisonment. The conditional pardon was a bit more complicated. It granted freedom but set conditions. The criminal could be returned to custody if he or she violated these conditions, much like what would happen on parole today.

Zebulon Brockway was an experienced prison manager when he came to New York to open the Elmira Reformatory in 1876. He was familiar with the progressive practices of Maconochie and Crofton. Elmira was his Norfolk Island and Mountjoy. He believed in classification of inmates according to character, not crime. He wanted to work with young—age 16 to 30—first offenders (though he soon found the courts were slipping in recidivists as well). He set up an ambitious program of education, vocational training, military drill, physical training, religious and moral training—about everything he could think of to try to reform criminals. He wanted the criminals to be absolutely within his control (he was eventually fired for excessive paddling of mentally handicapped inmates). He met with all his criminals individually, and the indeterminate sentence approved by the New York legislature in 1876 gave him authority to release any inmate after a year in custody. He used a grading system, like Crofton, that required inmates to earn credits toward their release. Those who failed to progress could spend up to the full term, five years, in custody. The men who were released, with a place to live and a job, were on parole for at least six months. They had to report on the first day of the



Prison manager Zebulon Brockway (1827-1920) who believed in classification of prisoners according to character, not crime (photo: ACA)

month to a volunteer called a “guardian” and provide an account of their situation and conduct. Written reports, signed by the parolee’s employer and guardian, had to be sent in to the reformatory each month.

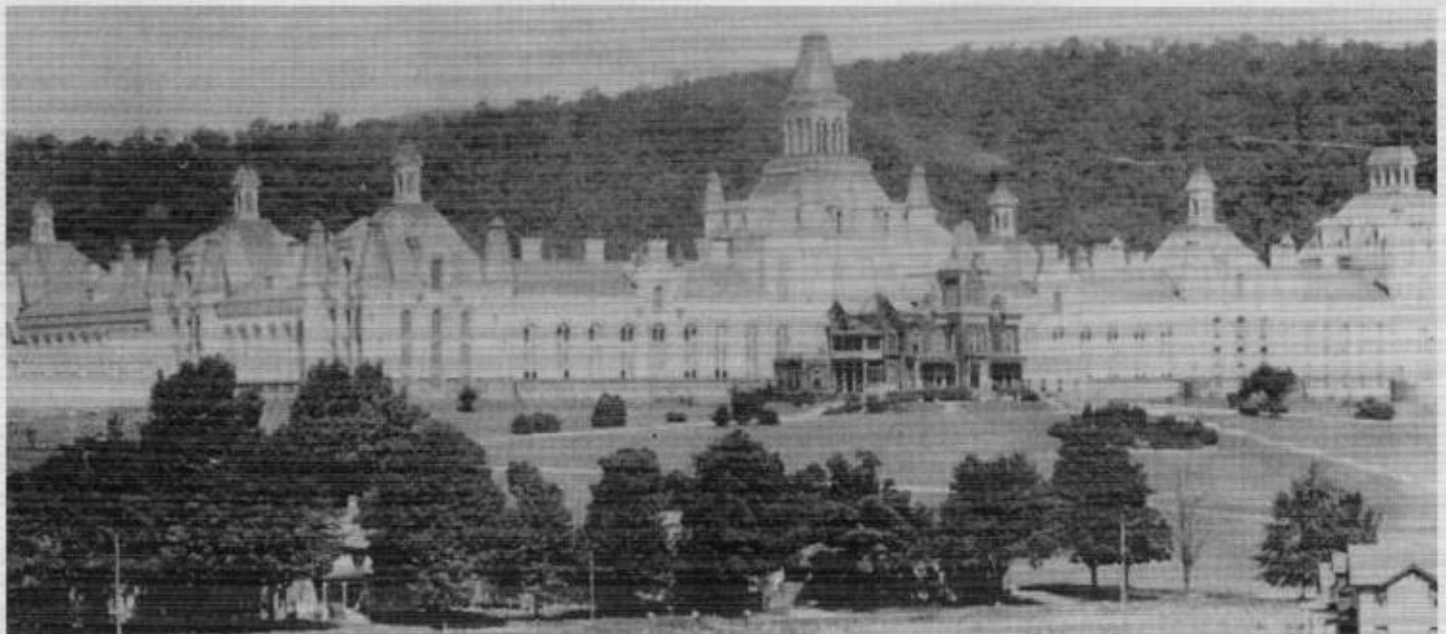
Brockway’s experimentation with parole at Elmira proved very influential. Within 50 years, all states except three—Florida, Mississippi, and Virginia—had adopted parole in some form. In 1907, New York became the first state to adopt all the components of a

