

PATRONAGE AND PROFITS: A HISTORY OF  
THE KANSAS STATE PENITENTIARY, 1861-1917

by

HARVEY RICHARD HOUGEN

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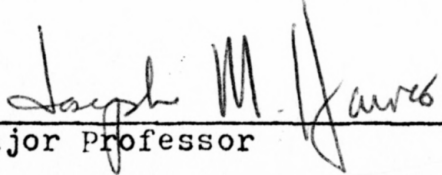
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## TABLE OF CONTENTS

	Page
ACKNOWLEDGMENTS . . . . .	ii
INTRODUCTION . . . . .	1
 Chapter	
1. BUILDING THE PENITENTIARY, 1861-1882 . . . . .	7
2. EXPLOITING THE PENITENTIARY, 1883-1908 . . . . .	20
3. VOICES OF DISSENT . . . . .	34
4. KATE BARNARD AND THE PENITENTIARY SCANDAL . . . . .	50
5. THE JOINT INVESTIGATION . . . . .	63
6. PENAL REFORM IN KANSAS, 1909-1917 . . . . .	83
CONCLUSION . . . . .	96
NOTES . . . . .	98
A NOTE ON SOURCES . . . . .	110
BIBLIOGRAPHY . . . . .	113

By 1917 prison officials, reformers

## INTRODUCTION

Political patronage and the profit motive were decisive factors in the development of the Kansas State Penitentiary before 1909. Early planners adopted the goal of a self-supporting prison and, beyond that, a prison which would return profits to the state. Although the 1863 law that organized the penitentiary made prestigious positions on the institution's staff and board of directors available to the governor for patronage, chief executives refrained from exploiting the situation until the afore-mentioned goal had been achieved. Hence, the initial phase of the penitentiary's development was characterized by stability and efficient management. When prison industries began producing income in excess of operational expenditures, however, politicians exploited the increasingly favorable financial reports to perpetuate their parties in office, and governors began using positions on the staff and board of directors as patronage. Prison management deteriorated under a succession of political wardens who emphasized profit-making and neglected their administrative and disciplinary responsibilities. Serious abuses gradually crept into the system. In 1908 a scandal exposed decadent conditions at the penitentiary, and convinced many Kansans that their penal system was badly in need of reform. By 1917 prison officials, reformers, and progressive politicians had corrected many of the deficiencies wrought by years of profiteering and political patronage.



The idealism of the Jacksonian reformers who founded the American prison system declined when their crusade fell short of its goals. By the time Kansas entered the Union, penitentiaries performed a purely custodial function. To be sure, the basic concept existed that deviant persons could be regenerated in a sterile environment, away from corrupt society, and under the healing influences of religion and industry. Only in institutions for the young, however, was it seriously applied with any hope of success. Adult institutions functioned to protect society from the individual, rather than the reverse.<sup>1</sup>

The system of prison management that fulfilled custodial requirements economically and flexibly, but still recognized reformatory goals, was the "Auburn system." The Auburn system developed more or less accidentally in New York during the 1820's as an alternative to the "separate" system employed by early Quaker reformers in Pennsylvania. The separate system called for absolute segregation of prisoners in solitary cells, large enough to afford the inmate reasonable comfort and space to work at individual handcraft. The Quakers believed that isolation would give religion and industry the opportunity to modify the prisoner's deviant behavior, while at the same time protecting him from the corrupting influence of others. New York reformers sought to employ the separate system at their new Auburn prison, but because of tiny, improperly designed cells and opportunities to profitably employ inmates in congregate workshops, officials decided to compromise. Hence, the Auburn system; convicts worked together in silence during the day, returning to solitary cells at night.<sup>2</sup>

By mid-nineteenth century, the ideal that motivated most<sup>3</sup> officials in charge of penitentiaries was the self-supporting prison, made so by remunerative prison industries. The Auburn system was ideally suited to such a pursuit. Several methods of prison production developed in the Northeast before the Civil War; the contract labor system was most prevalent. Employed at New York's Newgate prison as early as 1803, the contract system brought third parties into the penitentiary--manufacturers, who established shop facilities on the premises, then purchased convict labor from the state at a specified rate per diem. Usually the state provided shop space, tools and machinery, and utilities. The inmates worked under the contractor's supervision, but the state retained responsibility for security and subsistence. Under the "piece price" method, a variation of the contract system, the penitentiary handled all aspects of manufacturing, while the contractor provided the raw materials and marketed finished products. The penitentiary received from the contractor a piece rate for each item produced. The contract labor system could be lucrative for the contractor while it enabled the state to obtain income from prison labor without becoming involved in the intricacies of marketing.<sup>3</sup>

Under a third method of production, known as the "public account" system, the state conducted purchasing and marketing operations as well as manufacturing. This method left the contractor out of the process entirely, and promised potentially greater returns to the state. The public account system was unpopular, however, because it entailed much additional work for prison officials and placed the state in direct competition with private interests.<sup>4</sup>

The northeastern states experienced a boom in prison manufacturing following the Civil War, but during the eighties and nineties organized labor, manufacturers, and reformers united in opposition to the systems of production in vogue and secured legislation abolishing them or restricting output. One result of this conflict was to bring a fourth method of production into prominence: the "state use" system. Still widely used throughout the nation, this method consists of employing convicts in manufacturing, construction, or other pursuits for the exclusive good of the state, selling no labor to the private sector and disposing of no products on the public market.<sup>5</sup>

On the other hand, prison development in the South took on an altogether different character. Although they too were influenced by the concepts of Jacksonian reformers, southern prisons bore the cultural markings of agriculture and chattel slavery. Prisons of the South concentrated on agriculture and related activities to keep inmates gainfully employed. Following the Civil War, the governmental bankruptcy of the southern states gave rise to a system of leasing convicts to plantation owners or entrepreneurs. The lessees assumed full responsibility for the security and upkeep of their charges, returning them to the prison as sentences were completed or when the lease expired. Some states actually leased their entire penitentiary to an entrepreneur, thereby foregoing all responsibility. The system was brutal and archaic, but some western states and territories borrowed it as a temporary expedient.<sup>6</sup>

Penitentiaries west of the Mississippi bore no distinctive cultural characteristics, nor did their founders make any

original contributions to the field of penal development. Westerners charged with building or managing prisons simply selected the features from systems elsewhere that seemed to suit their peculiar situations. Although eastern influence eventually predominated, at least five western states leased their prisons to private operators for extended periods. Some states and territories simply shipped their convicts to prisons located elsewhere. Because of the agitation in the East against convict labor, states entering the Union during the eighties and nineties included provisions in their constitutions or enacted legislation limiting convict labor.<sup>7</sup>

The Kansas State Penitentiary was unique among prisons West of the Mississippi. No other western penitentiary could match the speed and efficiency with which it completed its initial stage of development. By 1882, only fifteen years after officially opening, the Kansas prison had become self-sustaining and could boast a completed physical plant. Furthermore, no other western prison developed as diversified and sophisticated an industrial system. The Kansas institution entered its initial stage of development just as the prison industrial boom in the East was gaining strength. Looking outward for examples to emulate, Kansans quickly adopted the ideal of a self-supporting prison, and its logical extension--a profitable prison. In contrast to its eastern counterparts, however, the Kansas prison encountered little significant opposition from labor and manufacturing interests. Because eastern agitation against convict labor had not yet reached serious proportions, Kansas was spared the influence that caused its younger western neighbors to enact



legislation limiting prison industry. Therefore, industries at the Kansas penitentiary could mature virtually free from interference. Instability due to excessive use of the spoils system and preoccupation with industrial profits were the root causes of the scandalous conditions exposed in 1908. Similar conditions prevailed in other states, however, and were frequently the result of vastly different causal factors.<sup>8</sup>

This study is limited in its scope. Many of the subjects which are mentioned in passing or avoided altogether would provide material for several chapters in a more comprehensive work. Escapes, capital punishment, health and sanitation, women in prison, and the decline of the Auburn system are but a few examples of the latter.

## Chapter 1

### BUILDING THE PENITENTIARY, 1861-1882

In July 1882, Major Henry Hopkins, warden of the Kansas State Penitentiary, reported the accomplishment of two long sought goals to Governor John P. St. John. First, convict laborers, superintended by penitentiary staff members, had finally completed construction of the 688 cell penitentiary at Lansing, providing each inmate with separate accommodations. Second, because of earnings from well developed prison industries, the penitentiary had become self-supporting. No other institution of its type west of the Mississippi could boast similar accomplishments. In fact, the Kansas State Penitentiary was the most advanced prison in the West. For Warden Hopkins, the occasion climaxed fifteen years of unremitting effort on behalf of the Kansas prison.<sup>1</sup>

The penitentiary stood approximately one-half mile east of the Leavenworth, Lawrence, and Galveston railway, and in its pastoral setting resembled a fortified medieval castle. The main building, constructed of brown sandstone, faced the railway, and bristled with turrets and false battlements. Its four-story center section housed administrative offices and the warden's family quarters; the north and south wings, offering a slightly lower profile, each contained a four-tier block of 344 cells. Behind the main building, a thick limestone wall, twenty-

two feet high, enclosed the ten acre prison yard. Battlement-like guard towers, rising above the four corners of the wall, completed the picture of a grim fortress. East of the structure, farmland stretched over rolling hills to the bank of the Missouri River.<sup>2</sup>

The forbidding walls of the penitentiary concealed several thriving industries. Located in shop buildings within the yard were wagon, shoe, furniture, harness, and marble slab factories, employing 348 prisoners. Just outside the wall, also obscured from the casual observer's view, a smaller enclosure contained the shafts and surface machinery of the penitentiary coal mine. Located 732 feet beneath the surface, the mine employed over 100 inmates. The remaining prisoners worked at farming and tasks associated with prison upkeep.<sup>3</sup>

A committee appointed by the first Kansas legislature in 1861 selected Lansing as the site for the state penitentiary. In 1863, the legislature passed a law to organize the institution, and authorized the governor to appoint a board of directors and an architect. Before designing the prison, members of the board of directors visited penitentiaries in New York, Ohio, Michigan, and Illinois, selecting the new Illinois prison at Joliet as their model. With legislative approval to build a 688 cell prison and an appropriation of \$50,000, the board of directors let a contract to the firm of McCarthy and Adams, who started construction of the penitentiary in 1864. A year later, for obscure reasons, the contract passed to a company known as Flora and Caldwell. Pending erection of a temporary facility at Lansing, the nearby Leavenworth and Douglas county jails



held prisoners of the state.<sup>4</sup>

Flora and Caldwell completed the temporary prison in 1866, and the state promptly leased forty convicts to the contractors to work on construction of the permanent buildings. Under the terms of the lease, the state paid Flora and Caldwell 75¢ per diem for boarding and otherwise maintaining each convict; the contractors, in turn, paid the state 90¢ per diem for each convict's labor. When Flora and Caldwell's building contract expired in October 1867, the state assumed full responsibility for construction. The board of directors secured the services of Colonel H. C. Haas as building superintendent; inmates performed the work.<sup>5</sup>

The Penitentiary Act of 1863 established the system for appointing the board of directors and the penitentiary staff. Members of the board, the warden, and the prison architect received their appointments from the governor. The law stipulated that tenure for members of the first three man board of directors would be for one, two, and three years, respectively; subsequent appointees would all serve three years. Legislators intended this provision to assure continuity on the board. Term of office for the warden and prison architect was set at four years. The law authorized the warden and board of directors to appoint or hire lower ranking officials and guards. All officials were subject to removal for cause.<sup>6</sup>

The Kansas State Penitentiary officially opened in 1867. In March the governor appointed G. H. Kellar warden and Major Henry Hopkins deputy warden. The state moved its remaining

prisoners from the Leavenworth and Douglas county jails to the temporary structure at Lansing in May. The newly appointed officials and their charges faced the imposing task of building a permanent penitentiary.<sup>7</sup>

As construction continued, prison industries also took shape. Shoe, tailor, carpenter, and blacksmith shops went into operation to serve the needs of the institution. By August 1867, the shoe and tailor shops were producing goods for public consumption. Pleased with the initial results, the board of directors predicted that the carpenter and blacksmith shops as well would soon be earning money for the state; and so they did. In spite of an apparently excellent first year record, the board of directors accused Warden Kellar of apathy. The governor replaced him with J. S. Philbrick in April 1868, but retained Deputy Warden Hopkins.<sup>8</sup>

During the two year Philbrick administration the contract labor system appeared at Lansing for the first time. Colonel H. C. Haas, the building superintendent, opened a stone-cutting shop in 1869, purchasing labor from the state at a per diem rate of \$1.00 for each prisoner. Perhaps due to the obvious conflict of interest involved, the industry soon folded, and Haas resigned his position at the prison. A harness making industry also opened in 1869 on the piece-price system, a variation of the contract system where the prison provided technical supervision as well as shop space and labor, while the contractor provided materials and purchased the finished products. The harness contractor, B. S. Richards, soon moved his operation to the penitentiary, however, and the institution had its second contract

labor industry. The contract system pleased Warden Philbrick, and he recommended to the board of directors that "good, large shops" be built for the benefit of labor contractors: "I consider that contracting the convicts out [is] the best plan." Philbrick, however, did not remain to see his recommendation carried out. He resigned his post in 1870. Having been impressed by the performance of Deputy Warden Henry Hopkins, the governor promoted him to warden when Philbrick departed.<sup>9</sup>

Hopkins came to Kansas from Illinois as a result of the Civil War. In 1861 he recruited a company of volunteers at Albion, Illinois, but found all of the state's regiments filled to capacity. When he offered his organization to Kansas, however, it was accepted and integrated into the 9th Regiment of Kansas Volunteers. Hopkins received a captaincy, and promptly moved his family to Leavenworth. Mustered out of the Army in 1865 in the grade of major, he decided to make Leavenworth his home. The thirteen years of Hopkins' wardenship was the single period of stability in the turbulent nineteenth century history of the Kansas State Penitentiary.<sup>10</sup>

Although Warden Hopkins agreed that prison industries should be developed, he placed top priority on completion of the permanent penitentiary. In 1871, the board of directors summed up the situation accurately, stating that "the law requires the Board of Directors to push forward to completion the permanent prison buildings and shops necessary for the employment of prisoners, and until this is done, it is idle to think about deriving sufficient revenue from convict labor to defray prison expenses." Because of a fifty percent increase

in prison population during 1871, however, the board found themselves able to add to Lansing industries sooner than anticipated. Rather than commit the additional inmates to the private interests of labor contractors, they decided to expand state-operated manufacturing. B. S. Richards remained the lone labor contractor at Lansing until 1873.<sup>11</sup>

In 1872, the state opened a wagon factory at the penitentiary, and the industry's initial success caused the board of directors to harden its attitude against the contract labor system. In their annual report to the governor, the board stated that "the branches of manufacturing that have been inaugurated [by the state] at the prison are, so far, successful, and undoubtedly producing as much income as the same number of men hired to contractors would produce; while the evils incident to the contract system are avoided." A new day for the labor contractor was at hand, however, for when Governor Thomas A. Osburn took office in January, he appointed a new board of directors.<sup>12</sup>

In March 1873, the directors transferred the new wagon industry to the Kansas Wagon Company, a labor contractor. The initial agreement required the contractor to pay the state a per diem rate of 60¢ per prisoner. When the panic of 1873 depressed markets, however, Kansas Wagon served notice under provisions of the contract that it would cease operations. After reviewing bids from several other contractors, the board negotiated a new agreement with Kansas Wagon, reducing the per diem rate to 22¢ for a six month period. The following year a third contract adjusted the per diem rate to 50¢. Kansas Wagon



became the major source of prison income during the 1870's, employing up to 250 inmates and turning out as many as 7,000 wagons a year.<sup>13</sup>

The panic of 1873 put the state-operated industries in the awkward position of competing in a depressed market against private concerns. The contract labor system, however, removed the state from embarrassing direct competition, and officials agreed that it was the logical alternative for employment of convict labor. To preclude possible problems concerning the legality of the system, Warden Hopkins recommended to the legislature that a law be enacted specifically authorizing contract labor. The legislature obliged by passing such a law in 1874.<sup>14</sup>

As the number of inmates increased during the seventies, construction moved closer to completion and contract industries expanded. By 1880 four labor contractors operated at the penitentiary. Besides the old stand-bys B. S. Richards and Kansas Wagon, a shoe and boot manufacturer and a carriage and buggy concern opened shops. These industries employed 314 of 691 inmates in 1880, and returned income to the state totalling \$45,000. In 1881, the buggy concern merged with Kansas Wagon, and the board of directors entered into contracts with two additional firms, a furniture manufacturer and a producer of marble slabs. The five contractors employed 348 inmates, and income from convict labor climbed to over \$52,000. Prison expenditures still exceeded income, however. In spite of the apparent success of the contract labor system, officials prepared to revive state-operated industry.<sup>15</sup>

At this point it is interesting to note that Kansas authorities used all of the recognized methods of employing convict labor. In 1866 the state had loaned many of its convicts to the building contractors, Flora and Caldwell, under the "lease" system. After 1867, when the prison staff organized and assumed responsibility for construction, convicts employed on construction of the prison worked under the "state use" system. The earliest industries, shoe making, tailoring, woodworking, and blacksmithing, operated on a combination of "state use" and "public accounts" systems. Before B. S. Richards, the harness manufacturer, established himself on prison grounds, he used convict labor on the "piece price" system to manufacture some of his products. Finally, the "contract labor" system, which was introduced in 1869, became the prison's major producer of income.<sup>16</sup>

Agitation against convict labor was beginning to reach a crescendo in the East. Two convict labor systems especially irritated labor and manufacturing interests: "contract labor," and "public accounts." The "state use" system also displeased these interest groups, but they had no valid argument against it. Kansas manufacturers and labor unions reflected the attitudes of their eastern counterparts, but lacked the political influence to disrupt procedures at the penitentiary. As the eastern penitentiaries began their struggle against the interest groups, Lansing authorities, relatively unhampered by opposition, prepared to open a coal mine which would operate on a combination of "state use" and "public accounts."<sup>17</sup>

In 1879 the state started sinking a mine shaft to gain access to a rich vein of coal which lay beneath the prison. Officials planned to operate the mine under state auspices, supplying coal to state institutions and selling the excess on the open market. Work progressed slowly but efficiently, and the shaft was completed in 1882. By year's end, coal valued at more than \$40,000 had been lifted to the surface from a depth of 732 feet.<sup>18</sup>

Warden Hopkins was the driving force behind building and industrial development at Lansing, but he did not neglect the administrative aspects of his duties. He made no claims to be an innovator in the field of corrections, but managed to stay abreast of penal developments and applied them where possible. He experimented with a grading system patterned on advanced reformatory techniques, in the hope of encouraging inmates to conform more readily to prison rules, but found little to offer as incentive because of crowded conditions and the overwhelming demand for labor. The commingling of youthful felons with hardened adult criminals troubled Hopkins greatly, and he tried to devise a workable classification system. Again overcrowding and labor requirements rendered even the simplest classification system impractical. In his reports, he recommended that a reformatory and appropriate juvenile institutions be established. Perhaps his agitation helped, for by the 1890's Kansas had opened an industrial reformatory for young men, as well as industrial schools for boys and girls.<sup>19</sup>

Although Hopkins was seldom able to fulfill the requirement for separate cells, he adopted the Auburn, or "silent,"



system of prison management as a means of maintaining order and discipline. "Circumscribed as we are, with an incomplete prison--criminals of every degree commingled--it appears advisable to enforce, as far as may be, the 'silent system,'" observed the warden, "and though faulty in some respects, it has proved most conducive to good discipline and the moral welfare of offenders the least hardened." The traditional features of the Auburn system included absolute silence, downcast eyes, striped uniforms, no personal possessions other than those issued by the prison, and lock-step marching. The lock-step became the trademark of American prisons during the nineteenth century. Inmates formed in single file, right hand on the shoulder of the man in front, left hand on the side, head turned to the side; the convicts then stepped off in unison, raising the right foot high and shuffling with the left. The Auburn system decayed gradually during the late nineteenth century as officials began to relax regulations, and reforms from progressive disciplinary systems crept in.<sup>20</sup>

