

Documents

REPORT ON THE STATE PRISON, 1823

GAYLE THORNBROUGH

Samuel Milroy moved in the Indiana House of Representatives on December 5, 1820, "That the judiciary committee be instructed to enquire into the expediency of so amending the criminal code of this state, as that corporal punishments by whipping and imprisonment be abolished and that hard labor on the Ohio Canal at Jeffersonville under proper overseers, be substituted"¹ This resolution was prompted by three motives: 1) to furnish a supply of labor for the canal, 2) to abandon the brutal and much hated whipping post as a means of punishment, and 3) to reduce the number of prisoners kept in the county jails.

All the acts and parts of acts in force in Indiana relating to crime and punishment were codified. This code defined around forty-five misdemeanors and felonies and described the punishments or penalties to be inflicted or imposed. Four were punishable by death by hanging, thirteen by whipping, sixteen by imprisonment, and the rest by fines.²

Whipping was meted out as a punishment in so many cases because of the great lack of satisfactory jail space. By law each county had a jail, but these were crude, small structures, unhealthy, poorly ventilated, and usually unheated. Confinement of the prisoners for a period of months or years was a financial burden on the county and a grave responsibility for the sheriff who was in charge of them. Public sentiment against whipping, however, was so strong that some substitute for it had to be found.

Six months before Milroy introduced his resolution, the *Vincennes Indiana Centinel & Public Advertiser* on May 6, 1820, lashed out against this practice:

On Thursday last, the minds of our citizens were shocked by the shameful spectacle of a fellow citizen tied to a sign-post, and flogged like a dog, under sentence of the Circuit Court, now sitting in this town. . . . The sight was truly disgusting; and it was evident that the

¹ *Journal of the House of Representatives of Indiana, 1820-1821*, pp. 61-62.

² *Laws of the State of Indiana, 1817-1818*, pp. 75-97; see also Helen Wilson, *The Treatment of the Misdemeanant in Indiana, 1816-1936* (University of Chicago Social Service Monographs, Chicago, 1938), 19.

manly mind of the officer who executed the sentence revolted at the performance of that odious duty.

The criminal code of Indiana is a disgrace to civilization, and it ill becomes our lawgivers to boast of their refinement, while they sanction this species of degrading brutality.

Corporal punishments are worse than useless; for nine times out of ten, they are fatal to the mind of the victim—he is lost to society—he sinks under his sense of shame; or, if sensitive and revengeful, the petty felon becomes the hardened ruffian. If guilty, he is then desperate—if innocent, the scars on his shoulders keep knocking at his heart, and calling for satisfaction in a voice that is never mistaken or unheeded.

The arguments against such punishments are inexhaustible and insurmountable.

Following Milroy's resolution a bill was introduced into the House authorizing the building of a state prison at Jeffersonville and for other purposes.³ This bill commuted punishment by stripes into confinement in the prison at hard labor. It also linked the prison with the construction of the Ohio Falls Canal. At one point in its consideration Andrew P. Hay of Clark County moved that the whole report and resolution which he had submitted relative to the canal be referred to the committee to which was referred the bill authorizing the building of a state prison.⁴ Also, an amendment was offered to the bill, but rejected, to the effect that the prison proposed to be erected should be completed by voluntary contribution from the Jeffersonville Ohio Canal Company and other individuals, and that labor of convicts committed to the prison should be limited to work on the canal.⁵

The bill which finally passed both houses and received the governor's approval on January 9, 1821,⁶ provided for a board of managers for building and governing a prison to be located near Jeffersonville. The board members listed by the act were Stephen Ranney, John Fischli, Samuel Gwathmey, John Prather, and William Bowman. An agent of the prison was to be appointed by the managers who would give bond for \$10,000. The managers were to make rules and regulations for the government and employment of the con-

³ *Journal of the House of Representatives of Indiana, 1820-1821*, p. 151.

⁴ *Ibid.*, 156.

⁵ *Ibid.*, 218.

⁶ *Laws of the State of Indiana, 1820-1821*, pp. 24-29.

victs, to provide for their clothing and maintenance, and to employ officers necessary for their safekeeping. The agent was to make contracts, receive and pay out money under the direction of the managers, watch over the prisoners' health, conduct, and safekeeping, and employ them in occupations suitable to their various capacities. He was also to purchase clothing and tools for the convicts, raw materials for their labor, and to dispose of their manufactures. All contracts and dealings on account of the prison were to be contracted in the name of the "agent of the Jeffersonville prison." An annual report on the state of the prison was to be sent to the General Assembly by the agent. One article stipulated that the agent, with the consent of the managers, could contract with the Ohio Canal Company for the labor of able-bodied convicts.