modern parole system: the indeterminate sentence, a system for granting release, post-release supervision, and specific criteria for parole revocation. Parole was still considered a limited concept, applicable not to all prisoners but just to those on a reform track. The indeterminate sentence and the determinate sentence were both in widespread use, many times in the same state but applicable to different inmates according to offender class and crime committed. Prisoners were divided into two classes—parolable and not.

Parole was all right for the ones who could be reformed; the common view was that most criminals could not, and hard work and the determinate sentence were preferred for them. These inmates would continue to be released from prison at their good time dates, at sentence expiration, or through pardon or commutation by the governor. Parole was for those “other guys” in the reformatory, not the real men in the penitentiary. Not until the 1930s would the majority of American convicts find that they were parole eligible, making the encounter with the parole board the crucial event in securing release from prison.

“Old” Parole in 20th Century America

Parole was originally an ill-defined practice. All it meant was that the warden—not some outside board—had the authority to turn some prisoners loose early. An 1885 Ohio statute gave authority to the board of managers of the Ohio prison to set up a plan under which any prisoner, except a murderer, who had served his mini-



Elmira Reformatory in New York, where Brockway used a grading system to determine parole (photo: Federal Bureau of Prisons)

imum term might be allowed to go on parole outside of the buildings and enclosures, but to remain, while on parole, in the legal custody and under the control of the board, and subject at any time to be taken back.

In North Dakota, the concept of "parole" was first discussed in an 1888 report from the state penitentiary to the governor of the Dakota Territory. Within a few years, the warden was releasing short-term prisoners to the custody of an employer, typically a farmer. The local sheriff returned to the penitentiary any violators or inmates for whom employers had no further use, such as farm workers after the harvest was done.

Parole in Texas is traced to a 1905 law that gave the Board of Prison Commissioners and the Board of Pardons Advisors power to make rules and regulations under which certain meritorious prisoners might be paroled. The approval of the governor was required. Within a few years, the position of parole agent was created, though this was an office job not involving supervision; parolees were under no supervision once they left the prison. In the American states adopting parole during this era, supervision was more of an afterthought, in contrast to the Irish System, which emphasized supervision as an important element of the plan. In the United States, someone was usually made responsible for the parolee—such as the local sheriff in Idaho and Louisiana—but no one was directly supervising the parolee in most states in the early years.

Volunteers—as individuals and as a part of charitable organizations—were an important part of early parole. Louis Robinson wrote in 1921:

In dealing with the problem of releasing men from prison, one should not pass over the work of volunteer societies, which long ago perceived that the sudden thrusting forth into the world of men kept for years behind bars, without friends or without the means of obtaining an honest livelihood, was a poor way of restoring an erring member to society. Homes now exist in many cities to which discharged prisoners are free to go until some provision can be made for their placement. Very often some form of industry is carried on, partly to keep the men employed and partly to help defray the cost of running the establishment. Both the American Volunteers and the Salvation Army have been active in the work, and there are several other smaller agencies or organizations supporting the same cause.