Warden Hopkins' concept of correctional treatment was straightforward: "There are three objects to be attained in management of institutions of this kind: First--To make the prisoner pay his way. Second--His reformation. Third--To exert a proper influence on the outside world, in deterring others of like tendencies from committing crime." The warden professed strong belief in the moral value of industry, declaring that "the more a prison is made reformatory, the more profitable it will prove, and economical. It must be so. Industry is a moral power; and it is equally true of prisons as it is outside."<sup>21</sup>

Kansas law authorized use of the dark cell and the ball and chain to discipline unruly inmates, but in 1875 Hopkins boasted that "the 'dark cell' [had] not been resorted to in five years, or the ball and chain in three years, and flogging at any time." The warden preferred humanitarian disciplinary methods, such as deducting time from sentences for good behavior. Moreover, he repeatedly proposed legislation to secure these incentives.<sup>22</sup>

Hopkins also emphasized religious and secular education for the inmates. He secured the services of a full time chaplain, and made him responsible for the prison school and the library as well as religious services. All incoming convicts underwent a screening process, and those lacking basic intellectual skills were required to attend Sunday classes. The inventory of the prison library increased significantly during Hopkins' tenure, from only a few hundred volumes in 1870 to well over 3,000 by 1883.<sup>23</sup>

The climax of Warden Hopkins' long endeavor occurred in 1882. With receipts from the newly opened coal mine added to other income, earnings totalled \$120,702--exceeding total expenditures by \$656. The penitentiary was self-supporting. Moreover, construction of the institution's physical plant had finally drawn to a close. A decline in inmate population to 687 during the year left the 688 man facility with one empty cell.<sup>24</sup>

Warden Hopkins did not remain at Lansing to enjoy the fruits of his labor. A combination of circumstances caused

him to resign in 1883. He had maintained a vigorous pace during nearly sixteen years at Lansing, and, although only forty-six years old, his health was failing. Furthermore, the legislature of 1881, in a miserly attempt to save money, had committed an ironic breach of faith. Just as Hopkins' goals came in sight, the lawmakers voted cuts in the salaries of several key prison officials. The officers resigned in indignation, creating an unstable situation which caused disciplinary problems among the inmates. The warden's report of 1882 reflected his dissatisfaction. In March 1883, the state executive council elected Hopkins to the newly organized State Board of Railroad Commissioners, a position offering a substantial increase in salary. The man who built the penitentiary promptly tendered his resignation, and departed Lansing on April 9, 1883. Hopkins died of a massive hemorrhage the following December.<sup>25</sup>

No subsequent warden, before J. K. Coddington in the 1920's, would equal Hopkins' thirteen-year tenure at Lansing; nor would any match his interest and professional knowledge. In his youth Hopkins had served as a guard in an eastern prison, and his three years as understudy of wardens Kellar and Philbrick helped prepare him for his own wardenship. In contrast, his successors came to office on the strength of political connections and business acumen. Hopkins had enjoyed almost unlimited power at Lansing, and left as legacy a completed physical plant and a viable prison industrial system. Moreover, he had treated his charges with kindness and compassion. Perhaps in anticipation of problems to come, a eulogist commented on Hopkins' attitude toward the Lansing inmates, stating that the former

warden did not "expect to make angels of the convicts under his charge, and was determined not to make them brutes. . . . he quietly studied their dispositions and governed them accordingly; consequently the prison knew no mutinies; no savage punishment; no investigating committees and very few escapes."<sup>26</sup>

## Chapter 2

### EXPLOITING THE PENITENTIARY, 1883-1909

In 1882, when Warden Hopkins announced that the Kansas State Penitentiary was complete and self-supporting, the Lansing prison was heralded as a model institution of its kind and became the acknowledged leader in penal development among the western states. The quality of prison management soon deteriorated, however, as politicians used the penitentiary's financial reports to perpetuate their party in office and exploited the appointive positions on the staff and board of directors for patronage. Indeed, during the quarter century following 1882 Lansing witnessed a series of eight political wardens, most of whom concentrated on making a good financial showing but neglected their administrative and disciplinary responsibilities.<sup>1</sup>

George W. Glick, the first Democrat to hold the Kansas governorship, appointed W. C. Jones to the wardenship when Hopkins departed. Warden Jones's two years at Lansing was a transition from the period of building to one of exploitation. The Lansing industries had only to continue operating to produce substantial income for the state. In 1883, due to the cost of sinking an air shaft for the coal mine, earnings exceeded expenditures by only \$3,500. The following year, however, profits climbed to almost \$26,000, marking the beginning of an era of penitentiary prosperity that endured through the eighties.<sup>2</sup>



A minor scandal erupted during the second year of the Jones wardenship, when a committee appointed by the Republican legislature to investigate alleged mismanagement discovered irregularities in the financial records of the institution. The committee chastised the board of directors and warden for laxity in supervising penitentiary affairs: "The discipline and management was in thorough order and the coal mine in so nearly a perfected condition that the plans of the late warden had only to be carried out to assure financial success such as had hardly been dreamed possible in the history of prison management." The blame for whatever vague indiscretions occurred fell on the Chief Clerk, but the affair embarrassed the Democratic administration. John A. Martin had already seized the governorship for the Republicans in the election of 1884, however, and the Democrats were due to depart Lansing.<sup>3</sup>

When Martin took office, he appointed a new board of directors and warden. The tenure of those officials coincided with Martin's two terms in office. When Lyman Humphreys, another Republican, succeeded Martin in 1889, he quickly redistributed the spoils. The pattern was established; politicians of all parties recognized penitentiary positions as legitimate patronage, and incumbent prison officials usually offered their resignations in deference to new administrations. As late as 1909, one observer commented that "a sort of political chess game is played there [at Lansing] after each state election. The prison officers and their families are the pieces and it is often their time to move."<sup>4</sup>

Several states had given boards of charities access to their penitentiaries, thus weakening political control and opening a channel for information to the public. The Kansas legislature could have done a thorough job of depoliticizing the state's institutions by abolishing all boards of directors and organizing a single non-political board of control to administer charitable and correctional institutions alike. Wisconsin made such a move in 1880, leading the West in that respect. Kansas did not take this step until 1911.<sup>5</sup>

The legislature had little incentive to correct the situation at Lansing. The governor's political party usually controlled the law-making bodies, and the penitentiary's financial reports could be used to advantage by the legislators as well as the governor. If the opposition party controlled the legislature, it could use the penitentiary to embarrass the administration. The Jones scandal of 1884 is an excellent example of the latter. No one in power really wanted to change the arrangement.<sup>6</sup>

In spite of the turmoil caused by frequent changes of key personnel at Lansing, profits soared during the eighties. As inmate population grew, officials found that they could sustain contract labor industries while committing an ever-increasing number of convicts to employment in the mine. The mine, which employed more than 300 inmates by the end of the decade, rapidly pushed contract labor into secondary importance as an income producer. Profits of the penitentiary totalled over \$257,000 for the seven year period ending June 30, 1890. Kansas taxpayers



were pleased, but those who accepted the financial reports as proof of an efficient penal operation were sadly mistaken.<sup>7</sup>

Inmate population declined during 1883, but leaped upward to 751 by June 30, 1884, exceeding the capacity of the prison. By 1890 population climbed to over 900, and most inmates found themselves sharing a tiny cell with another. The separate buildings for women and the criminally insane, both added during the mid-eighties, absorbed only a little of the overflow. Hopkins' successors took note of the shamefully overcrowded conditions, but were not persistent enough to obtain funds for an additional cell house. Indeed, the directors made matters worse by agreeing to take care of convicts from the Territory of Oklahoma.<sup>8</sup>

Confining felons from out-of-state had long been an accepted practice at the Kansas penitentiary. Even before the institution officially opened, the board of directors suggested that "funds might accumulate from the imprisonment of convicts from States and Territories west of the Missouri river [sic], convicted of offences [sic] against the laws of the United States." Kansas had been keeping Federal prisoners, both civil and military, since about 1870, and for several years during the seventies accepted prisoners from the Territory of New Mexico. Such arrangements were profitable because the penitentiary received a per diem rate for each prisoner while simultaneously increasing its pool of income-producing labor. When Oklahoma officials suggested that Lansing might be a convenient place to lodge its convicts, the Kansans gladly obliged.<sup>9</sup>

In 1890, the directors of the penitentiary entered into a contract with the territorial government of Oklahoma, agreeing

to maintain its prisoners for a per diem rate of 25¢. Initially, the Oklahoma contract had but slight impact on the overcrowded prison, accounting for only 18 of 943 prisoners by 1892. The number of Oklahoma convicts rose steadily, however, reaching 200 by 1900--a fifth of the total prison population. The arrangement satisfied both Kansas and Oklahoma, and in 1898 they renewed the contract at 35¢ per capita. Convict labor commitments gradually adjusted to the increased inmate population, and the Oklahomans became an essential part of the labor force.<sup>10</sup>

Had it not been for the Oklahoma contract, prison population would have declined by approximately 100 during the nineties. In 1895, the Federal Government transferred its 26 prisoners from Lansing to the new Federal prison at Leavenworth. Loss of the Federal prisoners would have made little difference, but the Kansas inmate population at Lansing also declined. The Kansas State Industrial Reformatory at Hutchinson, which opened in 1895, effectively reduced the number of Kansas inmates. In August, the state transferred 33 young convicts from Lansing to the new facility. At the same time, the courts began sentencing young first-offenders to the reformatory, permanently reducing Lansing's population base. Because of the growing number of Oklahoma inmates, however, the biennial report issued in 1900 reflected a net increase of 114 prisoners for the decade.<sup>11</sup>

Despite the beefed-up work force, profits declined drastically during the same period. The prison's financial reports for the decade ending June 30, 1900 reflect profits totalling approximately \$76,000. Had the reports been prepared according to the criteria applied during the seventies and

eighties, however, they would have shown an operational deficit for the decade of over \$100,000.<sup>12</sup>

Several factors account for the decline, probably most significant was the business depression of the nineties. During the recession of the mid-eighties, the prison had stayed afloat and continued to show handsome profits because of its expanding coal mining industry. When the labor contractors reduced production in response to depressed markets, the penitentiary simply shifted the excess laborers to the coal mine. When the hard times of the nineties hit Lansing, however, the penitentiary was in a vastly different situation. The response of the labor contractors to the depression was predictable; they negotiated new contracts, reducing per capita rates and cutting down the number of convicts to be employed, thus enabling them to decrease production while maintaining profits. The mining operation, however, had reached a plateau; it could employ a maximum of about 300 convicts, and already had a full crew. For the first time, the penitentiary faced the prospect of housing idle convicts.<sup>13</sup>

Lansing officials responded to the crisis in a manner similar to business corporations of the day. They used the slack period to add to the institution's physical plant, and to prepare for expansion of state-operated industries. Hence, the second factor reducing profits: large expenditures for physical improvements. Using convict labor, the penitentiary completed construction of several new buildings during the nineties, including a sorely needed third cell house. The new cell house temporarily relieved the overcrowded conditions which had plagued the institution since the mid-eighties. Inmate crews also

accomplished a general refurbishing of the prison and the coal mine. Late in the decade, at considerable capital expense, the penitentiary added two state-operated industries: an elaborate brick manufacturing plant and a binder twine factory. Both industries commenced operation before 1900, but did not add substantially to prison income until the first decade of the twentieth century.<sup>14</sup>

The political turbulence of the nineties also contributed to the profitless era at the penitentiary. The Humphreys administration retired from its second term in office in 1893. In the election of 1892, a coalition of Democrats and Populists had nominated Lorenzo D. Lewelling for governor. The coalition won the governorship and other state offices as well, but the legislature remained Republican. The penitentiary reflected the confusion that reigned in Kansas politics during the ensuing two years. When Warden George H. Case left office with the retiring Humphreys administration, Governor Lewelling appointed Seth W. Chase to the position.<sup>15</sup>

Chase, a former Populist leader, went far beyond his predecessors in exploiting the spoils system. The one position on the penitentiary staff that had been held sacrosanct by the succession of wardens since 1883 was that of the mine superintendent. Oscar F. Lamm had held that position since ground was broken for the main shaft in 1879. Chase dismissed Lamm; then appointed his own son, John, to the position and bestowed upon him the pretentious title "Chief Engineer." The warden then proceeded to assign four additional members of his family to



salaried positions on the penitentiary staff, including Mrs. Chase, two additional sons, and a daughter. A second daughter became a teacher at the prison school. The Chase family's annual income totalled approximately \$8,000, a goodly sum for the times, even larger than the Governor's salary. The warden shared the plunder with his friend, A. B. Chaffee, the turnkey. Three additional members of the Chaffee family also held salaried positions.<sup>16</sup>

Nepotism, however, was not Chase's most serious offense. In 1894 three former staff members brought charges of misconduct against Chase, accusing him of indiscretions with female prisoners, and of arranging an abortion for one of his convict paramours. The accusers further charged that the matron who supervised the women's ward was a lewd woman, and that she had secured her position at Lansing by threatening to reveal her knowledge of Chase's immoral conduct. Other allegations included misappropriation of funds, accepting rebates, and favoring certain officers with free meals and goods purchased or produced by the penitentiary. Governor Lewelling ordered the penitentiary board of directors to investigate the allegations.<sup>17</sup>

When the investigation opened, J. F. McDonald, attorney for the plaintiffs, stated the allegations against Chase. The warden became incensed, and requested a private discussion with the 62 year old lawyer out of earshot of the board. The two stepped into an adjoining room, whereupon Chase allegedly assaulted McDonald, delivering "nine blows on the head." Witnesses against the warden, shaken by the incident, reneged on their testimony. After Chase's own witnesses corroborated

his denial, the board of directors reported to the governor that he charges were unsubstantiated.<sup>18</sup>

Relations with the labor contractors deteriorated during Chase's term as warden. Ironically, he opposed the contract system on grounds that the contractors were taking advantage of the state. In his biennial report, he recommended that the state take over the contract industries, and operate them on the public accounts system.<sup>19</sup>

When the Republican machine recaptured the governorship in the election of 1894, Chase and the Populist board of directors refused to observe tradition and submit their resignations to Governor Edmund N. Morrill. According to the law, Morrill had to show cause in order to remove them. A legislative committee had no difficulty gathering sufficient evidence to justify Chase's removal. Governor Morrill relieved Chase on June 5, 1895, appointing J. B. Lynch to succeed him. Chase still refused to surrender the penitentiary. After considerable difficulty, Lynch finally assumed his duties on June 21. By September, the last of the Populist board of directors decided to resign.<sup>20</sup>

The Democrats and Populists revived their coalition in 1896, and elected John W. Leedy governor. The Republicans at the penitentiary dutifully resigned, giving Leedy access to his spoils. This time the Populists made a better showing. Leedy appointed H. L. Landis warden; Landis and the new board replaced key staff members in the customary manner. The new warden opposed the contract labor system for the same reason as did the hypocritical Chase, but he maintained friendly relationships

29

with the contractors. The ideas for both brick and twine plants had their roots in the Landis administration.<sup>21</sup>

When the Republicans returned to office in 1899, Governor William E. Stanley appointed a maverick to the wardenship. Warden J. B. Tomlinson firmly believed that his authority was circumscribed by politics. He complained that "the warden is and must be responsible for the general conduct of the institution. Therefore, he should have the power to appoint and remove all officers without outside intervention. No officer should ever be appointed or removed for political or personal reasons." Tomlinson also objected to the business functions that went with his office: "Neither should the warden be burdened with any business responsibilities, because they take too much time from the real duties of his position." Governor Stanley accepted the resignations of Tomlinson and the board of directors at the beginning of his second term. Of Tomlinson's staff, only Dr. C. E. Grigsby, the physician, and Archie Fulton, the mine superintendent, survived the transition to new management.<sup>22</sup>

Governor Stanley's abrupt change in prison management at the outset of his second term actually marked the beginning of a period of relative stability. In their effort to restore prosperity to the penitentiary, Stanley's gubernatorial successors took pains to assure continuity on the board of directors and staff. E. B. Jewett succeeded Tomlinson as warden. When Governor Stanley retired from office in 1903, his successor, Willis E. Bailey, retained Jewett and his staff as well as Stanley's board of directors. Jewett's efforts to put industry



back on a paying basis were complicated by legislation passed under pressure from mining interests which forbade the sale of penitentiary coal on the public market. The new law eliminated an important source of prison income. In addition, Jewett had infant brick and binder twine industries to nurse to fruition.<sup>23</sup>

Brick manufacturing had been conducted intermittently and on a small scale at the penitentiary since the beginning. The rapid development of state institutions during the late nineteenth and twentieth century created a continuous and expanding demand for building materials, and the brick industry was intended to help fulfill that need. The plant opened in 1899, producing 1.2 million bricks during its first year, most of which were used at Lansing. When the plant's earnings for the biennium ending in 1902 totalled more than \$23,000, Jewett declared the industry a success, and in 1904 he requested funds for expansion.<sup>24</sup>

The binder twine plant required more careful nurturing. Patterned on a similar industry at the Minnesota prison, the twine plant was still in the experimental stage when Jewett became warden. It was not intended to become a highly profitable industry, the objective of the planners being to put a serviceable but reasonably priced twine on the public market, thus forcing the out-of-state "trusts" to cut their high prices. The twine plant operated entirely on the public accounts system, initially disposing of its product by selling to the farmers directly.<sup>25</sup>

When Warden Jewett made his first biennial report in 1902, the three-year-old industry was still in a marginal category.

Although Kansas had no binder twine factories, distributors and retailers, perhaps goaded by out-of-state twine interests, exerted pressure against the new industry. Penitentiary twine undersold the commercially manufactured product, but the farmers doubted its quality and were at first reluctant to buy it. Things improved during the succeeding biennium, however, and by 1904 when biennial earnings totalled over \$45,000, the directors declared the industry a success. Two years later they requested funds for expansion. The financial future of the penitentiary looked bright, especially if sweeping personnel changes could be avoided.<sup>26</sup>

After years of internal ferment, the Republican political machine in Kansas was due for trouble. Matters came to a head during the Bailey administration, when a Republican anti-machine movement, led by Walter R. Stubbs, promoted the liberal Edward W. Hoch, editor of the Marion County Record, for governor. So powerful was the movement that Governor Bailey decided not to seek renomination in 1904. Hoch was nominated, and easily defeated the Democratic candidate; Stubbs became Speaker of the House. Hoch's election marked the beginning of the progressive era in Kansas politics.<sup>27</sup>

The new governor did not look to the penitentiary for spoils. When Warden Jewett resigned in September 1905, Hoch appointed William H. Haskell to the office. Haskell, who had been a member of the board of directors since 1901, realized the importance of continuity in key penitentiary positions, and retained all of Jewett's staff.<sup>28</sup>

Warden Haskell inherited an overcrowded prison. The third cell house had increased the institution's capacity to approximately 1,000, but when Haskell became warden in 1905, inmate population was already nearing 1,200, and by 1908 zoomed to over 1,300. At the same time, the number of Kansas inmates at Lansing was actually declining, dropping from 818 in 1906 to 778 in 1908. The Oklahoma contract, which had been renewed in 1903 at a per diem rate of 40¢, accounted for 536 of 1,314 prisoners by June 30, 1908--40 percent of the total. As Oklahoma prepared for statehood, Kansas officials realized that the contract arrangement could not last forever. They were therefore reluctant to build additional cell space for their guests. Nevertheless, the penitentiary's industrial commitments were planned and projected several years into the future on the basis of a continuing Oklahoma penal contract.<sup>29</sup>

The prospect of a sudden withdrawal of the Oklahoma convicts worried penitentiary officials. Chief Clerk J. B. Brown expressed their fears in 1906 when he told a reporter from the Topeka Capital that "the four hundred prisoners belonging to Oklahoma are as a rule young and active men who are capable of doing almost anything requested of them. . . . The way things are run now we are going to need more convicts when Oklahoma takes her prisoners." Brown's comments seem coldly calculating, but the prospect did present a dilemma; the penitentiary was bound by law to provide coal and brick for state institutions, and bound by contract to supply a minimum number of convict laborers to the contract industries at the prison. Should Oklahoma remove its convicts, some industries would undoubtedly

have to close down, while others reduced production. The Oklahomans made the difference between profit and deficit.<sup>30</sup>

Warden Haskell's financial statements did reflect substantial earnings. In 1906 he showed biennial profits exceeding \$67,000, and in 1908, by adding the value of certain labor normally not taken into account, he reported biennial profits of over \$100,000. The board of directors smugly claimed that Kansas had taken "first rank in the nation as a secure and satisfactory place for the incarceration of those convicted of crime. We can safely affirm [that], although a place of restraint, it has been conducted on merciful lines as far as it is possible." While few would deny the commercial success of the penitentiary, the board's claims of humanitarian accomplishment soon fell under heavy criticism.<sup>31</sup>

## Chapter 3

### VOICES OF DISSENT

The political shield that protected the Lansing system from public scrutiny did its job effectively; all but a few Kansans were oblivious to the true state of affairs at the institution. Critics of the penitentiary grew more numerous after 1890, however, and their complaints began to attract attention. Mining and manufacturing interests as well as labor unions resented what they considered to be unfair competition from prison industry, while reformers faulted the institution for its political orientation and preoccupation with profits. The convicts, who were the pawns of the system, found it difficult to obtain a sympathetic hearing, but by the first decade of the twentieth century several had managed to get their complaints before the public. Former Lansing employees who sought to expose decadent conditions at the prison also numbered among the dissenters. The increasing barrage of criticism gradually eroded the popular illusion that the Kansas prison was a leading institution of its kind.