Persons to be confined in the prison included anyone convicted of any offense for which he would be liable by the existing laws to the punishment of stripes. Persons liable to punishment by one hundred stripes would be sentenced to prison at hard labor for seven years. Those liable to fifty stripes would be sentenced to five years, and those liable to thirty-nine stripes, to three years. The certificate of a conviction was to be delivered to the county sheriff by the county clerk, and the sheriff would deliver the convicts to the prison. Twenty-five cents a mile was to be allowed to the sheriff for conveying prisoners to Jeffersonville.

How the agent was to be paid is not set out clearly. The building and maintenance of the prison was to be a joint affair between private individuals and the state. Three thousand dollars were appropriated for the building to be paid out of funds arising from the sale of lots at Indianapolis.

Provided, That after all expences for the support of the convicts, clothing, &c. and suitable allowances to the officers of the prison are paid, the proportion of the residue of their earnings which would belong to the state, according to the different sums paid, shall be laid out in the purchase of canal stock for the benefit of the state, and the proportions belonging to individuals according to the amount by them subscribed and paid, shall be apportioned in such manner as the said managers may direct their said agent to contract with such individuals on their subscribing.

Governor Jonathan Jennings proclaimed the new prison

ready for occupancy on October 2, 1821,⁷ and in his message, to the legislature in the following December, stated, "Further legislative provisions will be necessary, to carry into operation, the humane purposes of the Legislature connected with the establishment of the penitentiary; and the situation of those, who have been engaged in erecting the building, are entitled to legisative [*sic*] attention."⁸

In response to this last clause, the legislature passed an act which allowed Robert Gray and Reuben H. Murray, "undertakers" to build the prison, \$500 in addition to the \$3,000 appropriated for the building.⁹ The prison was not a profit-making institution, and a minimum total of \$10,800 was expended for it to the close of the year 1826. Much of this was from the Indianapolis Fund, but part from tax revenue.¹⁰

The 1821-1822 session of the General Assembly did not seem inclined to take further action on the prison. In reply to a report by Stephen Ranney, president of the board of managers, the Senate committee, to which the report was referred, declared that on examining the report and the 1821 act, the committee believed that the managers "have full and ample powers granted them to provide for the maintenance and employment of convicts committed to said prison"; and declared that "it would not be advisable to make a further sufficient appropriation, to create good and sufficient walls around said prison, if in the opinion of the Legislature the situation of our financial concerns will admit of the same."¹¹

The following resolution offered by Joseph Bartholomew in the Senate was rejected: "That the committee on so much of the Governor's message as relates to the state prison at Jeffersonville be instructed to report a bill to provide for the subsistence of the convicts while in prison, and that they insert in the bill what further improvement they think in-

⁷ Logan Esarey (ed.), *Governors Messages and Letters. Messages and Papers of Jonathan Jennings, Ratliff Boon, William Hendricks* (Indiana Historical Collections, XII, Indianapolis, Indiana, 1924), 151.

⁸ *Journal of the House of Representatives of Indiana, 1821-1822*, p. 20.

⁹ *Laws of the State of Indiana, 1821-1822*, pp. 102-103.

¹⁰ Donald F. Carmony, "Genesis and Early History of the Indianapolis Fund, 1816-1826," *Indiana Magazine of History* (Bloomington, Indiana, 1905-), XXXVIII (1942), 26-27.

¹¹ *Journal of the Senate of Indiana, 1821-1822*, p. 140.

dispensably necessary in order to keep the prisoners usefully employed at labor."¹²

Governor Hendricks' message to the General Assembly at the opening of the 1822-1823 session asked for provision for payment to the sheriffs to defray the expense of transferring prisoners to Jeffersonville, and for additional appropriations for the institution which seemed necessary "not only for its prosperity but for its existence."¹³ Two acts were passed relating to the prison. Another act for the relief of Murray and Gray, and an act amendatory to the act authorizing the building of a state prison were passed in 1821.¹⁴ The latter modified the length of sentences the convicts were to serve in relation to the number of stripes they were liable to receive under the existing laws. It also provided that prisoners whose sentences included a fine and who could not pay, could be detained at the prison at hard labor at fifty cents a day until the fine was discharged. The agent was directed to have a good and substantial wall built to enclose the prison and appropriated \$2,500 for this out of the state treasury. Further provision for reimbursing sheriffs for bringing convicts to the prison was made.

During the 1823-1824 session of the General Assembly, Governor Hendricks requested a reorganization in the management of the prison. The act¹⁵ that was passed in response to this abolished the board of managers and the agency, and entrusted the prison to a "superintendent of the state prison." To this officer fell the duties and powers of the former agent and board of managers. The act confirmed the contract made with the incumbent agent, Abel Spencer, who was to keep the prison and prisoners according to agreement until August 4, 1824, at which time his contract would terminate. The act gave the governor power to farm the prison out to a superintendent or to employ one at a salary not to exceed \$1,000, payable out of the proceeds of the prison. Wells were to be dug and workshops and other necessary buildings were to be erected at the prison.