With the growth of parole work there has been some reaction against any arrangement for taking care of discharged prisoners in a group, the thought being that a man should go immediately to a job upon his release from prison and have no further contact with former associates. No doubt this would be best, but until the parole system has been developed to a point where this is possible for every discharged prisoner, the volunteer organizations should be encouraged and supported in their work.

Texas used volunteer local parole boards beginning in 1937, ending the existing system in which no supervision was provided for. Voluntary parole supervisors, who assisted inmates in obtaining jobs and making reports, were appointed in 242 of 254 counties in Texas within a year.

Volunteers were more important in most locales than full-time officers. A 1915 survey of parole found such officers to be scarce, and the number of parolees under supervision ranging from 40 per officer to more than 800. In their early years, parole officers were more often housed in prisons and managed files, while the volunteers interacted face-to-face with the former prisoners in the community.

Old parole emphasized the authority of the prison warden, acting either alone or with the advice of other board members or prison officials, in selecting inmates to be released from prison early. Parole was decided within each prison for its own population, and inmates once paroled were responsible to the prison that released them—and to which they would be returned if revoked.

When federal parole began in 1910, each of the three federal penitentiaries had its own board consisting of the warden, the physician, and the Superintendent of Prisons of the Justice Department in Washington, D.C. A single three-member board, headquartered in Washington, was created with the founding of the Federal Bureau of Prisons in 1930.

In other states the same type of movement, from individual institutional control to an independent parole board within the department of corrections or another state agency, or reporting directly to the governor, took place over time. Parole was seen as being closely linked to executive clemency under the governor's authority. Many states combined the two functions. Texas created a combined Board of Pardons and Paroles in 1929 that still exists today; its dual functions were to recommend prisoners for parole to the governor and to make clem-

ency recommendations as well. Until 1947, paroles in Texas were considered a part of clemency; they were called conditional pardons or executive paroles.

When the National Advisory Commission on Criminal Justice Standards and Goals reviewed the responsibilities of parole boards in the 50 states in 1973, it found these additional responsibilities:

<u>Additional Responsibility</u>	<u>Number of Boards</u>
Holding clemency hearings	28
Commuting sentences	24
Appointing parole supervision staff	24
Administering parole service	20
Paroling from local jails	19
Granting or withholding good time	17
Supervising probation service	14
Granting pardons/restorations/remissions	1
Fixing maximum sentences	1
Discharging prior to sentence expiration	1
Setting standards for good time	1
Advising on pardons	1
None of these additional responsibilities	5

As the responsibilities of these boards increased, two other expectations changed as well. First, they should be less “political” and more professional in their approach. Although they were then (and still remain in most states today) political appointees, the notion developed over time that parole board members should be more than just political hacks who needed a job; they should have some professional background in the legal system, the behavioral sciences, or some other field connected to law and human behavior. Second, their work should appear to be “scientific,” as if they were following a methodology more precise than human intuition. They should be “experts,” making expert decisions.

Edwin Sutherland reported in the 1930s that only six states then had full-time salaried parole boards, starting with Illinois in 1927. He commented on the trend toward full-time, professional, independent parole boards composed of experts, adding:

The trend during the last three decades has been toward centralization of parole authority and toward removal of the parole board from the department of correction. While this has been supported by the prison staff in many cases on the grounds that it relieves them of a troublesome responsibility which interferes with their efficiency in the institutional work, it has been

criticized by others on the grounds that the prison staff knows better than any other agency when a prisoner should be released.

It did seem like an odd thing to do, looking back at the original work of Maconochie and Crofton, which emphasized the prison manager’s responsibility to keep up with the progress of each prisoner and determine when he was ready for release. To divorce the parole decision from the institution, even to the point in the federal system and many states of not allowing prison administrators or employees to appear at parole board hearings, seemed to move away from the concept that how the criminal behaved in prison—the prisoner as a management problem—was in anyway related to his suitability for release. The parole board would have to make its decisions based on two primary criteria: The contents of the inmate’s file and the inmate’s performance at the parole hearing.