Labor made its opposition to prison industry a matter of record as early as 1872, when the Kansas Workingmen's Council adopted a resolution calling for legislation abolishing the contract labor system at Lansing and prohibiting public sale of prison made goods. Agitation by the Knights of Labor and the Union Labor Party during the seventies and eighties was weak and disorganized, however, and achieved no significant results. Not



35  
until the nineties, when the Kansas Federation of Labor gained strength, did the unions begin to achieve success on the convict labor issue.<sup>1</sup>

At its fourth annual convention in 1893 the Kansas Federation took a clearly defined position on the Lansing industries. The convention recommended "strong action relative to the employment of convicts at the State Penitentiary in lines of industry that [were] being pursued in the state." The unionists complained that manufacturing of harnesses, horse collars, and shoes at Lansing had "resulted in throwing large numbers of [their] men out of employment." Recognizing that inmates at the prison had to be kept busy, the convention recommended that the "state use" system be employed exclusively. The unionists sanctioned the mining of coal for state use, but demanded that public sale of the excess be discontinued. They resolved to petition the legislature to abolish the contract labor system and to divert convicts thus employed to work on public roads. Their demands made only slight impression on the agrarian Kansas legislators, however. Continuing pressure by the unions and mining interests achieved limited success in 1899 when the lawmakers finally passed a statute prohibiting the public sale of penitentiary coal. The law represented only a minor victory, because by 1900, when the law became effective, the growing institutional demand for coal nearly equalled the total output of the mine.<sup>2</sup>

Manufacturing interests were less aggressive than the labor unions on the convict labor issue. Opinion polls conducted by the Kansas Bureau of Labor and Industry indicated that opposition to convict labor ran deep among laboring men, but employers seemed to be passive on the issue. Labor and management

did collaborate at the second annual convention of the Kansas Society of Labor and Industry in 1899, however, when the delegates adopted a resolution calling for mandatory "prison made" labeling of penitentiary products. Labor and management also agreed to use their respective lobbies to secure legislation prohibiting public sale of prison made goods in Kansas. During the decade following the turn of the century the Kansas Federation of Labor maintained its position against convict labor, but made no further legislative breakthroughs.<sup>3</sup>

While labor and manufacturing interests were leading the opposition to the Lansing system an independent penal reform movement slowly took shape. It began as a one man crusade led by Frank Wilson Blackmar, professor of economics and sociology at the University of Kansas. Blackmar joined the University of Kansas faculty in 1889, after receiving the Ph. D. degree from Johns Hopkins University. His energetic scholarship and broad academic accomplishments rapidly won him recognition, and in 1897 the regents selected him to be the first dean of the university's graduate school. Blackmar's involvement in sociology, then relatively new as an academic discipline, caused him to view the state's developing charitable and correctional institutions with interest. The penitentiary soon became one focal point of his attention, and what he saw there disturbed him greatly. As early as 1893, Blackmar accused the state of placing profits ahead of prisoner rehabilitation, and called for a complete depoliticization of the institution. The scholar was prudent in his criticism, however, for he realized that little could be accomplished by offending the politicians.<sup>4</sup>

Firm in his belief that the penitentiary could produce reformatory results if it were properly run, Blackmar continued to view partisan politics as the principle evil inhibiting progress. He developed a master plan to correct the situation. First, the plan called for a non-partisan board of control, which would have supervisory responsibility over all state institutions, thus removing them from direct political influence. Second, Blackmar urged the legislature to pass a tough civil service law, requiring applicants for institutional positions to be screened by competitive examination. Once hired, employees would be paid a salary attractive enough to keep them on the job. Such a law might help secure a high quality employee of special temperament, and reduce the constant personnel turnover that plagued the institutions. The exams, stated Blackmar, "would dispose of all mere pegs to hang an office on, and all [political] bosses seeking sops for hungry incapacities." The reformer also pressed for legislation establishing juvenile courts.<sup>5</sup>

To help secure the latter objectives, Blackmar founded the Kansas Conference of Charities and Correction in May 1900, and became its first president. The organization brought together many of the state's leading citizens, scholars, and institutional officials, and acted as a pressure group for reform legislation. By the time Edward W. Hoch became governor in 1905, the Conference of Charities and Correction wielded considerable influence. Because of his administration's progressive legislative record, Hoch was popular with the reformers.<sup>6</sup>

Statutes enacted under the Hoch administration fell short of fulfilling Blackmar's grand design, but nevertheless constituted a first step. A law passed in 1905 replaced the State

Board of Trustees for Charitable Institutions with the State Board of Control, a bi-partisan body. The act, however, failed to place the penitentiary and the reformatory under the board's jurisdiction. Another 1905 statute put all employees of state institutions under civil service, but accomplished considerably less than the statute visualized by Blackmar. The law forbade removal of employees for political reasons, but established no central controls or standards, simply leaving criteria for screening and selecting employees to the boards of directors of the respective institutions. The legislature of 1905 also established the juvenile court system in Kansas. Two laws passed in 1907 pleased the reformers: one abolished capital punishment, the other authorized judges of district and common pleas courts to grant parole to certain prisoners of the state.<sup>7</sup>

Governor Hoch delivered the closing address at the eighth annual session of the Conference of Charities and Correction in 1907. When introducing Hoch, the Reverend Mr. E. A. Fredenhagen, president of the Conference, paid him lavish tribute, commenting on his "energetic and persistent efforts" along the lines of institutional reform, and concluding that because of Hoch, charities and correction in Kansas had reached a "higher plane than ever before." Perhaps Hoch deserved Fredenhagen's praise when the broad aspects of charities and correction are considered, but the inmates at Lansing would have taken vigorous exception to his comments. In fact, many of the prisoners believed themselves to be suffering flagrant abuse and exploitation at the hands of their captors.<sup>8</sup>



Two inmates published their impressions of the Kansas State Penitentiary. John N. Reynolds' A Kansas Hell came out in 1889, shortly after the author completed a sixteen month sentence at Lansing. A year later Reynolds published his manuscript a second time under the title The Twin Hells, having added a section on the Missouri prison at Jefferson City. Carl "Cork" Arnold, the second author, smuggled his manuscript for The Kansas Inferno out of the prison in 1906, and had it published under the pseudonym "A Life Prisoner." The titles of their books convey the messages of the authors accurately; both exposed shocking conditions at the penitentiary.<sup>9</sup>

Preparation of a manuscript while an inmate at the Kansas prison could only be accomplished by a resourceful individual. Reynolds, a college graduate, had been a county clerk, bank president, and publisher prior to being convicted of using the mails for fraudulent purposes in 1887. He claimed to be innocent of the crime, however, blaming his conviction on the political machine he opposed in his daily newspaper, The Atchison Times. With the help of an influential friend on the outside, Reynolds persuaded the warden to allow him to study shorthand in his cell. This neat bit of deception enabled him to complete his book, free from interference by the prison staff, none of whom read shorthand. He left the penitentiary with the finished manuscript in his possession.<sup>10</sup>

The ruse used by Carl Arnold remains open to speculation. Arnold was convicted of murder at age seventeen and sentenced to hang, but the governor commuted his punishment to life



imprisonment. Possibly because of his youth, the warden assigned him to the chaplain's office as a clerk. He may have completed The Kansas Inferno while performing duties for the chaplain, perhaps with the clergyman's cooperation. Arnold's philosophical treatise reflects conditions at the prison after the turn of the century, while Reynolds' earlier work describes the day to day existence of the Lansing convict during the late eighties. Both books deal with controversial aspects of the penitentiary operation--the coal mine, contract shops, and the system of punishments that terrorized many inmates.<sup>11</sup>

Reynolds, who arrived at Lansing in October 1887, spent the first six months of his sentence as a coal miner. His experiences in the mine convinced him that mining was an occupation unsuitable for convicts. "Because of the dangers to which the inmate is exposed," wrote the author, "because of the debasing influences by which he is surrounded, it is wrong, it is wicked to work our criminals in such a place as those mines of the Kansas State Penitentiary." Having done no manual labor for more than a decade, Reynolds suffered miserably during his first days in the mine, and he sympathized with those less able than himself: "I have seen old men marching to their cells after a hard day's work scarcely able to walk, and have many times laid in the mines with young boys who would spend hours crying like whipped children for fear they would be unable to get out their regular task of coal." The "task" consisted of standard daily or weekly work quotas for each convict. The inmate who failed to complete the task usually received punishment.<sup>12</sup>

Other features of the mine also disturbed the author. Reynolds' estimate of a prisoner's life expectancy at the

Kansas institution was discouraging: "The average life of a convict is but fourteen years under the most favorable surroundings, but in the coal mine it cannot exceed five years at the most." Although the estimate was inaccurate, the author had some basis for his statement. During his six months in the coal mine, he observed numerous accidents, many of which resulted in death or maiming. After being transferred from the mine, he served as a clerk in the prison hospital, so probably knew something of mortality statistics. According to Reynolds, a miner fortunate enough to escape serious accidental injury would eventually succumb to illness caused by exposure to dampness and foul air in the depths of the mine: "Fully nine-tenths of the sickness at the prison is contracted in the coal mines." Even a safe, dry, well-ventilated mine would have been an unacceptable place for convicts to work, in Reynolds' opinion, because the very nature of mining rendered adequate supervision impossible.<sup>13</sup>

The moral atmosphere of the coal mine disturbed Reynolds more than did the physical hazards. He described his impressions in vivid terms, stating that "when some of these convicts, who seem veritable encyclopedias of wickedness, are crowded together, the ribald jokes, obscenity, and blasphemy are too horrible for description. It is a pandemonium--a miniature hell!" He charged that masturbation and sodomy were commonplace, claiming that "in the darkness and silence [of the coal mine] old and hardened criminals debase and mistreat themselves and sometimes the younger ones that are associated with them. . . . These cases of self-abuse and sodomy are of daily occurrence."

Carl Arnold cited the same problems when he published his account sixteen years later.<sup>14</sup>

Like Reynolds, Arnold deplored the unsupervised freedom of the mine, but was equally sharp in his criticism of the "silent system," which was enforced above ground: "Conversation is as necessary to [a man's] mind as exercise is to his body. . . . After years of such mental isolation, his mind becomes weakened, and a prey to childish and irrational fancies." Arnold found convict labor at the Kansas prison to be thoroughly dehumanizing; in the mine, men became moral degenerates, while prisoners working in the contract shops turned into human vegetables. He understood, however, that the profit motive lay behind these contradictory policies.<sup>15</sup>

Arnold viewed the Lansing convict as a pawn--a slave, exploited for profits by the state and for political advantage by whatever party held power. Moreover, unscrupulous labor contractors used the unfortunate inmate for their own selfish purposes. Arnold told of a furniture manufacturer who employed 115 of the inmates. He calculated that the latter contractor reaped clear profits of over \$120 per day, and grossed not less than \$40,000 during the year. Why a private individual should be allowed to capitalize on the misfortune of others, or to take in profits that might have gone to the state, puzzled him. The contractors set the "task" for prisoners in their employ, and could report those who failed to produce the required quota to the deputy warden for punishment.<sup>16</sup>

The system of punishments described by Reynolds and Arnold completed the dehumanization process. Reynolds never experienced

the punishments he depicted, but had been in a position to<sup>43</sup> learn about them while working in the hospital. He described the various punishments in ascending order of severity, beginning with punitive deprivation of tobacco and library privileges, then turning to solitary confinement. The most severe punishments were the "dark cell" or "hole," and a bizarre form of torture known among prisoners as the "water cure." The dark cells contained no furniture, and inmates occupying them received only one meal per day, this consisting of bread and water. Besides hunger and boredom, the victims suffered from extremes of temperature, for the dungeons were unheated in winter and became "veritable furnaces" during the warmer months. Prisoners usually remained in the dungeons for about ten days. There was no doubt, according to Reynolds, "that the dark cells of the Kansas Hell [had] hastened the death of many a poor, friendless convict."<sup>17</sup>

The water cure was short in duration, but "even more brutal than the dark cell." According to Reynolds, guards stripped the recipient naked and tied him to a post, then turned a stream of water on him from a hose under high pressure. "As the water strikes the nude body," wrote Reynolds, "the suffering is intense. This mode of punishment is but rarely resorted to. It is exceedingly wicked and barbarous." The author hastened to add that punishments at the penitentiary were "not as severe" as those inflicted at other prisons, and boasted that flogging, a standard procedure at the Missouri penitentiary, was never resorted to at Lansing. By the time Carl Arnold published Inferno, however, innovators on the Lansing staff had added to their repertoire.<sup>18</sup>



Like Reynolds, Arnold described the system of punishments beginning with the least severe. Deprivation of privileges, solitary confinement, and the dark cell were still standard methods for dealing with recalcitrants. Following punishment, prisoners wore the hated striped uniforms about the prison for at least two weeks as a badge of disgrace. General use of the "stripes" had been abandoned by Warden Landis in 1897. Apparently the water cure had been discontinued, for the writer, who could hardly have overlooked such violent treatment, made no mention of the procedure. A device had been added, however, which surpassed the water cure in its barbarity.<sup>19</sup>

Arnold told of two contrivances called "cribs," which were hidden in cells of the insane ward. Originally used to restrain the criminally insane during fits of violence, a resourceful official had appropriated the devices as a medium for inflicting punishment. Arnold described the crib as a "long, trunk-shaped box, constructed of heavy slats, placed some distance apart." The boxes stood on legs about eighteen inches above the floor, and had heavy lids. Arnold, who probably never saw the cribs, took his evidence from a pamphlet written by a former guard named Patrick Lavey.<sup>20</sup> Quoting Lavey, he told of one method of employing it as an instrument of torture:

The convict's hands are strapped in a pair of leathern mitts, and a strap is passed through the rings at the wrists and fastened around the waist. Then iron bands are fastened to the muscles of each arm, and another strap is used to draw the arms back to the limit of endurance. In this position the prisoner is thrown into the 'crib,' the cover is put down and locked with two padlocks, the door of the cell is closed, and the victim is left to suffer and to moan out his misery to the bare stone walls of the empty cell.<sup>21</sup>



According to Arnold, use of the "mitts" had been abandoned in favor of another method of inflicting pain: "Chains and iron shackles are now used in place of the straps described by Lavey." This innovation was known among prisoners as the "alakazan degree," and consisted of laying the inmate in the crib face downward, shackling the wrists and ankles, then drawing them together behind the back: "His feet are drawn upward and backward until his whole body is stretched taut in the shape of a bow. The intense agony inflicted by this method of torture is indescribable; every muscle of the body quivers and throbs with pain." Arnold also charged that flogging had become commonplace. He quoted a law forbidding corporal punishments, which had been on Kansas statute books since 1862. The law specifically forbade "binding the limbs or any member thereof, or placing or keeping the person in a painful posture."<sup>22</sup>

Arnold and Reynolds agreed that many of the officers employed at the Kansas prison were well-meaning people. A few however, abused their authority. "These subordinate officers," stated Reynolds, "are not all angels. Some of them are lacking in sympathy. They have become hardened, and frequently treat their men like beasts." Should a prisoner incur the enmity of one of the guards, the guard could make "his life a hell, and his record as black as ink." Arnold denied that the Kansas prison was a reformatory institution, concluding that "such a prison is a monument to ignorance and futile methods, a public disgrace, and an unmitigated curse to society."<sup>23</sup>

Carl Arnold had endured no punishment prior to publication of Inferno, but when his authorship became known Warden Haskell allowed him to experience first hand some of the practices

he had exposed in his book. The "lifer" spent time in one of the dark cells he had so vigorously condemned, following which he wore stripes for thirty days. He also lost his plush job in the chaplain's office. Kansans read Twin Hells and Inferno, but the books failed to generate much sympathy. The penitentiary was headed for trouble, however, and the conditions exposed by the convict-writers eventually received serious attention.<sup>24</sup>

As Arnold's book came off the press in 1906, an Oklahoma ex-convict joined the campaign against the Kansas State Penitentiary. On August 31, 1906, Ira N. Terrill appeared on the streets of Topeka, where he addressed crowds of people in an effort to arouse sentiment against the Kansas-Oklahoma penal contract. Referring to the penitentiary at Lansing as the "Kansas slave pen," he made the interesting charge that since criminal sentences issued by the Oklahoma courts did not contain provisions for confinement "at hard labor," it was unlawful to employ Oklahoma's convicts in prison industries. An articulate and persuasive speaker, Terrill had already taken his case to several cities in Kansas and Oklahoma.<sup>25</sup>

Ira Terrill was an exceptional individual. Convicted in 1891 of murdering G. W. Embree on the steps of the territorial capitol building at Guthrie, he was originally sentenced to life imprisonment. At the time, he was part-owner and editor of a newspaper, The Perkins [Oklahoma] Independent. Terrill pleaded self-defense, claiming that Embree had been hired to kill him by a group of politicians because of editorials he had published favoring the proposed move of the territorial capital from

Guthrie to Oklahoma City. Acting as his own attorney, he won a new trial at the United States Court of Appeals. This time the court convicted him of manslaughter in the first degree and sentenced him to twelve years imprisonment. In March 1896 he was transferred to the Kansas State Penitentiary. Terrill spent ten years at Lansing, and was a troublesome prisoner from the beginning. Finally, taking advantage of a clause in the penal contract, Kansas authorities declared him insane and returned him to Oklahoma. He spent the final months of his sentence in a territorial jail. Having credited Terrill with time served prior to his second conviction, Oklahoma released him in June 1906.<sup>26</sup>

In retrospect, Terrill's appearance in Topeka was a signpost pointing the way to crisis. Before leaving the Kansas capitol, the Oklahoman threatened to sue the state for several thousand dollars as compensation for his labor at the penitentiary. Although he failed to carry out the threat, he did file suit against Arthur Capper and associates, claiming they had libeled him while he was confined at Lansing. Capper was a well known publisher and future governor of Kansas. After more than a year's litigation, the district court found in favor of the defendants. The Hoch administration was impervious to the eccentric Terrill's threats, but a situation arose a few months later that should have caused the governor to take a long, hard look at his penitentiary.<sup>27</sup>

On February 11, 1907, Dr. C. E. Grigsby, former prison physician, gave the Topeka Journal information that put the

penitentiary back on the front page. Grigsby charged that Warden Haskell had dismissed him from his position at the penitentiary for political reasons, in violation of the civil service act of 1905, and that the warden encouraged harsh treatment of inmates. According to the doctor, Haskell had demanded that all prison employees contribute five percent of their annual earnings to the Republican campaign fund. When Grigsby objected to the heavy assessment on grounds that the civil service act removed employees from political obligation, the warden accused him of spreading dissension--then fired him for spurious reasons. The physician complained that the warden used "petty annoyances" to coerce reluctant staff members into contributing \$3,700 to the campaign, and remarked that donations from employees of all other state agencies had totalled only \$500. Grigsby then accused Haskell of reinstituting the water cure at the penitentiary, stating that the brutal punishment was employed frequently with the warden's approval. The physician claimed to have personally saved the life of a victim who had taken so much water that he was near drowning.<sup>28</sup>

Warden Haskell indignantly demanded that the legislature investigate Dr. Grigsby's charges. The warden himself was a member of the Kansas Senate at the time, and had served two terms in the House. Grigsby knew that a legislative investigation would be unlikely to find against the influential Republican, and countered by demanding that Governor Hoch appoint impartial investigators. Hoch, however, directed the legislature to form a joint committee to investigate Grigsby's allegations. The investigation opened on February 18.<sup>29</sup>



Dr. Grigsby arranged for numerous witnesses to substantiate his charges, but the investigation was over almost before it started. Under direct examination by his personal lawyer, Grigsby stated his case. J. T. Reed, counsel for Warden Haskell, then tied the physician in knots with an expert cross-examination. He forced Grigsby to admit that he had attempted to blackmail Haskell into reinstating him as prison physician by threatening to bring embarrassing charges against the warden, and to further admit that he himself had been responsible for monitoring punishment to insure that no prisoner's life or health was endangered. Reed's questioning visibly shook the physician. Perhaps fearing countercharges, Grigsby refused to call his witnesses to the stand. In his rebuttal, Warden Haskell denied that he had dismissed Grigsby for political reasons, but admitted that the water cure, which he described as harmless, was used at the prison. The committee accepted the warden's denial, and the investigation closed.<sup>30</sup>

Organized opposition from interest groups and reformers had no great impact on the Lansing operation before 1908, nor did complaints by inmates or disgruntled prison employees make a serious impression. It took sensational charges against the Kansas State Penitentiary by a determined Oklahoma official to gain the public's attention.