A report of the agent George White, who resigned on

¹² *Ibid.*, 166.

¹³ *Journal of the House of Representatives of Indiana, 1822-1823*, p. 38.

¹⁴ *Laws of the State of Indiana, 1822-1823*, pp. 29-30, 40-43.

¹⁵ *Revised Laws of the State of Indiana, 1823-1824*, pp. 395-400.

August 5, 1823, was received by this General Assembly,¹⁶ but no copy of it has been found. The following document is the report of Abel P. Spencer, who succeeded White as agent. It is addressed to the General Assembly and covers the period from August 5 to December 8, 1823. It gives a good picture of the prison as it operated under the direction of the board of managers and agent and gives some idea of the kind of contract made with the agent. It is evident that the 1824 act endeavored to correct some of the difficulties and problems that Spencer mentioned by doing away with the dual control of managers and agent and placing one superintendent in charge of the institution.

This document is in the Archives Division of the Indiana State Library among papers from the Secretary of State's office.

To the Honorable the Speaker of the House of Representatives of the State of Indiana.

In Obedience to the Act authorizing the building of a States Prison and for other purposes, I beg leave to lay before the Honorable the General Assembly the following report, showing the situation of the said prison, and the convicts from the fifth day of August 1823, to the present date. On the Ninth day of August 1823 I received the appointment of Agent of the Jeffersonville Prison. At the same time I made a proposition to supply the prisoners with provisions, Clothing, Bedding, Medical aid &c. To pay all the expences necessary, for the security of the same; according to the Instruction of the Maniger. For which I would receive the servises of the convicts as my compensation and clear the state of all expences except paying the keeper. This proposition was excepted by the Managers. And I entered into bonds of ten thousand Dollars with security for the faithfull purformance of the same, and the discharge of the duties of agent. It was ordered by the managers that I should settle and pay the expences of the prison from the fifth day of August (the date of the former Agents Resignation) the time from which he refused to furnish supplies. Whence I entered on duty. the Number of prisoners was Sixteen. Their ware no Mechanicks among them, except two masons and the only buisness carried on was the manufacturing Segars and the labour on the wall. For those on the wall I received twenty five Cents pr. day each, in Treasury Notes. Since I have had the charge of the prison, I have established the shoe making Tailoring, Blacksmithing Basket Making, the making of Brooms & Mats, and am preparing to introduce other manufacturies, as soon as practicable. Segars have been in their quality improved and now find ready sale at One Dollar pr. thousand. The two last Prisoners received are, one a cabinet Maker

¹⁶ *Journal of the House of Representatives of Indiana, 1823-1824*, pp. 10, 38.

and the other a carpenter. I have procured for them sets of Tools but have not been able to put them in employ. I find the expence of establishing business, in the prison greater than I anticipated Yet I believe by close attention and strict economy the Prisoners may be made to support the establishment. But to ensure its success—some change in its government is necessary. At present the Keeper has the exclusive controul of the prisoners, is paid by the day, feels no interest in the buisness carried on, he lives out of the Prison and is necessarily absent when buisness requires his attendance. Suffer me therefore to suggest the propriety of allowing the agent to imploy a Keeper. One who will attend to all the buisness necessary and who shall be approved of by the managers or by the Governor. The work Shops we make use of at present are inconvenient. The Shoe makers, Tailors Basket Makers and those who make Segars are all crowded into one room. This room Tho inconvenient for so many workman I have made comfortable by putting up a large stove, laying a floor over head, making a door repairing the walls and windows. The Blacksmiths' Shop one of the ground rooms is too dark and confined; it exposes the prison to Smoke and fire I therefore propose the building of work shops which may be done with little expence by connecting them with the Prison and the Prison wall. A well is indispensably necessary. The water used in the Prison is brought in buckets from a distance of three hundred yards with out the wall and sufficiently imployes one man one half of his time. While we remain in this situation the gate must stand open and we constantly exposed to escapes and the Prison liable to be destroyed by fire. The building a *Necessary* within the wall was deemed requisite. This I have commenced by the advise of the managers, and rely on the Legislature to make an appropriation to pay the expence. There are now confined in the penitentiary twenty Prisoners three of whom are learning the Shoemaking buisness; three at basket making; five manufacturing Segars, two at Tailoring, two at Blacksmithing, one making Brooms and mats, one cooking one bringing water and making fires; the others are at this time employed on the building above mentioned. Since the 5th of August last there has been brought in from the different Counties fifteen Prisoners sentenced to confinement as follows to wit: Ten for one Year each, One for Eighteen months three for two Years and one for four Years. I have furnished them all with shoes clothing Bedding &c. according to law. They are comfortably clad for winter and are at present healthy. There are in the Prison two women whom I have *furnished* with domestic gowns. One is employed in Cooking the other at present in manufacturing segars but she will soon be engaged in Spinning. Since my appointment five have been discharged one reprieved; and six have made their escape.¹⁷ The circumstances of which were as follows to wit: On the eleventh day of August last I called on Col Stephen Ranney and Doctor Samuel Meriwether two of the managers and informed them that buisness (of which all the managers had previous notice) made it necessary for me to