The American Parole Association had adopted a “Declaration of Principles” in 1933, outlining the principles that would be used in determining the time at which a particular offender should be released from prison:

Has the institution accomplished all that it can for him; is the offender’s state of mind and attitude toward his own difficulties and problems such that further residence will be harmful or beneficial; does a suitable environment await him on the outside; can the beneficial effect already accomplished be retained if he is held longer to allow a more suitable environment to be developed?”

This put the parole board in the position of predicting the prisoner’s behavior based on its interpretation of his state of mind, particularly whether he would be better off in prison or out. Sutherland went on to list numerous arguments against this approach, several of which are highlighted here:

1. The indeterminate sentence takes into account nothing except the reformation of the person, while other things, especially the deterrence of potential criminals, should be considered.
2. No satisfactory method of determining when a prisoner has reformed has been developed; his prison record is generally used, but this is unsatisfactory for the reason that a good prisoner is frequently a poor citizen.
3. It tends to produce sycophancy (which we would call “brown-nosing” today) among prison-

ers, making them work to make friends with the guards rather than work to modify their behavior.

4. Uncertainty regarding the time of release causes much anxiety for prisoners.

5. Prisoners suspect that differences in the length of terms of prisoners convicted of the same offense are due to favoritism or graft.

As a system tying current criminological thought to institutional performance, New Jersey's parole system was much admired in the 1930s. It used a system of classification, reclassification meetings every six months, transfer to the appropriate institution and training to prepare for release that was very individualized for its day. Parole decisions were made by a full-time board that worked closely with the classification committee (with strong medical and behavioral science representation) at each institution. When approved for release, the parolee was assigned to a full-time, professional parole officer in the community; different levels of supervision and special placements were possible. This system, which incorporated many aspects of the medical model that would be emphasized a generation later, was the most progressive of its day.

Federal parole procedures from the late 1930s, while lacking the classification input, were no less systematic. Prisoners became eligible for parole after serving one-third of their sentence or 15 years of a life sentence. There followed a sequence of steps:

1. The application for parole.
2. Information about the prisoner. An institutional parole officer was responsible for preparing the file for review.
3. The parole hearing. One member of the parole board came to every federal prison four times a year. The only people present for the hearing were the parole board member, the institutional parole officer, the applicant, and a stenographer; no institutional officers were present, and no one outside the prison was allowed to attend or speak, for or against.
4. The disposition. A meeting of the full Board of Parole in Washington, D.C.
5. Conditions of parole. The parolee was assigned a volunteer adviser and prepared for release.
6. Supervision. Each parolee was assigned to a federal probation officer. He also met regularly with his volunteer adviser. The parolee was required to send in reports at least monthly.

7. Violations of parole. Any member of the parole board could issue an arrest warrant to return the offender to imprisonment; a hearing was held at the next meeting to revoke or reinstate parole.

8. Final discharge. The parolee was notified by letter that he had completed his parole successfully.

By the time of World War II, parole had spread across America and, though it ranged in practice from minimalist to fully-formed, it had become the most common means of release from prison. Prisoners were learning how to play the parole game, but many of them hated it, for many different reasons.

Edwin Sutherland cited this former prisoner's view of parole:

Parole is the worst thing that can happen in a prison. The prisoner learns that some other prisoner is paroled. The other prisoner committed the same offense and has no more children, no better friends, and the same previous record. This causes suspicion of graft or politics. It makes the prisoner resentful of the entire system. He is willing to pay a regular penalty for a certain crime and regards that as proper and just. When he commits a crime he knows he is likely to get caught and he expects to pay the regular penalty if he does get caught. The underworld has the penalties all figured out, so much for this offense and so much for that, it is a consistent and definite system. They regard the indeterminate sentence and parole as mere camouflage. When a particular prisoner gets out earlier than this system of thought provides, it is graft; when he is held longer, it is a grudge. This disrupts the prison.