## Chapter 4

### KATE BARNARD AND THE PENITENTIARY SCANDAL

On August 12, 1908, an attractive woman with dark hair and flashing blue eyes appeared at the Kansas State Penitentiary. She paid an admission fee and, in the company of other visitors, toured the Lansing institution. Following the tour, she returned to the prison office, identified herself, and stated her business. She was Kate Barnard, Commissioner of Charities and Corrections of the State of Oklahoma; her purpose was to investigate "tales of brutal guards, cruel punishments, and inhuman treatment," which had been related to her by former inmates, who had been confined at Lansing under the Oklahoma contract. She then demanded permission to conduct a thorough inspection of the penitentiary. Because of his visitor's surprise arrival and incognito tour of the prison, Warden Haskell was indignant and initially objected. His resentment was mixed with trepidation, however, and Miss Barnard's official position put him in awkward circumstances; he had little choice but to yield to the woman's ultimatum. The ensuing events brought an end to the new era of industrial prosperity at the Kansas State Penitentiary.<sup>1</sup>

Kate Barnard was thirty-three years old, aggressive, articulate, and politically powerful. She had risen from modest origins to her prestigious position through exceptional accomplishments on behalf of the poor and downtrodden. After a brief

teaching career in Oklahoma's public schools, Miss Barnard became a stenographer in the territorial legislature. She gained public recognition when Oklahomans selected her from among several hundred candidates to represent the Territory of Oklahoma at the St. Louis World's Fair in 1904. Her interest in social and humanitarian work intensified during the year in St. Louis. In fact, she helped launch a slum clearance project while living in the Missouri city. Upon her return to Oklahoma City, she revived the defunct United Provident Association, a charitable organization, and mobilized financial support for a series of successful humanitarian campaigns.<sup>2</sup>

Miss Barnard's political influence mounted when she organized many of the unskilled workers of Oklahoma City, and affiliated them with the American Federation of Labor as a federal labor union. She also organized the Oklahoma City street workers, and helped them to secure an increase in wages from \$1.25 to \$2.25 per day. At the same time, her work on behalf of the Farmers Union won her the respect and admiration of the rural population. When the Oklahoma constitutional convention opened in 1906, her name was already a household word; the people referred to her simply as "Kate," or "Our Kate."<sup>3</sup>

Before the constitutional convention, Kate Barnard launched a rigorous campaign to secure constitutional provisions guarding against exploitation of children. As a result, the convention adopted child labor and compulsory education planks, as well as one establishing a department of charities and corrections, to be headed by an elected official. Miss Barnard's efforts on behalf of the

farmers and workingmen now paid political dividends. An alliance of farmers and laboring men, which became known as the "farmer-labor bloc," formed around her, and assured the Democrats a sweep of the first state election. Having been nominated for commissioner of charities and corrections, she led the victorious Democratic ticket by 6,000 votes. Indeed, Kansas officials faced a formidable opponent.<sup>4</sup>

After overcoming his initial consternation, Warden Haskell decided to make the best of an uncomfortable situation by inviting Kate Barnard to remain at Lansing as a guest of Mrs. Haskell and himself. Then, to make his cooperation a matter of record, he presented a letter of authorization to the Oklahoma official, inviting her to "make a thorough investigation of... everything that affects the welfare of the prisoners," and to "see and talk confidentially with any prisoner [she desired], in either the warden's or deputy warden's office." Haskell pointedly brought up the matter of cruel punishments in the letter, asking that any such charges be made "specific and in writing, that [he might] place them before the Board of Directors, [then] in session, for immediate investigation."<sup>5</sup>

Kate Barnard's inspection of the Kansas State Penitentiary consumed nearly two days. She visited the cell houses, the prison hospital, and the kitchen and dining facilities; she toured the contract labor industries, and spent several hours in the depths of the mine. Her inquiry into disciplinary procedures took her to the punishment cells and to the ward for the criminally insane where the cribs were located. She also visited with several Oklahoma convicts in Warden Haskell's

office. The Oklahoma official departed Lansing without presenting charges or complaints to the board of directors; nevertheless Haskell was uneasy.<sup>6</sup>

Before returning to Oklahoma, Kate Barnard visited the United States Penitentiary at Leavenworth. Warden R. W. McClaughry escorted her on a tour of the Federal institution, and explained the details of his administrative and disciplinary systems. She inquired into the health and welfare of some 300 Federal prisoners who had been sent to Leavenworth from Indian Territory before Oklahoma became a state, and conversed freely with several of them. Clearly, she sought a model with which to compare the operation at Lansing. After returning to Oklahoma, she prepared a detailed report of her findings, forwarding a copy to Oklahoma Governor Charles N. Haskell in September. The governor was no relation of the Kansas warden.<sup>7</sup>

The Kansas Haskell grew increasingly apprehensive in the wake of Kate Barnard's visit. He dispatched a conciliatory letter to the Oklahoman on August 17, expressing his admiration for her work, and assuring her that a certain document, which had been "printed for the perusal of the Oklahoma prisoners," would be distributed. Apparently, the document informed the Oklahoma convicts of their right to submit problems and grievances to Miss Barnard. Two days later, the warden visited Governor Hoch in Topeka to brief him on the entire affair.<sup>8</sup>

Warden Haskell's apprehensions were well founded, for on September 3, he received a letter from Governor Hoch. Hoch informed the warden that he had seen an Oklahoma newspaper containing allegations that prisoners at the Kansas penitentiary

received brutal punishments. "Personally I think this matter unworthy of serious attention but one cannot know how it may be received in Oklahoma," wrote Hoch. "I thought I would submit to you the proposition of my writing Governor Haskell to inquire whether he regards her report seriously, and if so to propose that he ask a sub-committee . . . to act with a similar sub-committee of ours to make an examination." Hoch promised not to act until he had the warden's concurrence.<sup>9</sup>

Now it was Hoch's turn to suffer anxiety. He had won re-election by only a narrow margin in 1906, and although he planned to retire from office the coming January, he wished to assure the governor's chair to his friend and political cohort Walter R. Stubbs. With an election in the immediate future, he had no desire to face a scandal. Any adverse publicity would be damaging to the Republicans. Warden Haskell sent his concurrence to the governor's proposed course of action by return mail.<sup>10</sup>

On September 10, Hoch sent a letter to Governor Haskell, proposing a joint investigation, prefacing the invitation with a statement implying that the Barnard report should not be taken seriously: "Miss Barnard seems to have been greatly impressed some years ago with Ira N. Terrill, the noted prisoner from your state, and the sensational book 'Twin Hells.'" In his reply, Governor Haskell simply stated: "Yours of September 10th received. I believe I took the same view of the report you mentioned that you did and therefore I did not give it any further thought." The unpleasant affair appeared to be at an end.<sup>11</sup>



With the potential scandal apparently laid to rest, the Republican progressives swept the elections, with Walter R. Stubbs winning the gubernatorial race by nearly 35,000 votes. The retiring Hoch administration could boast of substantial reform legislation during its four years in office. The progressives had secured a child labor law, juvenile courts for offenders under sixteen years of age, a civil service law, and a direct primary law, among others--a fine record in contrast to their conservative predecessors. But as Governor Hoch prepared to rest on his laurels during his final month in office, the penitentiary problem emerged a second time.<sup>12</sup>

Kate Barnard revived the matter with her First Annual Report of the Department of Charities and Corrections, released early in December. The document contained the full text of her September report to Governor Haskell. Her allegations ranged from the relatively simple charge that inmates received an inadequate diet, to sensational claims that guards and officials arbitrarily administered brutal punishments to their prisoners. She described her impressions of conditions at the penitentiary vividly, and newspapers in both states published excerpts from the report on their front pages.<sup>13</sup>

The Oklahoma reformer opened her report by complimenting Warden Haskell on several accomplishments, but condemned procedures employed at Lansing: "I wish to say here that it is the system in vogue at the Lansing penitentiary which I most earnestly condemn and not the officer. If a modern system and discipline were followed, I believe that Warden Haskell would make a good record." She continued, however, by accusing the

warden of purposely disrupting her "confidential" interviews with Oklahoma prisoners through frequent intrusions and by deviously limiting the available time.<sup>14</sup>

Her first substantive charge concerned the prison diet. The bill of fare, she charged, was inadequate to sustain men working at hard labor. She compared Lansing's per capita feeding cost at 10.9¢ to 12.7¢ at the Federal penitentiary. At Leavenworth, she stated, "I found the men, although they do not work underground, and were under much more sanitary conditions, were fed nearly twice the amount of food." The money earned for Kansas by the Oklahoma convicts, the official observed, "ought certainly to enable the Institution to give better food and still make a reasonable profit."<sup>15</sup>

Kate Barnard's estimate of profits returned to Kansas by Oklahoma prisoners was conservative. Oklahoma still paid Kansas 40¢ per day for maintaining each of her prisoners. Estimating cost of maintenance at 48¢ per day and the value of each convict's labor at 50¢, she figured that each Oklahoman earned 42¢ daily for Kansas. Many of the Oklahoma prisoners labored in the mine, however, where an individual's labor was valued at more than \$1.00 per day. She acknowledged that her estimate might be inaccurate. "The real figures may be a few cents higher or lower; but certain it is that I found large numbers of the Oklahoma prisoners engaged in the very hardest kind of work."<sup>16</sup>

Miss Barnard condemned the contract labor system, objecting most stringently to the practice of allowing the contractor to establish the daily work quota for prisoners. She complained

that "all men are not equally skillful nor capable, so the inferior prisoner is pushed to the limit by fear of punishment, while the more capable ones fare much better." Convinced that the contract system had no place in a penitentiary, she observed that "it is the experience of every prison that where the contract system gets a foothold men are worked to the limit of endurance, and inability or failure on the part of the prisoner results in the most hideous system of punishment."<sup>17</sup>

The Oklahoma reformer's criticism of the coal mine was even more severe. Mining, in Kate Barnard's view, was a totally unsuitable occupation for convicts. She described the Lansing coal mine as unsafe, telling of "places where the props and supporters of the roof were bent under the weight of the dirt ceiling, and in places so very nearly broken in two that the wood was hanging together by mere shreds." Referring to incidents of violence and homosexuality, she alleged that "in the dark recesses of the mine some of the most revolting and unspeakable crimes have been committed." The system of assigning daily work quotas again came under attack. Convict miners did a daily "stunt," or quota, of three cars of coal each day, or about one and one-half tons. The fact that not all men were suited to such employment, the Oklahoman charged, "makes mining a hell inside prison gates for a man who has no other alternative than to go down to his black death cell every day or go to the dungeon and starve." Enforcement of the work quota system was, in the reformer's opinion, the major reason for the severe disciplinary measures at the prison.<sup>18</sup>

Miss Barnard became incensed when she discovered a young Oklahoma convict undergoing punishment in a dark cell. "I found one little seventeen year old boy--from Oklahoma--locked up in a black dungeon, shackled to a sprocket in the wall, because he was unable to extract from those inky depths, those three cars of coal!" The particular punishment she described consisted of handcuffing the delinquent inmate to the wall of a darkened cell, at a point approximately three and one-half feet above the floor. The unfortunate convict could move from side to side, but could not sit down. At night, a guard would release him to sleep on the floor of the cell.<sup>19</sup>

Before Kate Barnard described the more extreme forms of punishment used against the inmates, she pointedly quoted the Kansas law against corporal punishments. Punishment in the "dark cell" could be construed to fall within the outer limits of the law, but the statute was not elastic enough to legalize use of the dreaded "crib" or the infamous "water cure."<sup>20</sup>

Kate Barnard's description of the crib and its use as a medium for inflicting punishment is remarkably similar to that found in Carl Arnold's The Kansas Inferno. "I found in the hall of punishments something called the 'crib.' . . . they shackle the hands and feet of a man, draw them in a knot behind his back, then throw him into this 'crib' and lock the lid down. This punishment caused temporary paralysis to one prisoner." Inmates referred to the punishment as the "alakazan degree."<sup>21</sup>

Miss Barnard told of encounters in the coal mine with two convicts who complained to her of a punishment called the



"water hole." When she asked one of them what the water hole was, he answered, "Where they throw us in and pour water on us." Later, she asked Warden Haskell about the water hole. He answered, "there is no water hole." Actually, the "water hole" was simply a variation of the punishment described by John N. Reynolds in Twin Hells. According to later testimony the "water cure" had been revived by Warden Haskell as an alternative to the "alakazan degree." Instead of lashing the recipient to a post, however, Haskell's henchmen strapped him in the crib in a sitting position to receive the water.<sup>22</sup>

Miss Barnard charged that Warden Haskell had acknowledged participating in the water cure, when an Oklahoma prisoner testified in the warden's presence that "Haskell had thrown him into the 'crib' and strapped him down . . . and then ordered the guard to turn the garden hose on his nostrils and mouth until his lungs were filled with water almost to the point of suffocation." She condemned the water cure as a "cruel and inhuman and unnecessary punishment, and too obselete [sic] to be inflicted in a twentieth century Christian civilization."<sup>23</sup>

In concluding her report on the Kansas State Penitentiary, Kate Barnard charged that Warden Haskell was ignorant of many punishments administered by the guards. Recalling a discussion with Warden Haskell, she claimed that Haskell had told her that he considered guards who report the least number of men for punishment to have the best record. According to prison regulations, the deputy warden had to witness and record all punishments. Haskell's attitude on the matter, however, probably discouraged strict observance of the regulation.



"Now the guards know this," she concluded, "and they have fallen into the habit, some of them, of inflicting punishment without reporting, and of meting out this punishment according to their own crude standard of right and justice."<sup>24</sup>

Miss Barnard included an evaluation of the United States Penitentiary at Leavenworth in her First Annual Report. She praised Warden McClaughry lavishly, and commented on the comparative efficiency of his operation. "There are no implements of torture, no black dungeons, 'cribs,' or 'water holes' or other appliances for punishment such as belong to the Dark Ages," stated the reformer. She recommended that the Oklahoma convicts be transferred to the Federal penitentiary until Oklahoma could build its prison at McAlester, providing, of course, that approval could be obtained from the Federal Government. There are no indications that Governor Haskell or the Oklahoma legislature ever considered Kate Barnard's suggestion a viable alternative to the Lansing arrangement, or that the Federal Government would have been amenable to crowding 500 additional prisoners into its facility.<sup>25</sup>

On December 12, the story of Kate Barnard's charges appeared under headlines in the Topeka Capital. Governor Hoch was out of town when the news broke, but his son stated that the governor would probably appoint a committee to investigate the charges, and would undoubtedly invite Governor Haskell to do the same. Warden Haskell publicly denied the charges and demanded an immediate investigation.<sup>26</sup>

A public statement by Governor Haskell, published in the Kansas City Journal on December 14, indicated that he was

still conciliatory. The Oklahoma governor seemed genuinely embarrassed by the situation: "Now Kate would like to see the prisoners kept in rooms and fed and treated as if they were guests at the Waldorf Astoria. I have no doubt that she thought she saw those things about which she reported, but I am not inclined to give them much heavy thought." When asked what effect the affair would have on the Kansas-Oklahoma contract, Governor Haskell replied, "If we were to make a kick about the matter to the authorities at the Kansas penitentiary, we would undoubtedly be told to hush up or take our men away. That's what we ought to be told." He added, however, that Oklahoma would probably be able to take care of its own prisoners after the current contract expired on January 31, 1909.<sup>27</sup>

Upon his return to Topeka, Governor Hoch selected a committee to investigate Kate Barnard's charges, and on December 22 prepared a letter to Governor Haskell, requesting that he do likewise. The letter had an imperative quality, reflecting Hoch's feelings of urgency. "I ask you to appoint a committee of five to join with a similar number of gentlemen that I have selected to make this investigation and make it immediately." Hoch had no intention of allowing the scandal to extend into the administration of Walter R. Stubbs. "I go out of office on the 11th of next January," he informed the Oklahoma governor, "and I am exceedingly anxious to have this matter disposed of before that time." He requested that Haskell send him an official copy of Miss Barnard's allegations, and closed with an additional note of urgency: "I hope there may be no delay in this matter and that the earliest date possible may be set for this investigation."<sup>28</sup>

On the same day, perhaps as Hoch was preparing his own communication, Governor Haskell addressed a letter to Hoch. The Oklahoma Governor's conciliatory mood had vanished. "I felt, as I have on every occasion stated to the press, that there was nothing to warrant a communication from me," stated Haskell. "However, now in reading Miss Barnard's report, I have also had the report of one of our prison board, a prominent and careful state official, . . . who is now very decided in his belief that there are just grounds for criticism." On December 24, Governor Haskell sent a telegram to Hoch, acknowledging receipt of his letter, and agreeing to appoint an investigating committee.<sup>29</sup>

Had Governor Hoch been more alert he could have avoided the embarrassment that his administration was now facing. He knew of Carl Arnold, and was undoubtedly familiar with the contents of Kansas Inferno. Ira Terrill's visit at Topeka was another danger signal that went unheeded. Perhaps Hoch's insensitivity to the latter warnings can be excused, but he certainly should have pursued the Grigsby investigation to a definitive conclusion. Instead, he allowed the affair to be suppressed by a partisan committee from the legislature. Having had several opportunities to investigate and correct the situation at the penitentiary, he had only himself to blame. The situation was now beyond his control.