¹⁷ Indianapolis, *Indiana Gazette*, September 9, 1823, carried an account of this escape.

leave home. I stated to them the situation of the Prison and they gave me permission to be absent. At time there were a number of the Prisoners sick one man by the name of Troxel was not expected to live. I did not return untill late in the eaving of the sixteenth when I enquired of one of the managers the situation of the Prison. he informed me that the Keeper was sick and had left the Prison; that he had himself taken the kees had been to the Prison and had shut up the Prisoners in the cells, all except Troxel who he believed could not live through the night. He had therefore left him on a pallet in one of the upper rooms. After receiving this information I called to see the Keeper returned & went to bed. The next morning at day brake Col Ranney called me, and said I had better go [to] the Prison that the keeper was sick. I went immediately and found the Prison broken. And on examination I found that nine of the convicts had made their escape. Troxel the sick man was gone; and I have no doubt in saying that he broke the Cell locks and through him there escape was effected. I lost no time in giving the allarm and many of the Citizens turned out in serch of them. I spent five days myself. I made an advertisement offering five Dollars bounty; and all reasonable Charges paid for the aprehension of each of them six of whom have been taken and brought back the expence of recovering them has been in money paid out \$72.00 of which I made an account a[n]d the same has been settled by the Treasurer with the exception of fourteen dollars (deducted by His Excelency the Governor) Three out of the nine who made thier escape at that time have not been returned. Their names are Alexander H. Porter James Johnson & George Gray Thomas Cummings James Robinson and John Boyd have likewise made their escape they were employed on the Wall, according to a contract with Col Ranney they found their escape easy as their was no guard, nor has there ever been any authorized by government. I am aware that much has been said concerning the escape of James Roberson a man of coular, as their has been an attempt to attach blame to the officers of the Prison. I shall be happy to have a committee appointed from Your Honorable body to examine into their conduct. I understand however that this fellow has been taken up by some persons near New Lexington Indiana and has been carried to the State of Tenessee. The others I have not heard of. It is not in my power to show the debts due to the Prison, or what claims there are against it, for I have never had the Prison Books in my possession. The Managers directed me to call on Mr George White for the Books and papers belonging to the Prison. I did so,—and he refused to deliver them up untill he got a settlement. I have only settled one account which had been made previous to my agency that of Abraham Knickerbocker who was hired by the President of the board of manigers as an assistant Keeper (The Agent having refused to him one) This account I likewise lay before Your Honorable Body. It is testified by the Keeper and you will see by the receipt that I have paid on it thirty four dollars Treasury money. From the nature of my contract to support the Prison I consider it unnecessary to go into a detailed account of the expences. The hiring of instructors in the different kinds

of mechanical buisness established; furnishing tools stocks &c. has cost more money than I have realized from the labour of the Convicts. It was well known to me that this would be the case in the commencement. But it was my opinion at that time and still belive by per-serverance I shall be able to fulfill my Contract without suffering a loss. In this I should be more secure however if I was allowed to imploy such keepers as would attend strictly to my business. I have found by experience that I cannot (under the present regulation). I have the Convicts imployed more than one half of the working hours—On the subject of the Prison Wall, I am not able to make any report. I have been deprived of the Books and papers necessary to enable me to do so—the Wall however had been built of good materials and in a workmanlike manner. It is now completed but I do not know whether it fulfilled the contract of the money which was appropriated for the building of the Wall. I have received \$1431.38/100 and I have paid over to Col Ranney \$1423.84¼ which leaves a balance in my hands of \$7.53¾ Those accounts & receipts, are lodged in the Treasurers office—To show the situation of the Prison when I took it I herewith submit a copy of my receipt given to the keeper for every article of every description then in his possession.

With consideration of due Respect I subscribe myself Yours &c
A. P. Spencer

Agent of the Jeffersonville Prison

[Endorsed:] Report of A. P. Spencer Agent of the Jeffersonville Prison Decr the 8th 1823