Parolees also objected to being supervised after their release from prison, a point made in a 1925 Pennsylvania report arguing in favor of the indeterminate sentence and parole: "Parole is not leniency. On the contrary, parole really increases the state's period of control." If the prisoner was liberated by any other means, he went out of prison a free man. The state had lost its control. Society was no longer safe. Parole, however, kept the convict on a string, even after release.

Parolees recognized that they were the center of attention while on parole—that to the public and law enforcement authorities they were marked men. When a sensational crime was committed, the police always went after "the usual suspects," many of them parolees who would be questioned and released. And if a

parolee should turn out to be the one responsible for a terrible crime, the whole parole system was attacked. An inmate-written article, titled "The Parolee's Obligation," in the Iowa State Prison newspaper in 1935 addressed this point:

From the misstep of any one man a complete case is made against the parole system, and by judicious propaganda the public is led to infer the entire system has broken down and that penal institutions are nothing but factories where prisoners are turned out hardened criminals and that inmates are being mollicoddled to such an extent criminals look forward to a term in prison as a sort of vacation from the rigors of life on the outside. Not one word is ever said of the thousand who have expiated their crimes and gone on to lives of useful endeavor.

It behooves the parole man to watch his step, for if temptation confronts him and he lets go, he then inflicts punishment upon those he has left behind, even though he has no intention of hurting them, because the awaited chance to howl is eagerly grasped by those who enjoy pointing out the faults of those who have once been convicted of wrongdoing.

Some of the prison observers pointed out that what parole had done was replace clemency as the principal method of release. Governors saw parole boards as a way of deflecting away from themselves the political heat that releasing criminals often generated. So even though the governor appointed the parole board members, the board still served as a buffer between an unhappy public and the governor's office.

Convicts knew that the parole board, whether staffed by unpaid amateurs or by professional experts, held the key to their future. Malcolm Braly, the writer and editor, made many appearances before the Adult Authority, California's parole board, in his 20-year criminal life. In *False Starts*, his autobiography, Braly called the annual parole board appearance "in many ways, the worst time of all."

"The average inmate appears once a year, and you are no sooner denied, flopped over (which in those days meant denial without explanation), knocked down with your rent paid for another year, than you begin to wait for your next appearance. ...

"There was nothing that interested us more and we logged years trying to thrash out a basis on which to

predict the Adult Authority. This was our great debate. We knew which programs to try to associate ourselves with and we knew which ploys were now exhausted. We could gauge public pressure and the changing winds of penal philosophy, and we knew which individual members were apt to be liberal and which were conservative. We charted their idiosyncrasies. We hoped they were feeling well. ...

"... every time I appeared in front of the Adult Authority I found some reason, however wild, to imagine they would free me. These were not dreams of invisibility, this was real hope. No matter how I counseled myself against this irrational optimism it always came to me. It made me crazy to know that these other humans, these walking, talking, shitting and ulcerating humans, could, if the whim took them, order me set free, and no one, not the entire guard line, could change their order. ...

"We had our body of wisdom and our intuitions as to how they must function, but they also had learned something about us. They had been subjected to the most artful and elaborate cons until now they took nothing on faith. They knew we would say anything to get out. Every man who came before them sat there with a single purpose—to somehow leave that room with his freedom restored. Few cared how."

No one paid much attention to what prisoners thought, and parole continued its development—mostly following the track that took it farther away from direct association with prison officials at particular institutions—in the post-World War II rehabilitation era. The basic parole process went like this.

States used two types of sentences, determinate and indeterminate. Put yourself in the place of a felon convicted a second time of auto theft. In one state you might get five years, in another state you might get 1 to 15. But in both states you were parole eligible. In the determinate sentencing state, eligibility came after some portion of the sentence, most commonly one-third, had been served. A life sentence was calculated in minimum years; lifers were eligible for parole after seven years in Florida, for instance.