## Chapter 5

### THE JOINT INVESTIGATION

Under the circumstances, an investigation of the Kansas prison would have appeared to be a cover-up without Oklahoma's participation. Governor Haskell's consent to a joint inquiry was only the first step, however. The purpose of the undertaking, from Hoch's viewpoint, was to exonerate the penitentiary staff and the gubernatorial administration of negligence or wrong doing. To achieve that goal the inquiry would have to culminate in a timely report with Oklahoma investigators concurring in the rejection of Kate Barnard's charges. As the committees from the respective states took shape, it appeared that the joint endeavor might actually produce the result Hoch desired. In the end, however, the Kansas governor had to accept considerably less.

On December 25, Governor Haskell sent Hoch a telegram identifying the members of the Oklahoma committee. The list included Charles West, Oklahoma's attorney general; J. P. Connors, President of the State Board of Agriculture; E. J. Goulding, a state senator; George Cullen, a mine superintendent; and William H. Murray, Speaker of the Oklahoma House of Representatives. Haskell's selection of the powerful "Alfalfa Bill" Murray was encouraging to Hoch. As early as September, word had filtered to the Kansas governor via the Oklahoma

grapevine that Alfalfa Bill "would be glad to visit the penitentiary and make a report and reply to Miss Barnard through the Oklahoma papers."<sup>1</sup>

Murray, a firm believer in the Victorian concept of womanhood, thoroughly disapproved of Kate Barnard, and was determined to weaken her politically. At the constitutional convention he had vigorously opposed all that Miss Barnard stood for. Later, she aroused his anger when she used the floor of the Oklahoma House of Representatives to lobby for an increased appropriation for her department. Murray ordered her from the chamber and attempted to reduce the appropriation. He also refused to support a tough child labor bill proposed by the reformer. Kate Barnard retaliated at a convention of the State Federation of Labor in July 1908, when in an address she praised the legislature for passing labor statutes, but condemned Murray for his opposition. Members of the convention responded by labeling Murray an enemy of labor, and adopted a resolution pledging their "efforts and ballots to the end that he [Murray] shall be defeated for every political office he may aspire to." The Oklahoma speaker's appointment to the investigating body was good news to the Kansans.<sup>2</sup>

Hoch had taken great care in selecting his own investigators. The Kansas committee included F. D. Coburn, Secretary of the State Board of Agriculture; Dr. Samuel J. Crumbine, Secretary of the State Board of Health; Frank Gilday, State Mine Inspector; the Reverend Mr. Charles M. Sheldon, pastor of Topeka's Central Congregational Church; and Professor Frank W. Blackmar, University of Kansas sociologist. Hoch had achieved



a delicate balance. As Secretary of Agriculture, Coburn was politically powerful and a man upon whose absolute loyalty Hoch could depend. Dr. Crumbine, perhaps Kansas' most distinguished physician, had recently conducted a medical inspection of the penitentiary, and was unlikely to reverse his earlier findings. Similarly, Gilday had previously judged the prison's coal mine to be safe and in good repair. The latter officers were partisan allies of Hoch, but the inclusion of Sheldon and Blackmar made the group appear less political. The Topeka minister was the state's most respected clergyman, and a world-famous author whose works had given considerable impetus to the social gospel movement; the scholarly Blackmar was the acknowledged leader of penal reform forces in Kansas. All of these gentlemen, however, would prove willing to defend their state from an attack by outsiders.<sup>3</sup>

Hoch issued instructions to the Kansas investigators on December 29 at Topeka, directing full cooperation with the Oklahoma committee and an objective examination of Kate Barnard's charges. After receiving the governor's guidance, the committee organized, electing Coburn chairman and Blackmar secretary. The group met in joint session with the Oklahoma committee the following day at Lansing.<sup>4</sup>

Neither Kate Barnard nor Alfalfa Bill Murray accompanied the Oklahoma investigators to Lansing. Attorney General West, spokesman for the Oklahomans, offered no explanation for their absence. Much to their dismay, the Kansans later learned that Murray had resigned from the committee. Perhaps the influential Oklahoman disqualified himself because of his antipathy

toward Kate Barnard. The reason for Miss Barnard's absence became apparent as the investigation progressed.<sup>5</sup>

The first business undertaken by the joint committee was the election of officers. In an apparent gesture of good will, the Oklahomans agreed that Coburn and Blackmar, respectively, should be chairman and secretary of the joint body. Attorney General West then surprised the Kansans by requesting immediate adjournment, stating only that the Oklahoma members had to return home at once. Coburn objected strongly: "I came here with these other gentlemen as a representative of the Governor, as his agent, to make a thorough investigation and report our findings to him before his term of office expires, and I certainly object to any delay." He persuaded the Oklahomans to remain until 7:00 P. M. The investigators then divided into groups, and spent the remainder of the afternoon touring the penitentiary. Before adjourning, they agreed to resume the joint investigation on January 7. The Oklahomans reluctantly consented to Coburn's proposal that the Hoch committee be allowed to continue the investigation during their absence.<sup>6</sup>

The peculiar behavior of the Oklahoma committee can be explained in the light of subsequent events. Kate Barnard did not yet have the evidence she needed to support her charges. When the Oklahoma investigators journeyed to Lansing, she was busily collecting sworn affidavits from ex-convicts and arranging for transportation of witnesses. Governor Haskell understood Hoch's urgent need to complete the investigation, and was reluctant to request a postponement. The Oklahoma investigators, however, sought to provide the reformer time to assemble her

evidence. To avoid defaulting on their right to investigate, they came to Lansing for the opening session. Although the Oklahomans secured a delay through this roundabout method, they also left the Kansans latitude to pursue their own devious course of action.<sup>7</sup>

No longer able to rely on assistance from Alfalfa Bill Murray, and perhaps sensing the reasons for Oklahoma's delay, the Hoch committee decided to complete a unilateral investigation and report their findings to the governor before the Oklahomans returned. The Kansans continued in session well into the evening of December 20. On December 31, Gilday visited the coal mine, while the remaining investigators conducted a general inspection of the prison. That evening the committee met to consider the day's activities, and to decide on procedures for taking testimony from inmates the following day.<sup>8</sup>

Before beginning the hearing on January 1, the committee held a meeting with Warden Haskell in his office; there, they adopted the following resolution:

WHEREAS, The use of the structure known as the "crib," built by a prison administration many years ago, has been abandoned; and

WHEREAS, The so-called "water-cure" administered in this "crib" has been found unnecessary, and is obsolete in some of the best penal institutions in the country, and has already been discontinued by the prison administration here;

THEREFORE, We request the board of directors to destroy the appliances and paraphernalia pertaining to its use, including the "crib" itself, known among prisoners as the "water hole."<sup>9</sup>

The resolution seemed to be a deliberate decision to destroy potentially incriminating evidence before it could be examined by the Oklahomans. A short time later, the Hoch committee went to the prison yard, where they saw the two cribs thrown from a

window, smashed into pieces with axes, and burned.<sup>10</sup>

The committee probably intended the ceremonious destruction of the cribs to forestall the charges of whitewash which were bound to arise from their unilateral investigation. The event did capture headlines in many of the area newspapers, and probably convinced most of the reading public that the Kansas investigators were doing a proper job. Had the cribs been quietly disposed of, however, another problem might have been avoided. The New Year holiday and knowledge of the investigation had already created an atmosphere of excitement and anticipation among the inmates, and the destruction of those hated symbols of oppression caused jubilation that ultimately swelled to a rebellious level. Prisoners in the cell houses shouted all during the night, and on the morning of January 2 the Oklahoma convicts refused to enter the coal mine. Warden Haskell had to use his entire guard force to restore order.<sup>11</sup>

After witnessing destruction of the cribs, the Hoch committee heard testimony from inmates and members of the prison staff. At the outset, Warden Haskell promised the prisoners freedom from reprisal, but once they took the stand it became obvious to them that they were in a hostile forum. Fred S. Jackson, Hoch's attorney general, and Senator-elect J. T. Reed, who had represented Warden Haskell during the Grigsby affair, were on hand to assist with the questioning. Both attorneys discredited the inmates on the basis of their criminal backgrounds, and generally made them appear foolish.<sup>12</sup>

Carl Arnold, author of *The Kansas Inferno*, was among the convicts giving testimony. The convict-author had been pardoned



by Governor Hoch, and was awaiting release from Lansing. Reportedly, he won the governor's favor through a poem he had composed and mailed to him. On the stand, he complained that prison officials treated him unfairly after his authorship of Inferno became known. Arnold admitted that he had never worked in the coal mine or received punishment in the crib, both of which he had vividly described in his book. Although Arnold's descriptions were in fact accurate, Jackson and Reed exploited his admission. Area newspapers cooperated with the Hoch administration by portraying the convicts as awkward and bumbling in their testimony. The Kansas City Star described Arnold as inarticulate, and expressed doubts regarding his literary skills. The farce continued until 10:00 P. M.<sup>13</sup>

Because of Kate Barnard's unfavorable comparison of the Kansas State Penitentiary to the Federal prison at Leavenworth, the Hoch committee was obliged to visit that institution on the morning of January 2 to make its own assessment. After inquiring into procedures at the Federal prison and taking lunch with Warden McClaughrey, they returned to Lansing to finish the investigation. While Gilday and Attorney General Jackson, who had attached himself to the committee, inspected the contract industries, the remaining members assembled to discuss their findings. At the end of the afternoon, the investigators adjourned to prepare their respective portions of the report.<sup>14</sup>

On January 4 the Topeka Journal reported that the Hoch committee had completed its investigation, and quoted a spokesman for the state, who called the affair a "tempest in a teapot taken seriously by neither Kansas or Oklahoma." The investigators



met on January 6 to assemble their report to Governor Hoch. Blackmar had written a lengthy general statement, summarizing the committee's findings and recommendations. The completed report reached the governor's desk on January 8, the day after the Oklahoma investigators returned to resume the joint proceedings.<sup>15</sup>

When the joint committee reassembled at Lansing on January 7, the Kansans found their Oklahoma counterparts fully prepared for business. Governor Haskell had replaced Alfalfa Bill Murray with E. D. Cameron, State Superintendent of Education. Kate Barnard and her deputy, Mr. H. Huson, were present. Among the Kansans in attendance were J. T. Reed, acting as counsel for Warden Haskell; Dr. C. E. Grigsby, former prison physician; and Dr. E. J. Kanavel, the incumbent physician. The hearing opened in an atmosphere of tension, which left no doubt that the Oklahomans considered the matter serious indeed.<sup>16</sup>

After opening the joint session, Chairman Coburn informed the Oklahomans that the Kansas committee would submit a separate report to Governor Hoch, based on its unilateral investigation. Coburn invited the visitors to proceed independently, Attorney General West, still senior spokesman for the Oklahomans, angrily refused, demanding that the Kansans remain. The Hoch committee reluctantly agreed to stay until 3:00 P. M. on January 9. Coburn then asked West to state his plans for the inquiry. "No," retorted the Oklahoma official, "we of Oklahoma do not outline plans ahead of time, nor do we continue in session alone or prepare reports ahead of time." West then called Warden Haskell to the stand.<sup>17</sup>

The Oklahomans subjected Haskell to a lengthy interrogation. He acknowledged responsibility for all that happened at the penitentiary, but testified that the business operation of the prison occupied most of his time, and that Deputy Warden J. W. Dobson was directly in charge of security and discipline. When questioned about procedures in the coal mine, he defended the "task" system, but admitted that supervision was difficult.<sup>18</sup>

Haskell acknowledged that sodomy and related incidents occurred frequently. At this point the warden made a startling disclosure. When West asked Haskell how he dealt with sodomists and masturbators, he replied: "They were rung." The warden then described a minor surgical operation in which a brass ring was inserted through the foreskin of an offender's penis. Initially describing the procedure as a punishment, he later claimed that it was "more a remedy than a punishment," and added that circumcision was frequently employed for the same purpose. West then produced a copy of a speech that Haskell had delivered before the American Prison Congress at Richmond, Virginia in 1907, and asked that it be entered in the record.<sup>19</sup>

The text of Haskell's address indicated that he subscribed to eugenic theories. Eugenics was a pseudoscience which held that human potential could be improved through better breeding. The eugenics movement was gaining increasing influence in the medical profession and among custodial officials in prisons and asylums at the time. Many of its adherents advocated sterilization of habitual criminals and persons mentally defective. The warden's testimony confirmed the impression conveyed in his 1907 address: "My present opinion is that

propagation of the criminal and the insane and those who are dangerous to society should be restrained." There is no evidence, however, that sterilization had been performed at the Kansas prison up to that time. Haskell's statements interested the Oklahomans, but they reacted indecisively. Their reluctance to condemn "ringing" or Haskell's belief in eugenic theories can be explained by the growing influence of the eugenics movement and the prevailing belief that masturbation and other "secret vices" caused insanity.<sup>20</sup>

Oklahoma's case against the Kansas State Penitentiary centered on less debatable matters. Warden Haskell defended his theory that the most efficient guards reported the least number of convicts for disciplinary action. When West suggested that the warden's subordinates might inflict punishment without first reporting the case, and that punishments inflicted might not appear on prison records as the law required, Haskell stated that such could not happen, "because it would mean instant dismissal of any guard." His testimony convinced the Oklahomans that he knew little of how the inmates were actually treated.<sup>21</sup>

Many of the questions put to Haskell by the Oklahomans concerned the cribs, and West made no secret of his displeasure at their untimely destruction. The warden acknowledged that the water cure had been inflicted "25 or 30" times during his tenure, but described it as an innocuous procedure that merely made the victim uncomfortable. He vigorously denied that water was forced into the victim's mouth or nostrils. The water cure, according to the warden, had been abandoned the previous October. Haskell also testified that he had ordered the "alakazan"

discontinued shortly after becoming warden, and that to the best of his knowledge the agonizing punishment had not been inflicted since.<sup>22</sup>

Although Haskell initially denied that the deputy warden used convicts to inflict punishment on fellow inmates, his memory improved when West confronted him with the name "Joe Runnels." Haskell admitted that Runnels, who had been paroled from Lansing in 1906, might have inflicted punishment under the supervision of the physician and deputy warden while employed as an attendant in the ward for the criminally insane (better known as the "crank house"). When Haskell finally stepped down, West called Deputy Warden J. W. Dobson to the stand. Dobson's answers were vague, but he supported most of Haskell's testimony. J. T. Reed then called Kate Barnard as a witness.<sup>23</sup>

Miss Barnard's testimony extended into the morning of January 8. Reed failed in his attempt to intimidate and discredit his witness by questioning her credentials. He then challenged her to repeat her charges in the presence of the joint committee. She refused, stating that the charges had been committed to writing and forwarded to the Kansas administration. "I wouldn't say the same thing to you now as I did on that report," added Miss Barnard, "for the reason that investigation and affidavits that I have now [have] disclosed to me that things were worse than I thought they were at the time." Reed objected to the affidavits, claiming they were inadmissible because Kansas officials had not been afforded the opportunity to cross-examine the affiants. Nevertheless,



he asked to see the documents, and Kate Barnard read from several of them.<sup>24</sup>

Fourteen affidavits had been taken from former Lansing inmates. The documents described ordeals in the hole, the water cure, the alakazan, the mitts, and flogging. Some told of injuries and deaths resulting from extreme punishments. Bert Lewis, an ex-convict from Guthrie, certified that he had suffered punishment in the crib on two successive days in 1905. Lewis's second ordeal had been particularly painful: "This time a strap was put about my waist and my feet were drawn up and fastened to the belt. My hands were handcuffed in front of me and a strap passed through my arms so as to draw them tightly to my sides. I was insensible when removed." The victim claimed to have been taken to the hospital, where he spent two days before he could walk.<sup>25</sup>

An affiant named Martin Bates certified that he had twice received a unique punishment in the crib. After being strapped into the device in a sitting position, stated Bates, "my mouth was propped open by a wooden peg placed between the upper and lower teeth. Molasses was smeared about my mouth and nose and attracted a swarm of flies." Ira N. Terrill certified that an insane convict had died from intentional scalding at the hands of an inmate whose duty it was to administer punishment. Terrill failed, however, to specify when the alleged murder took place. Two affiants claimed that a man had died following successive punishments in the crib, but were unsure of the victim's name. One ventured that the man might have been called Ellis Dillon.



Warden Haskell dutifully produced records showing that no such man had been imprisoned at Lansing.<sup>26</sup>

One affidavit pertaining to the Grigsby affair had been taken nearly two years earlier from a former employee. G. A. Myers, who had served as superintendent of the twine plant from 1899 to 1906, certified that an inmate in his employ had received a series of beatings: "The third and last whipping was so severe that he was sent to the hospital for several days. He was black from the shoulders to the calves of his legs." Most of the documents implicated Deputy Warden Dobson and Dr. Grigsby, but because the more severe punishments were alleged to have occurred prior to Haskell's wardenship or during its early months, the affidavits added credence to the warden's contention that the shameful situation had been ameliorated.<sup>27</sup>

On the morning of January 8 Reed again assaulted the credentials of Kate Barnard. "I warn you gentlemen," she responded sharply, "that God is watching this trial and that He hears everything that is being said, and you men are responsible to Him. I serve notice on you that if necessary I will meet you before the Gates of heaven for a fair trial." Reed then asked her whether her deputy was an ex-convict, and she flared up a second time: "That question is an imposition and an insult. . . . The gentleman has a better education and more culture, I have no doubt sir, than you yourself." Mr. Huson, the deputy in question, then took the stand and testified that neither he nor any member of Miss Barnard's staff had been convicted of a crime. Kate Barnard then produced four witnesses--all of them former Lansing inmates.<sup>28</sup>

The star witness of January 8 was Joe Runnels, a fifty year old ex-policeman from Guthrie, who had been convicted of manslaughter in 1901. Runnels had served more than five years at Lansing before being paroled, in August 1906. During his incarceration, the Oklahoman had worked as an orderly in the crank house, under the supervision of Dr. Grigsby. Runnels testified that he had helped care for the insane prisoners, but that his principal duty had been to inflict punishment on inmates brought to him "from the mines or the shops." Speaking in a "low, persuasive voice," Runnels contradicted much of Haskell's and Dobson's testimony.<sup>29</sup>

Runnels confirmed Carl Arnold's descriptions of the mitts and the alakazan. Both, said the ex-convict, were exceedingly painful. When asked how the mitts hurt a victim, he replied, "It shut all their circulation off." The Oklahoman estimated that he had used the mitts more than fifty times while working in the crank house. He refused, however, to guess at the number of times he had inflicted the alakazan, simply stating that it was used as many as "three times a day." Prisoners undergoing the alakazan, said Runnels, would "beg and holler and cry to get out," and on several occasions "begged to be shot."<sup>30</sup>

West then asked the witness to describe the water cure. Runnels told of three variations of the ordeal. The first had been used only once during the Oklahoman's years in the crank house. Deputy Warden Dobson had ordered this imaginative punishment imposed on a female prisoner to break her silence. Dobson suspected the woman to be feigning insanity. "I put a gag in her mouth and ran a siphon down her throat," testified

Runnels, "and a fellow named Hacher stood upon a chair and poured water into her, and Mr. Dobson and I held her." The woman took two gallons of water before she began to talk. The second variation of the water cure simply consisted of using a stream of water from a fire hose to subdue violent convicts in their cells. The third method, which Runnels claimed to have administered as many as five times in a single day, was the ordeal known among prisoners as the "water hole."<sup>31</sup>

Both Haskell and Dobson had testified that water was never played on a victim's face for longer than one to three seconds, and that water was never forced into his mouth or nostrils. Runnels' description was quite different:

They put [the victims] in the crib [in a sitting position] with their back up against the crib . . . and put a strap across their legs and a strap around their chest, fastened their hands back and then [somebody] held their heads back. . . . Whenever the doctor would say let it go, we would let it go right into their face. . . . Whenever they went to open their mouth, they were filled full of water, and then they laid limp. . . . [Then we would] jerk them out of there and lay them down and beat them over the lungs.<sup>32</sup>

The Oklahoman testified that the stream of water, under "plenty" of pressure was sometimes held within five or six inches of the victims face, and that water was forced into his nostrils. He also told of flogging prisoners with a rubber hose: "I struck them about as hard as I could most of the time."<sup>33</sup>

Before Reed began his cross-examination of Runnels, Kate Barnard asked that the alakazan be deomonstrated: "If Deputy Warden Dobson will agree to lay on this table, will you [Runnels] show how this was done?" Although Runnels would have been happy to oblige, Dobson declined the invitation amidst laughter from

the spectators. Stung, Kate Barnard retorted: "Laughing! You Kansans are a disgrace to your state by your laughter." One of the ex-convicts agreed to act as a demonstrator, and Runnels shackled him in the painful position. Fearing injury, Miss Barnard ordered him released immediately, but not before she detected amusement on a spectator's face. "Stop that smiling," she commanded, "If I had the power I would force you to take a dose of this yourself." The gentleman addressed accused her of using her womanhood as a shield to allow her to insult men. The chairman had to restore order.<sup>34</sup>

Two of Kate Barnard's remaining witnesses were practicing physicians in Oklahoma. Dr. D. S. Ashby had been imprisoned at Lansing from 1900 to 1908. He told of suffering punishment in the crib at the hands of Dobson, Grigsby, and Joe Runnels in about 1904, and displayed scars on his wrists which he claimed to be a result of the alakazan. Dr. Gid Bresco, who had spent three months at Lansing in 1908 before being pardoned, testified that he heard beatings in progress in the crank house while working in the hospital, and told of treating injuries that he believed to have resulted from severe punishment. Dr. Kanavel, said Bresco, confirmed to him that floggings occurred frequently. The fourth witness, Frank Ellis, had been confined in the crank house due to epilepsy, and claimed to have witnessed floggings and punishments in the crib. Ellis had been released from prison before Haskell became warden. With the exception of Bresco, the witnesses supplied little evidence to contradict Haskell's claim that he had ameliorated the system of punishment.<sup>35</sup>



The events of January 9 were comparatively colorless.

Warden Haskell returned to the stand briefly, following which the Reverend Mr. J. D. McBrian, the prison chaplain, and a series of minor prison officials gave testimony. All had faulty memories, especially the chaplain, who claimed to know nothing whatsoever of procedures not involving religious services. Perhaps recalling his previous experience with J. T. Reed, and fearing another cross-examination by the skillful lawyer, Grigsby flatly refused to testify: "I am here in the interest of Dr. Grigsby [himself] and so long as there is nothing said but the truth Dr. Grigsby stays absolutely quiet and until such a time I refuse to be called." Grigsby had been implicated by all of Kate Barnard's witnesses, and in most of her affidavits, and his refusal to testify negatively corroborated their testimony.<sup>36</sup>

The hearings closed at 3:00 P. M., as scheduled, but the Oklahomans, far from satisfied, stated their intention to continue the investigation on February 2. All that the joint committee could agree upon was that the Oklahoma prisoners should be withdrawn from Lansing immediately. The Oklahoma committee departed Lansing in an atmosphere of ill feeling. In a public statement on January 11, Coburn alleged that the Oklahomans had been misled by ex-convicts who were attempting to retaliate against guards and prison officials "whose duty it had been to inflict punishment and enforce discipline for their persistent and flagrant violations of prison rules."<sup>37</sup>

As the joint committee adjourned on January 9, newspapers carrying Governor Hoch's reaction to the unilateral report of the Kansas committee were being distributed. Hoch expressed pleasure



concerning the work of his investigators. "I am greatly gratified, though not at all surprised at the report of the committee. . . . [Warden Haskell] has accomplished wonderful results in the institution and this report will be received by the people of this state as conclusive evidence on the subject." The Kansas investigators, however, had done a remarkable job of fence straddling. The committee found the charges of Kate Barnard "except in minor details . . . not sustained by [their] investigation," and exonerated Haskell and his subordinates. Their list of eighteen recommendations for improvements, however, appeared to sustain all of the allegations made by the Oklahoma official.<sup>38</sup>

In his general statement, Blackmar bitterly criticized the system of profiteering and political exploitation at the penitentiary; in fact, he outdid Kate Barnard in his vituperation. "What form of justice is it that forces a part of the people who have gone wrong to support the other part?" . . . The civilized world has outgrown the practices of chattel slavery and traffic in human beings for gain outside of the Penitentiary." Then he added: "Let Kansas stop it within the Penitentiary, for the sake of humanity."<sup>39</sup>

Several of the Hoch Committee's recommendations struck at the heart of the penitentiary's industrial operation. The investigators advised that the contract labor system should be abolished, that men selected to mine coal should be more carefully screened, that the demand for coal to support state institutions should be diminished, and that the ten hour work day should be reduced to eight. Other recommendations asked that the institution be removed from political control, that the penitentiary

and reformatory be placed under jurisdiction of the State Board of Control, and that civil service rules be revised to upgrade the quality of prison employees. The remaining substantive recommendations concerned diet, health, and sanitation deficiencies that went beyond those mentioned by Kate Barnard. After adjournment of the joint investigation on January 9, the Hoch committee met a final time and adopted a resolution condemning the crib, water cure, and the alakazan. They forwarded the document to Hoch as an addendum to their report. William Allen White summed up the situation accurately in an editorial comment in his Emporia Gazette: "The substance of the report on the penitentiary is to the effect that the warden hasn't done anything to be ashamed of, but he shouldn't do it again."<sup>40</sup>

As they departed Lansing on January 9, the Oklahomans did not realize that the joint investigation was over. When Governor Stubbs took office on January 11, he refused to reappoint the Hoch committee, and declared the investigation at an end. The Oklahoma committee completed its report based on the hearings of January 7 to 9, forwarding the document to Governor Haskell on March 1.<sup>41</sup>

Taking the report of the Hoch committee into consideration, the Oklahomans concluded that the Kansans were "as thoroughly convinced as [themselves] of the entire justification, in substance at least, of Miss Barnard's charges." The investigators credited Warden Haskell with "reducing the severity of discipline and punishment," but concluded that his "lack of zeal in learning his business" caused him simply to "follow in the path of his predecessors." They condemned him, however, for

allowing corporal punishments to be inflicted in clear violation of Kansas law. The Oklahomans decided that Dobson had been clearly guilty of criminal acts. The deputy warden, however, died before the report was completed. In their condemnation of the brutal punishments inflicted at the Kansas prison, the Oklahomans excluded "ringing" and circumcision, which they held to be "debatable." Other conclusions fit neatly with Blackmar's comments and the Hoch committee's recommendations.<sup>42</sup>

On January 31, the expiration date of the Kansas-Oklahoma penal contract, the last of the Oklahoma prisoners boarded a special train at Lansing. Many of the convicts went to McAlester, where they helped build the Oklahoma penitentiary, while those remaining were distributed amongst county jails throughout the states. Removal of the Oklahoma convicts eliminated overcrowding, and eased implementation of several Hoch committee recommendations. The scandal itself had raised public consciousness, and created public attitudes favorable to reform. It remained for the new governor and legislature to take the initiative.<sup>43</sup>

## Chapter 6

### PENAL REFORM IN KANSAS, 1909-1917

By 1915, Frank W. Blackmar's dream of a non-political prison had become a near reality. Although the legislature of 1909 passed no significant penal reform measures, subsequent law-making bodies moved decisively in that direction. Much of this progress was undone by the administration of Arthur Capper, however, as conservatism began to reassert itself in Kansas politics after 1915. In the meantime, the governor and the prison administration took action to improve the situation at Lansing.

The first casualty of the penitentiary scandal was the contract labor system. Sensing during the early days of January that the time was right to renew their agitation against the contract system, labor unions threatened to demonstrate against continuation of the Oklahoma penal contract. The union leaders correctly perceived that if the Oklahomans were removed, the resulting labor shortage would probably force the state to cancel its labor contracts with private manufacturers operating at the penitentiary. Whether the threats of the unionists had a decisive influence on the decision to abandon the contract labor system at Lansing, however, cannot be determined.<sup>1</sup>

On January 16 Governor Stubbs met with Warden Haskell and the penitentiary board of directors to discuss the impact

that removal of Oklahoma's convicts would have on Lansing industries. Since all contracts with private manufacturers were due to expire during 1909, the governor decided to abandon the contract system; no labor contracts would be renewed. Prison officials predicted that the impending labor shortage would force cut-backs in state-operated industries as well. Haskell cautioned Stubbs that the state might have to buy some of its coal from the private sector.<sup>2</sup>

Warden Haskell stayed at his Lansing post until June 1909, when, for obscure reasons, he suddenly resigned. Newsmen speculated that the governor might have requested his resignation because of certain "irregularities" in penitentiary business operations. Stubbs appointed Julius K. Coddington, former state senator and temperance leader, to the wardenship. In spite of his apparent lack of qualifications for the position, Coddington turned out to be one of Lansing's better wardens.<sup>3</sup>

Warden Coddington made the Kansas prison a better place for convicts to live and work. He began by refurbishing the kitchen and dining hall, and improving the menu in quantity, quality, and preparation. At the same time, he cleaned up the vermin-infested cell houses. Conditions in the ward for the criminally insane distressed and embarrassed him, and he moved quickly to correct the situation. He renovated the dingy crank house, and established a small congregate dining room. Mentally disturbed inmates, who had previously been served only two meals daily, and these in their cells, now received "three meals of good, wholesome, well-cooked food," and enjoyed a daily program of



outdoor exercise. Within a short time, boasted Coddington, "twelve of the twenty-two inmates of this place went back to their cells and work. . . . the 'crank house' is no longer a place of prison horror, but a place where the broken down prisoner is rebuilt and almost always restored to the ranks." With Coddington's backing, the mine superintendent made a series of improvements affecting the safety and sanitation of the mine, and initiated a comprehensive maintenance program.<sup>4</sup>

The new warden also implemented disciplinary reforms. Shortly after assuming his post, Coddington organized an experimental recreation program, allowing the prisoners yard privileges for thirty minutes following the noon meal on weekdays and for extended periods on Saturdays and Sundays. During recreation time, convicts participated in games and could converse freely. After a year's trial, Coddington reported satisfactory results. Yard privileges could be withdrawn for disciplinary infractions. The more severe punishments still included solitary confinement and the dark cell, but Coddington seldom used the latter. From the standpoint of internal reform, Julius Coddington's four year wardenship was highly successful. Medical statistics reflected a fifty percent decline in injury and disease. Although withdrawal of the Oklahoma prisoners ended overcrowding and promoted more healthful conditions, Coddington's improvements are due some of the credit.<sup>5</sup>

Departure of the Oklahoma convicts had its anticipated negative impact on prison earnings. Penitentiary financial statements issued in 1910 and 1912 indicate deficits totalling more than \$170,000 for the four year period. In the wake of

the scandal of 1908-1909, however, profits and losses were of considerably less importance to politicians and voters. Kansans wanted assurance that the conditions cited by the Hoch committee were being corrected.<sup>6</sup>

In 1910 Governor Stubbs appointed a commission consisting of Frank W. Blackmar, William Allen White, H. J. Waters, and Foster D. Coburn to inspect the penitentiary and report to him. The commission found that conditions had been improved, and commented on the "change in the spirit of prison discipline." They agreed with Coddington's observation that the physical plant of the prison was badly in need of renovation, but advised him to defer expenditures for makeshift improvements pending appropriation of funds for major rebuilding.<sup>7</sup>

Warden Coddington was more than an efficient manager. He also became an enthusiastic student of reformatory penology and a productive member of the Kansas Conference of Charities and Corrections (KCCC). At the annual sessions of the KCCC he delivered a series of lectures which indicated scholarly insight to his work as well as reforming zeal. Although a political appointee himself, he unabashedly condemned political influence in public institutions, and expressed dissatisfaction at the uncertain tenure of penitentiary wardens. For his part, he operated Lansing on a non-political basis, adopting a rigid interpretation of the flexible civil service law. He hired guards and staff members only after the prospective employees had proven themselves during a thirty day trial period. Before he left office in July 1913, he stated his conviction that the single obstacle blocking Lansing's progress was the antiquated physical plant.<sup>8</sup>

In 1913 George H. Hodges became the second Democrat to hold the Kansas Governorship, having defeated Arthur Capper, the Republican candidate, by twenty-nine votes in the closest gubernatorial race in the history of Kansas. When Coddington's term as warden expired on June 30, Hodges replaced him with Jeremiah D. Botkin, former Congressman-at-large and perennial candidate for public office. While Coddington and Botkin grappled with the problems of the Kansas prison, reformers continued to agitate for progressive legislation affecting the state institutions.<sup>9</sup>

The KCCC brought together an assortment of reformers, officials, and interested citizens, who frequently disagreed on issues and solutions. One issue causing internal squabbles was the question of caring for the criminally insane and those persons adjudged to be "dangerously" insane, but who had not been convicted of a felony. According to long-standing policy, Lansing convicts showing evidence of severe mental disorder were transferred to one of the mental hospitals, while the lesser afflicted remained at the prison in the crank house. Officials in the mental hospitals resisted this practice, basing their objection most often on the impropriety of confining convicted felons with "decent citizens." The mental institutions also cared for persons adjudged "dangerously" insane, but would have preferred to reverse the process, transferring the latter category to Lansing.<sup>10</sup>

In 1910, after considerable discussion, the KCCC resolved that "some special provision should be made for segregating the criminal insane from among the patients of the state hospitals."

The legislature of 1911 obliged by creating the State Asylum for the Dangerous Insane at the Kansas State Penitentiary, but failed to appropriate funds for construction and maintenance of the facility. Coddington immediately began to receive inmates from mental institutions throughout the state. The renovated crank house suddenly became an overcrowded "snake pit," and Coddington had to make wholesale adjustments in billeting arrangements.<sup>11</sup>

Other legislation had a more salutary effect on the penitentiary. In delayed response to the Hoch committee's recommendations, the legislature of 1911 passed a statute that helped to remove the prison from political influence. The act abolished the board of directors of the penitentiary and the managers of the industrial reformatory, replacing them with the State Board of Penal Institutions, which would govern both facilities beginning July 1, 1911. Although all members of the board were gubernatorial appointees, the law explicitly stated that not more than two of the three man body could be of the same political party and that no member could be removed prior to expiration of his appointment without just cause. Blackmar and associates had been seeking such a statute since the early 1890's.<sup>12</sup>

Another issue causing disagreement among reformers and institutional officials was eugenics. Kansas had a precedent for sterilization of defectives; in fact, "asexualization" had been pioneered at the Kansas State Home for the Feeble-Minded during the mid-nineties by Dr. Hoyt F. Pilcher, superintendent of the institution. Pilcher castrated forty-four boys and



sterilized fourteen girls before public opinion and the absence of legal sanction forced him to stop. In the light of convincing observational studies, most reformers agreed that feeble-mindedness was probably hereditary, but many firmly believed that criminality was not an inherited characteristic. Members of the KCCC discussed the issue during their annual sessions of 1909 and 1910, but came to no conclusion. Frank W. Blackmar, a confirmed eugenicist himself, swung the balance in 1911. In an address entitled "Nature and Nurture" he endorsed sterilization as a means of controlling both mental deficiency and criminality. The KCCC responded to his persuasive lecture by passing a resolution calling for "vasectomy as a practical remedy for the suppression of criminality and defectiveness."<sup>13</sup>

The legislature of 1913 again demonstrated its willingness to cooperate with the reformers by passing a statute authorizing sterilization of "any inmate or inmates [who] would produce children with an inherited tendency to crime, insanity, epilepsy [sic], idiocy, or imbecility," providing that the district court by which the individual had been committed made the final decision. The law required that the operation be accomplished in a "safe and humane manner." Governor Hodges refused to sign the bill, but allowed it to become a law.<sup>14</sup>

Members of the KCCC were not uniformly pleased with the sterilization law. In an opening address at the annual session of 1913, Judge W. F. Schoch chastised the members for their hasty adoption of the sterilization resolution: "Legislation which is ill-considered and ill-advised does more to prevent material progress than all other causes combined." Continuing,



Schoch pointed out that "no effort has been made to enforce the law," and predicted that no effort would be made. No sterilization operations were recorded at the Kansas State Penitentiary during the period covered by this study.<sup>15</sup>

Two other acts by the 1913 Legislators were also of importance to the reformers. At the behest of Blackmar and Coddington, the KCCC adopted a resolution asking that the niggardly three and one-half cent wage paid Lansing prisoners be raised substantially, and that a fund be established to furnish assistance to the dependents of convicts. The lawmakers complied, setting the minimum daily wage at ten cents, and authorizing the warden to pay deserving convicts as much as twenty-five cents. The law required that the money be distributed to the dependents of inmates on a monthly basis, or, in the case of those without dependents, held until release. The second important statute replaced the two year old Board of Penal Institutions with the State Board of Corrections. The new board would function in the same manner as its predecessor, but its span of control was increased to include the state industrial schools for girls and boys. The law retained the bi-partisan provisions of the act of 1911.<sup>16</sup>

In 1914 Governor Hodges commissioned Blackmar to inspect the penitentiary. The reformer made his evaluation of conditions at Lansing with regard to the report of the Hoch committee. Because of the "peculiar circumstances" prevailing during the latter investigation, he acknowledged, "the report [of the Hoch committee] was rather more conservative than it might otherwise have been." Concerning the committee's eighteen recommendations,

Blackmar reported that seven had been adopted or acted upon, five showed some improvement or had been acted upon in part, and six had not been acted upon. None of the conditions or situations cited in the latter category could have been remedied by the warden without legislative action. Blackmar expressed disappointment that the dark cell was still a standard method of punishment, and condemned the overcrowded facility for the dangerous insane, where forty-seven inmates were crowded into twenty-three cells. The core of his report, however, dealt with the prison's antiquated physical plant.<sup>17</sup>

The ancient facilities, in Blackmar's opinion, constituted an insurmountable obstacle to efficient management. A new prison, or major renovation of the existing structure, were the only solutions. He recommended that Governor Hodges appoint a commission to study the situation. Hodges complied, selecting Blackmar himself to head a four man commission which included former wardens W. H. Haskell and R. W. McClaughry. The commission returned a recommendation that the old structure be thoroughly renovated, with new facilities added to accommodate tuberculosis patients and the dangerous insane. The estimated cost totalled \$350,000. Hodges promised to refer the matter to the legislature of 1915. The governor could not keep his promise, however, for the Republicans returned to power in January 1915. Arthur Capper, disciple of economy and efficient management, won the post he had so narrowly lost in the previous election by an overwhelming plurality. The legislature considered the proposed renovation of the prison, but refused to appropriate funds for the project.<sup>18</sup>

Blackmar was bitterly disappointed at the failure of the penitentiary bill, but another enactment assuaged his feelings. The legislators passed a law creating the Civil Service Commission, and strengthening civil service regulations. The statute established centralized control, required competitive testing for all classified positions, and included additional safeguards to prevent manipulation of employees by politically appointed overlords. A "grandfather clause," however, exempted employees already on the job from testing, and brought them under the wing of the new commission. At this point, Blackmar was as close as he would come to realizing his original goals for the penitentiary, for after 1915 Kansas politics began to swing back to the right.<sup>19</sup>

During his campaign for the governorship, Capper had resolved to raise the standards of managerial efficiency in Kansas government. When he finally moved to the statehouse, however, he found that he was unable to exert significant influence over the various executive departments and the state institutional bureaucracy. The highest ranking officials held elective offices, and directed their allegiance to their constituents rather than the governor. Many of the appointive positions, on the other hand, had been filled by his predecessor for definite terms of office, and incumbents could not be removed except for cause. According to Capper's biographer, the situation frustrated him, and he set out to do something about it. An incident involving the penitentiary provided him the opportunity.<sup>20</sup>

In July 1915 a former Lansing employee brought charges of inefficiency, misconduct in office, and inattention to duty

against Warden Botkin. In contrast to Hoch's handling of the Grigsby affair in 1907, Capper immediately suspended the warden and ordered an investigation. In September the investigators reported that the warden was guilty of eleven specifications of the offenses charged. Capper quickly removed Botkin from office. He then asserted his control over the State Board of Corrections, reprimanding the members for allowing the conditions which caused Botkin's removal to develop.<sup>21</sup>

On September 17, Capper appointed Julius Coddington to his second term as warden. Coddington was pleased to return to Lansing, and he applied himself to his duties with characteristic vigor. His interest in reform had remained strong during his two year absence, and he had continued as an active member of the KCCC. In 1916 Coddington reported that he had established an effective convict grading system, and that he had relieved the problem of housing the dangerous insane, who now numbered sixty-two, by transferring the female prisoners to a farmhouse on penitentiary property and moving the insane **convicts to the more spacious** women's ward. He applauded the law establishing the Civil Service Commission an "important forward step . . . towards getting the Penitentiary out of politics and politics out of the Penitentiary," but expressed dissatisfaction with the grandfather clause. "This section of the law makes it impossible to get rid of the inefficient, drunken, worthless officers on the force when I assumed the wardenship. Not until they had allowed escapes



of prisoners, incited mutiny, became drunk, or committed other acts of inefficiency could they be removed." Coddington also prodded the legislature for appropriation of funds to begin renovation of the cell houses: "If the legislature would appropriate . . . \$10,000 per year for the next four years the cell-house problem could be taken care of without any further cost to the taxpayers.\* The legislature of 1917 responded by appropriating \$10,000 and committing an additional \$10,000 to be expended in 1919.<sup>22</sup>

The era of progressive politics in Kansas, however, had already ended. Statutes enacted by progressive Kansas legislatures had not entirely dismantled the spoils system in penal institutions, but by creating a bi-partisan board to govern the facilities had effectively removed them from direct political influence emanating from the governor's office. At the same time, the law creating the Civil Service Commission placed state employees outside political obligation and made it increasingly difficult for unscrupulous politicians to plunder the institutions. The legislators of 1917 saw things differently than had their predecessors of the previous decade, and moved decisively to help Arthur Capper relieve his frustrated managerial ambitions.<sup>23</sup>

In March 1917, the legislature enacted a law creating the State Board of Administration. The statute brought twenty Kansas educational, correctional, and charitable institutions under control of a four man board, chaired by the governor, and abolished all boards of regents, trustees, managers or directors formerly charged with supervision of the various facilities.