In the indeterminate state, you would go to the parole board after your minimum time, but they would just look over your file and deny you; you had not been in long enough. Then you would go back every year until they decided you were ready for release.

The parole hearing would typically involve a direct meeting with several members of the board. Boards var-



Inmate appears before New York State Parole Board, Sing Sing Prison, ca. 1935 (photo: New York Department of Corrections)

ied considerably in their makeup, pay, and procedures, as well as their responsibilities as already described. Some states used volunteers who were unpaid amateurs—just public-spirited citizens who were interested. Others had part-time boards, still others full-time, professional boards. Boards started small and got bigger as their responsibilities and the number of cases heard continued to grow. On the bigger boards, smaller panels would go out to hold hearings at the individual prisons; the panel members might rotate their combinations to avoid becoming excessively familiar with the staff of a particular institution, who were known to informally “put in a good word” for inmates coming in for hearing, even if they were not allowed to speak formally on the inmates’ behalf.

What was the parole hearing like? One inmate compared it to 30 minutes before God, or before St. Peter trying to get to God; another said it was 15 minutes of sweating blood; another could not remember anything about it, after it was done. One of the parole board members was usually assigned your file. He led the way in discussing the case, asking about the crime and the experience of imprisonment.

Put yourself in the place of the convict again. How would you respond to these questions?

“What were you thinking when you committed this crime?”

“How do you think you’ve changed in prison?”

“How will you be different if you should be released?”

“Are you a good Christian?”

“What do you think your problem is?”

Let’s imagine you answered the questions this way:

“I am an innocent man. I did not commit this crime. The police and DA framed me.”

“I’ve become more bitter and frightened—angry at the world.”

“I don’t plan to do anything different—except not get caught again.”

“I am an atheist, though sometimes I’m attracted to Buddhism, or Wiccan.”

“My problem is that I am in prison, and I want to be somewhere else.”



Parole always operated in a political context. In some states lots of inmates got parole on their first try; in others prisoners expected to be denied two or three times on average before they were finally approved. In the 1950s, the U.S. Parole Commission released figures showing that it approved about a third of the federal prisoners coming before it seeking parole, while denying the other two thirds. But the ones denied could come back again and again, and most would eventually get out. As early as the 1920s in New York, about 95 percent of the inmates eligible for parole eventually got it, most of them when they had completed the minimum

What decision do you think the board would make?

In many states, to avoid emotional confrontations, the inmate was not informed of the board's decision at the end of the hearing. He would return to his cell and wait for the letter of formal notification. If it said "approved," it gave a release date, often contingent upon having both a place to live and a job—the parole plan, it was called. If it said "denied," that was all it said; sometimes it gave a date to apply again. Inmates called this being "flopped," as Braly used the term earlier. It meant try again later, though it did not provide guidance about what you should do differently next time. Get a program? Be more respectful? Or just lie more earnestly? You had a year to figure it out.

Most convicts would figure it out, or the board would figure they had done enough time and vote to let them go. Research into parole practices from this era suggests that inmates, whether under determinate or indeterminate sentencing, would end up serving comparable terms in confinement; but some, those who were unruly, uncooperative, quirky, or scary, could end up serving a lot more time in the indeterminate states. They were marked as men not ready for parole.

term. If they did not get parole, there was always good time, which was accepted as a universal prison practice by the early 1900s, years before parole was. Or they could seek a commutation or pardon, if they had money or political connections.

By the 1960s, the prisoner who served his full term was becoming a rare bird. There were too many options to get out of prison early, and most prisoners found at least one of them, parole most frequently. Parole boards exercised general authority over virtually all inmates, and through the mid-1970s about three-quarters of all inmates discharged from prison each year left on discretionary parole. Then in the 1980s, rehabilitation went south, and very nearly took parole down with it. But the cliffhanger story of the near-demise of parole, and its rebirth in the 21st century, is a tale for another time.

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