The act contained no bi-partisan provision, simply stating that the governor would select the remaining three members "without reference to party politics and because of their fitness for the duties of the office." Edward W. Hoch was among Capper's initial three appointees.<sup>24</sup>

Capper's move into the field of institutional management was motivated by his belief in efficiency and economy, rather than a desire to use the institutions for political advantage. He disliked the spoils system, and the Board of Administration eliminated many positions previously used for patronage. Capper himself had signed the civil service commission bill into law, and did nothing to weaken its provisions. Nevertheless, reformers considered the State Board of Administration to be a severe reversal.

## CONCLUSION

During the building phase of the Kansas State Penitentiary's development, the profit motive contributed to progress and organizational stability. Recognizing that construction of the penitentiary would have to be completed and industries developed before the institution could produce profits for the state, Kansas officials secured an efficient warden and kept him on the job. By 1882, only fifteen years after it opened, the penitentiary was complete and self-supporting, and held a position of leadership among prisons west of the Mississippi.

When politicians began using official positions on the penitentiary staff for patronage during the mid-eighties, they also discovered that the institution's financial reports could be used to help achieve political goals. The profit motive now became a negative factor, as a succession of political wardens concentrated on making a good financial showing and neglected other important aspects of prison management. The profit motive also accounts for the willingness of Kansas officials to accept convicts from Oklahoma Territory after 1890. The number of Oklahomans ultimately swelled to over 500, and the prison became seriously overcrowded. Prison industries expanded due to the increased population, however, and the Kansas treasury welcomed the increased industrial earnings as well as the prisoner maintenance fees paid by Oklahoma.

The brutal system of punishments that developed during the exploitation phase also relates to the profit motive and

inept management by political wardens. Testimony by former inmates and others during the investigations of 1908-09 indicates that punishment was used most often against violators of rules associated with prison industries, and that the warden was too preoccupied with the business affairs of the institution to effectively supervise administrative and disciplinary procedures.

The departure of the Oklahoma prisoners in January 1909 ended overcrowding and the controversial contract labor system. Moreover, the scandal had awakened the public to the shameful conditions at the penitentiary. Kansas reformers, whose recommendations had previously been ignored, secured legislation which helped to neutralize political influence at the prison. Penitentiary wardens and staff members now shifted their emphasis from profit-making to the neglected aspects of prison management.

Although the wardenship continued to be an appointive position, and therefore subject to use as patronage, governors used restraint. Upon returning to Lansing in 1915 after the Botkin interlude, Warden Coddington enjoyed unbroken tenure extending into the 1920's. Before 1917 most of the deficiencies and malpractices that characterized the days of patronage and profits had been corrected.

## NOTES

### Abbreviations

KBL	Kansas Bureau of Labor and Industry
KCCC	Kansas Conference of Charities and Correction
KSBH	Kansas State Board of Health
KSHS	Kansas State Historical Society
KSIR	Kansas State Industrial Reformatory
KSP	Kansas State Penitentiary
ODCC	Oklahoma Department of Charities and Corrections
SBC	State Board of Corrections
SBPI	State Board of Penal Institutions

### Introduction

<sup>1</sup>For a comprehensive overview of the development of charitable and correctional institutions from the 1830's to the Civil War see David J. Rothman, The Discovery of the Asylum: Social Order and Disorder in America (Boston: Little, Brown and Company, 1971). See also Blake McKelvey, American Prisons: A Study in American Social History (Chicago: University of Chicago Press, 1936), pp. 1-47.

<sup>2</sup>McKelvey, pp. 8-9, 38-41.

<sup>3</sup>J. P. Byers, "Prison Labor" Prison Reform, ed. Corrine Bacon (New York: H. W. Winslow, 1917), pp. 174-179. See also McKelvey, pp. 7, 88-89.

<sup>4</sup>Byers, pp. 174-179.

<sup>5</sup>Ibid. See also McKelvey pp. 59, 93-125.

<sup>6</sup>McKelvey, pp. 173-189. The application of the lease system in one southern state is the subject of Mark T. Carlton, Politics and Punishment: The History of the Louisiana State Penal System (Baton Rouge: Louisiana State University Press, 1971).

<sup>7</sup>McKelvey, pp. 190-205.

<sup>8</sup>Ibid., pp. 82-83, 195-196. The shameful conditions at Nebraska's Lancaster penitentiary resulted at least in part from lack of employment for convicts.

## Chapter 1

<sup>1</sup>Biennial Report, KSP, 1881-1882, pp. 9-12. See also McKelvey, p. 82. McKelvey is mistaken in his assertion that the population of the Kansas prison exceeded capacity by 100 when building was completed. Time references (year) in this study are made with regard to fiscal rather than calendar year. Prior to 1876 the fiscal year in Kansas ended on November 30; after 1876 on June 30.

<sup>2</sup>Biennial Report, KSP, 1881-1882, pp. 7-8. See also Annual Report, KSP 1869, pp. 11-15.

<sup>3</sup>Biennial Report, KSP, 1881-1882, pp. 20-22, 35, 36.

<sup>4</sup>Annual Report, KSP, 1863, pp. 3-5, 7-8. See also Biennial Report, KSP, 1879-1880, pp. 38a-38c; and Speech by Warden Henry Hopkins, KSHS Library, Kansas Editorial and Publishers Association Clippings, vol. 2, 1880-82, pp. 42-43.

<sup>5</sup>Annual Report, KSP, 1867, pp. 7, 12-14, 22-23. See also Annual Report, KSP, 1868. pp. 13-14.

<sup>6</sup>General Statutes of Kansas, 1868, Chapter 77, pp. 608-609.

<sup>7</sup>Annual Report, KSP, 1867, pp. 7, 12-14, 18-19.

<sup>8</sup>Ibid., 18-19, 21. See also Annual Report, KSP, 1868, pp. 5-6, 13-14.

<sup>9</sup>Annual Report, KSP, 1867, pp. 13-15.

<sup>10</sup>KSHS Library, Biographical data form of Henry Hopkins, Document number K BB K13, Part 8H. See also The Topeka Daily Capital, December 21, 1883, p. 3, col. 1.

<sup>11</sup>Annual Report, KSP, 1871, pp. 4-5.

<sup>12</sup>Annual Report, KSP, 1872, pp. 3-4.

<sup>13</sup>Annual Report, KSP, 1873, pp. 4-6. See also KSHS Library, Clipping, Weekly Gazette, December 27, 1879, KSP Clippings, vol. 1, p. 17.

<sup>14</sup>Annual Report, KSP, 1873, pp. 15-16. See also Annual Report, KSP, 1874. p. 6.



<sup>15</sup>Biennial Report, KSP, 1879-1880, p. 20. See also Biennial Report, KSP, 1881-1882, pp. 20-21.

<sup>16</sup>Introduction, pp. 3-5.

<sup>17</sup>Ibid.

<sup>18</sup>Biennial Report, KSP, 1879-1880, pp. 5-12, 15-21.

<sup>19</sup>Annual Report, KSP, 1874, p. 13. See also Biennial Report, KSP, 1877-1878, pp. 15-21.

<sup>20</sup>Annual Report, KSP, 1871, pp. 15-16. See also Rothman, pp. 105-106.

<sup>21</sup>Annual Report, KSP, 1875, pp. 10-21, 107-108. See also Annual Report, KSP, 1873, pp. 12-13; and Annual Report, KSP, 1872, p. 4; and General Statutes of Kansas, 1868, Ch. 77, p. 617.

<sup>23</sup>Biennial Report, KSP, 1881-1882, pp. 39-42.

<sup>24</sup>Biennial Report, KSP, 1879-1880, pp. 5-12.

<sup>25</sup>Biennial Report, KSP, 1881-1882, p. 10. See also Biographical data form of Henry Hopkins, op. cit.; and William F. Zornow, Kansas: A History of the Jayhawk State (Norman: University of Oklahoma Press, 1957), pp. 192-193; and The Topeka Daily Capital, December 21, 1883, p. 3, col. 1.

<sup>26</sup>The Topeka Daily Capital, December 21, 1883, p. 3, col. 1.

## Chapter 2

<sup>1</sup>McKelvey, pp. 82-83. See also Blackmar, Frank W., "Penology in Kansas," Kansas University Quarterly, 4th ser., I (April, 1893), 156-160.

<sup>2</sup>Biennial Report, KSP, 1883-1884, p. 5.

<sup>3</sup>Clipping, The Topeka Daily Capital, February 24, 1885, KSHS Library, KSP Clippings, vol. 1, p. 26.

<sup>4</sup>Biennial Report, KSP, 1885-1886, pp. 4-5. See also Biennial Report, KSP, 1887-1888, pp. 4-5; and Helen Jones Thomas, "The Sore That Feeds Lansing," Kansas Magazine, II (September 1909), 223-224.

<sup>5</sup>McKelvey, pp. 126-129.

<sup>6</sup>Tables of Earnings and Expenditures in Biennial Report, KSP, 1883-1884--1907-1908.

<sup>7</sup>Tables of Earnings and Expenditures in Biennial Report, KSP, 1883-1884--1889-1890.

<sup>8</sup>Biennial Report, 1883-1884, pp. 13-15. See also Biennial Report, KSP, 1889-1890, p. 15; and Biennial Report, KSP, 1897-1898, p. 14.

<sup>9</sup>Annual Report, KSP, 1866, p. 5. See also Inmate Recapitulation Tables in Annual Report, KSP, 1871--1876, and Biennial Report, KSP, 1877-1878--1895-1896.

<sup>10</sup>Biennial Report, KSP, 1891-1892, p. 9. See also Biennial Report, KSP, 1899-1900, p. 12; and Biennial Report, 1897-1898, p. 14.

<sup>11</sup>Annual Report, KSP, 1895-1896, p. 10. See also Biennial Report, KSIR, 1896, pp. 8-9; and Biennial Report, KSP 1889-1890, p. 15; and Biennial Report, KSP, 1899-1900, p. 22.

<sup>12</sup>Tables of Earnings and Expenditures in Biennial Report, KSP, 1891-1892--1899-1900. In 1890 Lansing officials started including the value of labor expended on permanent improvements at the penitentiary in their financial reports.

<sup>13</sup>Biennial Report, KSP, 1895-1896, pp. 8-12. See also Biennial Report, KSP, 1893-1894, pp. 9-10; and Biennial Report, KSP, 1897-1898, pp. 16-17.

<sup>14</sup>Tables of Earnings and Expenditures in Biennial Report, KSP, 1891-1892--1899-1900. See also Biennial Report, KSP, 1891-1892, p. 8; and Biennial Report, KSP, 1897-1898, pp. 12-13, 15, 54-61; and Biennial Report, KSP, 1899-1900, pp. 14-19.

<sup>15</sup>Zornow, pp. 200-201.

<sup>16</sup>Clippings, The New Era, August 4, 1894, and Sunday Sun, June 17, 1894, KSHS Library, KSP Clippings, vol. 1, pp. 55-66.

<sup>17</sup>Clipping, The Topeka Daily Capital, June 17, 1894, KSHS Library, KSP Clippings, vol. 1, p. 66.

<sup>18</sup>Ibid.

<sup>19</sup>Biennial Report, KSP, 1893-1894. pp. 9, 15.

<sup>20</sup>Biennial Report, KSP, 1895-1896, pp. 3-4.

<sup>21</sup>Zornow, pp. 203-204. See also Biennial Report, KSP 1897-1898, pp. 5-17.

<sup>22</sup>Biennial Report, KSP, 1899-1900, pp. 3, 17. See also Biennial Report, KSP, 1901-1902, pp. 2-3.

<sup>23</sup>Biennial Report, KSP, 1901-1902, pp. 2-3. See also Biennial Report, KSP, 1903-1904, pp. 2-3; and Session Laws of Kansas, 1899, pp. 351-352.

<sup>24</sup>Biennial Report, KSP, 1899-1900, pp. 14, 20. See also Biennial Report, KSP, 1901-1902, pp. 16-19; and Biennial Report, KSP, 1903-1904, pp. 11-12.

<sup>25</sup>Biennial Report, KSP, 1901-1902, pp. 21-24.

<sup>26</sup>Ibid. See also Biennial Report, KSP, 1899-1900, pp. 15-17; and Biennial Report, KSP, 1903-1904, pp. 3-4, 11, 23; and Biennial Report, KSP, 1905-1906, pp. 5, 7.

<sup>27</sup>Zornow, pp. 210-215.

<sup>28</sup>Biennial Report, KSP, 1905-1906, pp. 5, 7.

<sup>29</sup>Biennial Report, KSP, 1905-1906, p. 52. See also Biennial Report, KSP, 1907-1908, pp. 56-57; and Biennial Report, KSP, 1897-1898, p. 14.

<sup>30</sup>Clipping, The Topeka Capital, July 13, 1906, in KSHS Library, KSP Clippings, vol. 1, p. 74a.

<sup>31</sup>Biennial Report, KSP, 1907-1908, pp. 5, 13, 15.

### Chapter 3

<sup>1</sup>C. H. Musinger and Joseph C. Martin, "An Address to the Workingmen of Kansas," Leavenworth, Kansas (Broadside, 1872), KSHS Library, Pam. v., Document number 44973.

<sup>2</sup>Proceedings of the Fourth Annual Convention of the Kansas Federation of Labor, 1893 (Topeka: Hamilton Printing Company, 1893), pp. 5-11. See also Laws of Kansas, 1899, Chapter 171, pp. 351-352.

<sup>3</sup>Twelfth Annual Report, KBL, 1896, pp. 90-95. See also Thirteenth Annual Report, KBL, 1897, pp. 360-364; and "Proceedings of the Second Annual Convention of the Kansas Society of Labor and Industry," Fifteenth Annual Report, KBL, 1899, Appendix, pp. 1-72.

<sup>4</sup>The National Cyclopedia of American Biography, IX, p. 495. See also Frank W. Blackmar, "Penology in Kansas," Kansas University Quarterly, 4th ser., I (April, 1893), pp. 156-177.

<sup>5</sup>Frank W. Blackmar, "Politics in Charitable and Correctional Affairs," Proceedings of the 27th National Conference of Charities and Correction (Boston: George W. Ellis, 1900), pp. 27-34.

<sup>6</sup>First Annual Report, KCCC, 1900 (Lawrence: Journal Publishing Company, 1901), pp. 1-9.

<sup>7</sup>Laws of Kansas, 1905, Chapters 475, 487, pp. 753-773, 793, 794. See also Laws of Kansas, 1907, Chapters 177, 178, 188, pp. 277-285, 299-300.

<sup>8</sup>Proceedings of the Eighth Annual Session of the KCCC (Topeka: State Printer, 1908), pp. 3-19, 105-108.

<sup>9</sup>John N. Reynolds, The Kansas Hell (Chicago: Bee Publishing Company, 1889). See also Reynolds, The Twin Hells: A Thrilling Narrative of Life in the Kansas and Missouri Penitentiaries (Chicago: Bee Publishing Company, 1890); and Carl Arnold, The Kansas Inferno: A Study of the Criminal Problem (Wichita: Wonderland Publishing Company, 1906).

<sup>10</sup>Reynolds, Twin Hells, pp. 13-15, 36-37.

<sup>11</sup>Biennial Report, KSP, 1895-1896, p. 123. See also The Kansas City Star, January 2, 1909, p. 1, col. 4.

<sup>12</sup>Reynolds, Twin Hells, pp. 56-57, 88-89.

<sup>13</sup>*Ibid.*, pp. 51, 67-89, 106-108.

<sup>14</sup>*Ibid.*, pp. 86-87. See also Arnold, Kansas Inferno, p. 70.

<sup>15</sup>Arnold, Kansas Inferno, pp. 57-58, 69-70.

<sup>16</sup>*Ibid.*, pp. 54-55, 94-96.

<sup>17</sup>Reynolds, Twin Hells, pp. 90-97.

<sup>18</sup>*Ibid.*

<sup>19</sup>Arnold, Kansas Inferno, pp. 34-49.

<sup>20</sup>*Ibid.*, p. 42.

<sup>21</sup>*Ibid.*

<sup>22</sup>*Ibid.*, pp. 40-42. See also General Statutes of Kansas, 1868, Chapter 77, Section 30, p. 617; and General Statutes of Kansas, 1909, Chapter 108, Section 8583, p. 1855.

<sup>23</sup>Arnold, Kansas Inferno, pp. 39-40, 55. See also Reynolds, The Twin Hells, pp. 93-94.

<sup>24</sup>The Kansas City Star, January 2, 1909, p. 1, col. 4.

<sup>25</sup>Clippings, The Topeka State Journal, September 1, 1906, and The Topeka Daily Capital, September 1, 1906, KSHS Library, KSP Clippings, vol. 1, pp. 98-99.



<sup>26</sup>Ibid.

<sup>27</sup>Ibid. See also Terrill vs. Capper, McNeal, and Crawford, Case number 24-209, Office of the Clerk of Court, Shawnee County Court House, Topeka, Kansas.

<sup>28</sup>The Topeka State Journal, February 11, 1907, p. 1, col. 1. See also The Topeka Daily Capital, February 12, 1907, p. 10, col. 5.

<sup>29</sup>Ibid. See also The Topeka State Journal, February 12, 1907, p. 1, col. 1; and The Topeka Daily Capital, February 16, 1907, p. 3, col. 5.

<sup>30</sup>The Topeka Daily Capital, February 19, 1907, p. 1, col. 4. See also The Topeka State Journal, February 18, 1907, p. 3, col. 5.

## Chapter 4

<sup>1</sup>First Annual Report, ODCC, 1908 (Guthrie, Oklahoma: Leader Printing Company, 1908), pp. 4-5. According to this document, Miss Barnard arrived at the Kansas State Penitentiary on August 17, 1908. Her personal papers, however, establish August 12 as the date of her arrival. The discrepancy is probably due to typographical errors in Miss Barnard's draft report which were carried forward into print and subsequently reproduced in news stories based on the report. See Barnard Collection (MSS in Archives Division, Oklahoma State Library), letters from W. H. Haskell to Kate Barnard, August 12 and 17, 1908; hereafter cited as Barnard Papers.

<sup>2</sup>Julee Short Collection on Kate Barnard (Microfilm in Archives Division, Oklahoma State Library), Baptismal Certificate of Kate Barnard, (microfilm reel 1). See also Helen C. Bennett, American Women in Civic Work (New York: Mead, Dodd, and Company, 1915), pp. 91-114; and The National Cyclopedia of American Biography (1916), XV, pp. 110-111. Secondary sources disagree on Kate Barnard's age; Bennett, for example, states that she was in her twenties when she became Commissioner of Charities and Corrections in 1907. Her baptismal certificate indicates that she was born in Alexandria, Nebraska on May 23, 1875.

<sup>3</sup>Bennett, pp. 91-114. See also National Cyclopedia of American Biography, pp. 110-111.

<sup>4</sup>National Cyclopedia of American Biography, pp. 110-111.

<sup>5</sup>First Annual Report, ODCC, 1908, pp. 4-5. See also Barnard Papers, letter from W. H. Haskell to Kate Barnard, August 12, 1908; and Hoch Collection (MSS in Archives Division, KSHS), letter from W. H. Haskell to E. W. Hoch, September 3, 1908; hereafter cited as Hoch Papers.



<sup>6</sup>First Annual Report, ODCC, 1908, p. 5.

<sup>7</sup>Ibid., pp. 17-20.

<sup>8</sup>Barnard Papers, letter from W. H. Haskell to Kate Barnard, August 17, 1908. See also Hoch Papers, letter from E. W. Hoch to John Seaton, August 20, 1908.

<sup>9</sup>Hoch Papers, letter from E. W. Hoch to W. H. Haskell, September 2, 1908.

<sup>10</sup>Zornow, pp. 210-215. See also Hoch Papers, letter from W. H. Haskell to E. W. Hoch, September 3, 1908.

<sup>11</sup>Hoch Papers, letter from E. W. Hoch to Charles N. Haskell, September 10, 1908; and letter from E. W. Hoch to William H. Haskell, September 12, 1908.

<sup>12</sup>Zornow, pp. 210-215.

<sup>13</sup>First Annual Report, ODCC, 1908, pp. 4-16.

<sup>14</sup>Ibid., p. 7.

<sup>15</sup>Ibid.

<sup>16</sup>Ibid., pp. 7-8.

<sup>17</sup>Ibid., pp. 9-10.

<sup>18</sup>Ibid., pp. 8-9.

<sup>19</sup>Ibid., pp. 8, 14. See also Fourth Biennial Report, KSBH, 1907-1908, 1909, p. 35.

<sup>20</sup>First Annual Report, ODCC, 1908, p. 12.

<sup>21</sup>Fourth Annual Report, KSBH, p. 35. See also First Annual Report, ODCC, 1908, p. 13.

<sup>22</sup>First Annual Report, ODCC, 1908, pp. 10-11, 13.

<sup>23</sup>Ibid., p. 13.

<sup>24</sup>Ibid., pp. 14-15. See also Rules and Regulations for the Kansas State Penitentiary at Lansing, Kansas (Topeka: State Printing Office, 1906), pp. 2-4.

<sup>25</sup>First Annual Report, ODCC, 1908, pp. 17-20.

<sup>26</sup>The Topeka Daily Capital, December 12, 1908, p. 1 col. 5. See also The Topeka State Journal, December 14, 1908, p. 1, col. 5; and The Kansas City Journal, December 13, 1908, p. 1, col. 5.

col. 2. <sup>27</sup>The Kansas City Journal, December 14, 1908, p. 1,

<sup>28</sup>Hoch Papers, letter from E. W. Hoch to Charles N. Haskell, December 22, 1908.

<sup>29</sup>Hoch Papers, letter from Charles N. Haskell to E. W. Hoch, December 22, 1908; and telegram from Charles N. Haskell to E. W. Hoch, December 24, 1908.

## Chapter 5

<sup>1</sup>Hoch Papers, telegram from Charles N. Haskell to E. W. Hoch, December 25, 1908; and letter from William H. Haskell to E. W. Hoch, September 3, 1908.

<sup>2</sup>Keith L. Bryant Jr., Alfalfa Bill Murray (Norman: University of Oklahoma Press, 1968), p. 81. See also Proceedings of the Fifth Annual Convention of the Oklahoma State Federation of Labor, July 27-29, 1908, (Oklahoma Library, Division of Manuscripts), 27-28, quoted in Bryant, p. 81.

<sup>3</sup>Fourth Biennial Report, KSBH, 1907-1908, p. 26.

<sup>4</sup>Ibid., p. 25.

<sup>5</sup>Ibid., pp. 26-27. See also Oklahoma Historical Society, Clipping from The Daily Oklahoman, January 1, 1909, in vertical file on Kate Barnard.

<sup>6</sup>Fourth Biennial Report, KSBH, pp. 26-27. See also KSHS. Clipping, The Topeka Capital, December 31, 1908, in KSP Clippings, vol. 1, p. 107.

<sup>7</sup>Second Annual Report, ODCC, 1909, pp. 135-141, 191-192.

<sup>8</sup>Fourth Biennial Report, KSBH, 1907-1908, pp. 26-28.

<sup>9</sup>Ibid., p. 28.

<sup>10</sup>Ibid.

<sup>11</sup>KSHS Library, Clipping, The Kansas City Journal, January 3, 1909, KSP Clippings, vol. 1, p. 117.

<sup>12</sup>Fourth Biennial Report, KSBH, 1907-1908, p. 28. See also KSHS Library, Clipping, The Kansas City Star, January 2, 1909, KSP Clippings vol. 1, pp. 114-115.

<sup>13</sup> KSHS Library, Clipping, The Kansas City Star, January 2, 1909, KSP Clippings vol. 1, pp. 114-115. See also Fourth Annual Report KSBH, 1907-1908, p. 28.

<sup>14</sup> Fourth Biennial Report, KSBH, 1907-1908, pp. 28-29.

<sup>15</sup> Ibid., pp. 15-53. See also KSHS Library, Clipping, The Topeka State Journal, January 4, 1909, KSP Clippings, vol. 1 pp. 117-118.

<sup>16</sup> Second Annual Report, ODCC, 1909, pp. 107-108.

<sup>17</sup> Ibid., p. 108. See also The Kansas City Times, January 7, 1909, p. 2, col. 4.

<sup>18</sup> Second Annual Report, ODCC, 1909, pp. 109-114.

<sup>19</sup> Ibid., pp. 114-120.

<sup>20</sup> Ibid. For a comprehensive survey of the history of the eugenics movement see Mark H. Haller, Eugenics: Hereditarian Attitudes in American Thought (New Brunswick: Rutgers University Press, 1963).

<sup>21</sup> Second Annual Report, ODCC, 1909, pp. 110-112.

<sup>22</sup> Ibid., pp. 116-118, 121-124.

<sup>23</sup> Ibid., pp. 123-133.

<sup>24</sup> Ibid., pp. 133-148.

<sup>25</sup> Ibid., pp. 135-140.

<sup>26</sup> Ibid., pp. 137-140.

<sup>27</sup> Ibid., p. 140.

<sup>28</sup> Ibid., pp. 145-149. See also The Emporia Gazette, January 8, 1909, p. 1, col. 6.

<sup>29</sup> Second Annual Report, ODCC, 1909, pp. 155-156. See also The Leavenworth Times, January 9, 1909, p. 4, col. 1.

<sup>30</sup> Second Annual Report, ODCC, 1909, pp. 156-159.

<sup>31</sup> Ibid., pp. 158-159.

<sup>32</sup> Ibid., p. 159.

<sup>33</sup> Ibid., pp. 159-160.

<sup>34</sup> Ibid., p. 162. See also The Leavenworth Times, January 9, 1909, p. 4, col. 1; and The Emporia Gazette, January 9, 1909, p. 1, col. 7.

177. <sup>35</sup>Second Annual Report, ODCC, 1909, pp. 149-155, 169-

<sup>36</sup>Ibid., pp. 177-189.

<sup>37</sup>The Topeka Daily Capital, January 10, 1909, p. 1, col. 4. See also The Leavenworth Times, January 10, 1909, p. 4, col. 1, and The Kansas City Star, January 10, 1909, p. 1c, col. 4.

<sup>38</sup>The Leavenworth Times, January 9, 1909, p. 1, col. 4. See also Fourth Biennial Report, KSBH, 1907-1908, pp. 32, 51-53.

<sup>39</sup>Ibid., pp. 30-32.

<sup>40</sup>Ibid., pp. 51-53. See also The Emporia Gazette, January 9, 1909, p. 2, col. 4.

<sup>41</sup>The Topeka Daily Capital, January 16, 1909, p. 1, col. 4. See also Second Annual Report, ODCC, 1909, p. 101.

<sup>42</sup>Second Annual Report, ODCC, 1909, pp. 101-107.

<sup>43</sup>The Topeka Daily Capital, February 1, 1909, p. 1, col. 1.

## Chapter 6

<sup>1</sup>The Emporia Gazette, January 7, 1909, p. 1, col. 3.

<sup>2</sup>The Kansas City Journal, January 16, 1909, p. 3, col. 3. See also Biennial Report, KSP, 1909-1910, p. 29. Contract labor ceased in 1909, but the legislature of 1909 defeated a move to eliminate the program from Kansas statute books. Not until 1935 was the contract system forbidden by statute.

<sup>3</sup>The Topeka Daily Capital, June 25, 1909, p. 1, col. 3. See also Biennial Report, KSP, 1909-1910, p. 7.

<sup>4</sup>Biennial Report, KSP, 1909-1910, pp. 13-14, 55-56.

<sup>5</sup>Ibid., pp. 14-15, See also Biennial Report, SBPI, 1911-1912, pp. 17-18, 35, 40-42; and Biennial Report, KSP, 1909-1910, pp. 26, 48-49.

<sup>6</sup>Biennial Report, KSP, 1909-1910, pp. 61-63. See also Biennial Report, SBPI, 1911-1912, pp. 24-25.

<sup>7</sup>Frank W. Blackmar, Report on the Penitentiary to Governor Hodges (Topeka: State Printer, 1914), p. 4. See also Clipping, The Topeka Daily Capital, March 10, 1913. KSHS Library, KSP Clippings, vol. 1, pp. 216-217.

<sup>8</sup>Proceedings of the KCCC, 1909--(Topeka: State Printer 1909--). See also Biennial Report, KSP, 1909-1910, pp. 16, 31; and Biennial Report, SBPI, 1811-1912, pp. 10-11.

<sup>9</sup>Homer E. Socolofsky, Arthur Capper: Publisher, Politician, and Philanthropist (Lawrence: University of Kansas Press, 1962), pp. 80-81. See also Biennial Report, KSBC, 1913-1914, p. 3.

<sup>10</sup>Proceedings of the KCCC, 1910, pp. 14-17, 75-76.

<sup>11</sup>Ibid., pp. 75-76. See also Laws of Kansas, 1911, Chapter 299, pp. 540-543; and Biennial Report, SBPI, 1911-1912, p. 7.

<sup>12</sup>Laws of Kansas, 1911, Chapter 298, pp. 538-540.

<sup>13</sup>Haller, Eugenics, p. 48. See also Proceedings of the KCCC, 1911, pp. 36-39.

<sup>14</sup>Laws of Kansas, 1913, Chapter 305, pp. 525-526.

<sup>15</sup>Proceedings of the KCCC, 1913, pp. 12-17.

<sup>16</sup>Proceedings of the KCCC, 1912, p. 70. See also Laws of Kansas 1913, Chapters 289, 304, pp. 480-482, 524-525.

<sup>17</sup>Blackmar, Report to Governor Hodges, pp. 2-20.

<sup>18</sup>Ibid., pp. 21-22. See also Proceedings of the KCCC, 1914, pp. 16-24. See also Socolofsky, Arthur Capper, pp. 84-86.

<sup>19</sup>Proceedings of the KCCC, 1915, p. 44. See also Laws of Kansas, 1915, Chapter 156, pp. 179-187.

<sup>20</sup>Socolofsky, Arthur Capper, pp. 87-91.

<sup>21</sup>Ibid., p. 91. See also The Annals of Kansas, II, p. 127; and Biennial Report, KSBC, 1915-1916, p. 3.

<sup>22</sup>Biennial Report, KSBC, 1915-1916, pp. 11-13. See also Laws of Kansas, 1917, Chapter 56, Section 1, p. 70.

<sup>23</sup>Laws of Kansas, 1913, Chapter 289, pp. 480-482. See also Laws of Kansas, 1915, Chapter 156, pp. 179-187.

<sup>24</sup>Laws of Kansas, 1917, Chapter 297, pp. 427-435.

<sup>25</sup>Socolofsky, Arthur Capper, pp. 89-90, 92, 96-97.



## A NOTE ON SOURCES

Several of the works listed in the annotated section of the bibliography supplied background information for this study. The two most important are Blake McKelvey's monumental American Prisons: A Study in American Social History Prior to 1915 (Chicago, 1936), which is still the best general work on nineteenth and early twentieth century penal development, and David J. Rothman's The Discovery of the Asylum: Social Order and Disorder in America (Boston, 1971). The latter work provides perspective on the broad field of institutional development during the years before the Civil War. John N. Reynolds; The Twin Hells (Chicago, 1890) and Carl Arnold's The Kansas Inferno (Wichita, 1906), also listed in the annotated section, were primary sources for Chapter 3.

The reports of the Kansas State Penitentiary were a valuable source of general information and statistics. The Annual Report of the Directors and Warden was published through 1876, after which the document was issued biennially to correspond with the state government's change from annual to biennial legislative sessions. Prior to 1911 the penitentiary functioned under control of a separate board of directors and therefore published a separate report. The report for the biennium 1911-1912, however, can be found in the Biennial Report of the State Board of Penal Institutions, and the reports for the bienniums 1913-1914 and 1915-1916 in the Biennial Report of the State Board of Corrections. Beginning in 1917 the Penitentiary report

became part of the Bicennial Report of the State Board of Administration.

The Barnard Collection (MSS in Archives Division, Oklahoma State Library) and the Hoch Collection (MSS in Archives Division, Kansas State Historical Society) yielded important correspondence pertaining to Kate Barnard's inspection of the Kansas prison, the ensuing scandal, and the joint investigation. The First Annual Report of the [Oklahoma] Department of Charities and Corrections (Guthrie, 1908) contains the full text of Kate Barnard's report to Governor Charles N. Haskell on the state of affairs at Lansing. The report of the Hoch committee of 1908-1909, which appears in the Fourth Biennial Report of the [Kansas] State Board of Health, 1907-1908 (Topeka, 1909), also contains Miss Barnard's statement on the penitentiary, as well as the minutes of the committee's own unilateral investigation. Apparently the Hoch committee made a verbatim record of their hearing at Lansing on January 2, 1909, but the transcript was never published, nor does it survive in the files of the Kansas archives. The complete record of the hearings conducted by the joint committee during the period 7-9 January, 1909, however, was published in the Second Report of the [Oklahoma] Commissioner of Charities and Corrections (Oklahoma City, 1910), and was the source of much of the data used in Chapter 6. The Topeka State Journal and the Topeka Daily Capital were valuable sources for the entire study, but the Emporia Gazette provided the most objective account of the joint investigation.

The Proceedings of the Annual Session of the Kansas Conference of Charities and Correction, together with the

House Journal, Senate Journal, and the Session laws of Kansas, provided the basic material for Chapter 6. The personal papers of Frank W. Blackmar, were those documents available, would probably shed much additional light on the activities of the reformers. Unfortunately, Blackmar's papers were lost during the 1940's at the University of Kansas, and are presently being sought by archivists at that institution. Blackmar's Report on the Penitentiary to Governor Hodges (Topeka, 1914), however, provided a means of assessing the impact of the reform movement on conditions at Lansing.

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A broad overview of the history of poverty in America to 1925. Its value to this study lies in Bremner's insight to public attitudes toward the social and economic classes which populate American penal institutions.

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This excellent biography of one of Oklahoma's most colorful statesmen contains passages describing the reciprocal hostility between Murray and Kate Barnard.

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A primary source for this study. The material in Part I is from the manuscript for The Kansas Hell. Part II deals with life in the Missouri prison, as related to the author by former inmates of that institution.

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A history of the early development of charitable and correctional institutions in the United States. The author concludes that the institutions were failures--that despite the optimistic idealism of the founders, by the time of the Civil War the institutions were at best overcrowded custodial facilities.

Socolofsky, Homer E. Arthur Capper: Publisher, Politician, and Philanthropist. Lawrence: University of Kansas Press, 1962.

The success story of a Horatio Alger type individual. Provides insight to the subject's personality and philosophy, and to Kansas politics during the Capper years.

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PATRONAGE AND PROFITS: A HISTORY OF  
THE KANSAS STATE PENITENTIARY, 1861-1917

by

HARVEY RICHARD HOUGEN

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AN ABSTRACT OF A MASTER'S THESIS

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Political patronage and the profit motive were decisive factors in the development of the Kansas State Penitentiary at Lansing during the period 1861-1908. In 1909 both factors were recognized as detrimental to effective prison management, and by 1917 prison officials, reformers, and progressive politicians had corrected many of the defects which had resulted from the years of patronage and profiteering.

During the building phase of the penitentiary's history, which extended from 1861 to 1882, the profit motive was a positive inspiration. Planners adopted the goal of a self-supporting prison--and, beyond that, one which would return income to the treasury. A necessary intermediate goal was a completed physical plant that would afford adequate space for manufacturing. In 1870, the governor appointed a warden of exceptional ability, who by 1882 had not only completed the physical plant but had developed prison industries that rendered the institution self-supporting. Moreover, the newly opened coal mine seemed to promise handsome profits.

Politicians had refrained from tampering with the penitentiary during the building phase. Beginning in the mid-eighties, however, the institution was shamelessly exploited for political purposes. Politicians found the prison's financial reports to be ready political capital, and appointments to the prestigious official positions at the penitentiary became a convenient means of settling political debts. During the exploitation phase, which lasted through 1908, the system deteriorated under a succession of political wardens, who concentrated on making a good financial showing, but neglected their administrative and

disciplinary responsibilities. Serious abuses crept into the system.

By the mid-eighties the Kansas State Penitentiary was widely acknowledged to be the leading institution of its kind west of the Mississippi. Preoccupation with profit, however, caused the Kansans to open the penitentiary doors to prisoners from Oklahoma Territory, and before the turn of the century the institution had become shamefully overcrowded. The illusion of leadership in penal development was hard to dispel, however.

After 1890 the prison began to draw increasing criticism. Industrial interests and labor unions resented what they believed to be unfair competition from prison industry, while reformers faulted the institution for its political orientation and profiteering. The convicts, who suffered miserably under the system, found it difficult to obtain a sympathetic hearing, but by the first decade of the twentieth century several had taken their grievances to the public. Even former penitentiary employees joined the dissenters. Kansas authorities, however, failed to heed these warnings.

In August, 1908, a month after the warden announced record penitentiary profits, an Oklahoma official visited the prison to check on the welfare of several hundred Oklahoma prisoners. Her subsequent report sparked a scandal that culminated in a joint investigation by officials from both Kansas and Oklahoma. The course of events during the investigation favored the Kansans, and the Kansas investigators emerged with a face-saving report. Nevertheless, the publicity accompanying the scandal generated

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reform sentiment. Oklahoma authorities withdrew their convicts from the Kansas prison in January, 1909.

In June 1909, the governor appointed an effective warden, and the penitentiary administration now shifted emphasis to prison management: the profit motive no longer ruled. Kansas reformers, whose recommendations had previously been ignored, now influenced legislation which helped to neutralize political influence at the prison. Much of their work was undone after 1915, however, as Kansas politics swung back to conservatism.